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**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 45/2022**

Precautionary Measure No. 306-06  
Jorge Luís García Pérez Antúnez, regarding Cuba  
September 20, 2022  
Original: Spanish

**I. SUMMARY**

1. The Inter-American Commission on Human Rights (IACHR) decides to lift these precautionary measures in favor of Jorge Luís García Pérez Antúnez, in Cuba. At the time of making the decision, the Commission assessed the change in the situation of the beneficiary, who currently resides in the United States of America. After failing to identify compliance with the regulatory requirements, the IACHR decided to lift these measures, while regretting the lack of information from the Cuban State.

**II. BACKGROUND INFORMATION**

2. On November 22, 2006, the IACHR granted precautionary measures in favor of Jorge Luís García Pérez Antúnez, who remained in custody of the State of Cuba. The information available indicated that he had been warned by the authorities that he would not be released alive from the prison where he was serving a 17-year prison sentence. Mr. García Pérez Antúnez was close to serving his sentence and being released. In view of the background to the matter, the Commission requested the Government of Cuba to take the necessary measures to guarantee the life and personal integrity of the beneficiary and to report on the measures taken in order to clarify judicially the facts that justify the adoption of the precautionary measures<sup>1</sup>.

3. Representation is exercised by the Cuban Democratic Directorate.

**III. INFORMATION PROVIDED BY THE PARTIES DURING THE TIME THE MEASURES WERE IN FORCE**

4. During the time the precautionary measures have been in force, the Commission has followed-up on the situation that is the subject matter of these precautionary measures by requesting information from the parties. After the granting, and after a long period without receiving updated information, the Commission requested specific information about the beneficiary from both the State and the representative on February 1 and 20, 2012 “with the purpose of evaluating whether the precautionary measures should remain in force,” without receiving a response from the parties. Subsequently, on August 14, 2014, the Commission received a communication from the beneficiary’s representation, the Cuban Democratic Directorate, providing updated information.

5. In that letter, it was reported that a search of the beneficiary’s home was carried out on February 5, 2014, and he was violently detained, followed by the detention of his wife when she went to the State Security headquarters to inquire about her husband’s whereabouts. Mr. Jorge Luis reportedly went on hunger strike since February 10, 2014, demanding that a police fence installed in his home be removed prior to the CELAC summit, preventing his mobility, as well as demanding that the items that were

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<sup>1</sup> IACHR, Precautionary Measures Granted in 2006, available at <http://www.cidh.org/medidas/2006.sp.htm>.

removed from his home in the February 5 raid be returned to him. On February 11, 2014, the beneficiary's home was allegedly raided again, and he, his wife, and two activists were detained and later released.

6. On February 15, 2014, after several consultations and following support for his hunger strike through nationwide protests, he reportedly decided to drink water. It was indicated that, after that, the State forces raided his home again and arrested him, his sister stating that "they arrested [her] brother so that he would not drink water and thus kill him."

7. On June 5, 2014, a document was reportedly published in rejection of foreign investment in support of the Cuban regime and, since the first signatory of 835 was the beneficiary, on June 11, 2012, in the early morning hours, his home was raided and he and his wife were taken into custody; on June 13, they were released. Regarding this detention, the beneficiary stated that he was informed that he was detained for inciting the spreading of propaganda, for being a spokesperson in Cuba for the extreme right-wing exile movement and for leading new trends in Cuba that would cause problems for "the Revolution." The beneficiary allegedly told them "I won't shut up and I won't leave." This purportedly made a person in a white coat enter and strangle him until he lost consciousness. He appeared outside the interrogation room "in the sunroom lying on the floor and adding that they had given him an injection "so that he would recover"; on a second occasion he indicated that they threw him against the doors of the offices.

8. On June 15, 2014, the beneficiary and his wife were again reportedly detained after holding a protest to request medical attention for a sick man who was lying in the middle of the street. The following day, the beneficiary's wife was reportedly told, in reference to her husband, that "Oswaldo Pata killed himself and everyone screamed a lot, but nothing happened," which they interpreted as a direct threat. After 10 days in detention, the beneficiary was released from prison on June 25, 2021, and placed under house arrest while awaiting trial for "public disorder."

9. The Commission forwarded that communication to the State on September 10, 2014, requesting information on the beneficiary's situation. Following the lack of response and updated information for a long period of time, on October 11, 2019, both parties were called to a working meeting, but there was no response from either of them. On January 22, 2021, updated information was requested from the representation, without receiving a response. The request was reiterated on August 18, 2022.

10. On August 23, 2022, the beneficiary himself referred to various requests for precautionary measures and indicated that he is not requesting a precautionary measure in his favor, because, although he was a political prisoner for 17 years in Cuba, he has been residing in the United States of America for three years.

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

11. The precautionary measures mechanism is part of the Commission's function of overseeing compliance with the human rights obligations set forth in Article 106 of the Charter of the Organization of American States. These general oversight functions are established in Article 41(b) of the American Convention on Human Rights, as well as in Article 18(b) of the IACHR Statute. The mechanism of precautionary measures is set forth in Article 25 of the Commission's Rules of Procedure. In accordance with that Article, the Commission grants precautionary measures in serious and urgent situations in which these measures are necessary to avoid irreparable harm to persons or to the subject matter of a petition or case before the organs of the inter-American system.

12. The Inter-American Commission and the Inter-American Court of Human Rights (hereinafter “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.<sup>2</sup> Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.<sup>3</sup> To do this, the IACHR shall assess the problem raised, the effectiveness of state actions to address the situation described, and the vulnerability to which the persons proposed as beneficiaries would be exposed if the measures are not adopted.<sup>4</sup> Regarding their precautionary nature, these measures have the purpose of preserving a legal situation while under consideration by the organs of the inter-American system. The precautionary nature aims at safeguarding the rights at risk until the petition pending before the inter-American system is resolved. Their object and purpose are to ensure the integrity and effectiveness of an eventual decision on the merits and, thus, avoid any further infringement of the rights at issue, a situation that may adversely affect the useful effect of the final decision. In this regard, precautionary or provisional measures enable the State concerned to comply with the final decision and, if necessary, to implement the ordered reparations. In the process of reaching a decision, according to Article 25(2) of its 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 a violation of rights which, due to their nature, would not be susceptible to reparation, restoration or adequate compensation.

13. With respect to the foregoing, Article 25(7) of the Commission’s Rules of Procedure establishes that decisions “granting, extending, modifying or lifting precautionary measures shall be adopted through reasoned resolutions.” Article 25(9) sets forth that “the Commission shall evaluate periodically, at its own initiative or at the request of either party, whether to maintain, modify or lift the precautionary measures in force.” In this regard, the Commission should assess whether the serious and urgent situation and the possible irreparable harm that caused the adoption of the precautionary measures persist. Moreover, the Commission shall consider whether new situations have subsequently arisen that might meet the requirements set forth in Article 25 of the Rules of Procedure.

14. Similarly, while the assessment of the procedural requirements when adopting precautionary measures is carried out from a *prima facie* standard, keeping such measures in force requires a more

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<sup>2</sup> See in this regard: I/A Court H.R. Request for Provisional Measures submitted by the IACHR regarding the Bolivarian Republic of Venezuela, Order of the Inter-American Court of Human Rights of March 30, 2006, considerandum 5; I/A Court H.R. [Case of Carpio Nicolle et al. v. Guatemala](#), Provisional Measures, Order of July 6, 2009, considerandum 16. Available at [https://www.corteidh.or.cr/docs/medidas/penitenciarioregion\\_se\\_01.pdf](https://www.corteidh.or.cr/docs/medidas/penitenciarioregion_se_01.pdf)

<sup>3</sup> See in this regard: I/A Court H.R. [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#), Provisional Measures regarding Venezuela, Order of the Court of February 8, 2008, considerandum 8; I/A Court H.R. [Case of Bámaca Velásquez](#), Provisional measures regarding Guatemala, Order of the Court of January 27, 2009, considerandum 45; I/A Court H.R. [Matter of Fernández Ortega et al.](#) Provisional Measures regarding Mexico, Order of the Court of April 30, 2009, considerandum 5; I/A Court H.R. [Matter of Milagro Sala](#), Request for Provisional Measures regarding Argentina, Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5.

<sup>4</sup> See in this regard: I/A Court H.R. [Matter of Milagro Sala](#), Request for Provisional Measures regarding Argentina, Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5; I/A Court H.R. [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#), Provisional Measures regarding Venezuela, Order of the Court of February 8, 2008, considerandum 9; I/A Court H.R. [Matter of the Criminal Institute of Plácido de Sá Carvalho](#), Provisional Measures regarding Brazil, Order of the Inter-American Court of Human Rights of February 13, 2017, considerandum 6.

rigorous evaluation.<sup>5</sup> In this sense, when no imminent risk is identified, the burden of proof and argument increases over time.<sup>6</sup> The Inter-American Court has indicated that the passage of a reasonable period of time without any threats or intimidation, in addition to the lack of imminent risk, may lead to the international protection measures being lifted.<sup>7</sup>

15. In the instant matter, the Commission recalls that the precautionary measures were granted in November 2006, when the beneficiary was serving a 17-year prison sentence, while he allegedly received a threat from the authorities that he would not be released from prison alive. The Commission notes that while it is unclear when the beneficiary was released from prison, the information provided in August 2014 indicates that, at least during that year, the beneficiary's risk changed to constant harassment by the authorities while he was at liberty, allegedly due to his work as a human rights defender.

16. In this respect, the Commission notes the following reported facts against the beneficiary in that period:

- a. On February 5, 2014, his home was raided, and the beneficiary and his wife were detained;
- b. On February 11, he was again detained after starting a hunger strike on February 10;
- c. On February 15, he was detained after suspending his hunger strike by drinking water;
- d. From June 5 to 13, he was detained again, following the publication of a document. On that occasion, the beneficiary was allegedly subjected to severe acts of aggression against him by State agents, who even made him lose consciousness on one occasion;
- e. On June 15, he was allegedly detained again, and a threat was received through his wife.

17. In this connection, the Commission has consistently observed the worrisome situation in the country. For example, in 2014, the Commission received information “on the use of pretrial detention or temporary detention of people who include political dissidents and human rights defenders in the context of peaceful social protests,”<sup>8</sup> even learning about the particular situation of the beneficiary.<sup>9</sup> The IACHR has maintained constant monitoring of the situation in Cuba, which has been repeatedly addressed in Chapter IV.B of its annual report.<sup>10</sup> For its part, in its 2020 report on Cuba, the Commission recalled that “the arbitrary detention of human rights defenders places these persons in a situation of vulnerability and generate a real and imminent risk that other rights will be violated, to their detriment.”<sup>11</sup> The IACHR took note of information on the use of the criminal definition of public disorder –among others– to discourage the work of defense and promotion of human rights.<sup>12</sup>

18. In this regard, the Commission notes that the information on the events reported during 2014 is consistent with the information that the IACHR has been receiving on the situation of human rights defenders in Cuba. In this way, the Commission notes with concern the ongoing acts of harassment against the beneficiary by State agents, which comprise harassment at his home and detentions accompanied by threats and attacks that are allegedly motivated to prevent his work as a human rights defender.

<sup>5</sup> I/A Court H.R. [Case of Fernández Ortega et al. Provisional measures regarding Mexico. Decision of February 7, 2017](#), considerandums 16 and 17.

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*

<sup>8</sup> IACHR. [Annual Report 2014 Chapter IV.B – Cuba](#), paras. 197-201, 224, 272 *et seq.*

<sup>9</sup> *Id.*, paras. 275-6.

<sup>10</sup> See, in general: IACHR, [Annual Reports](#).

<sup>11</sup> IACHR. [Situation of Human Rights in Cuba](#). OEA/Ser.L/V/II. Doc. 2 February 3, 2020, para. 186.

<sup>12</sup> *Id.*, para. 188.

19. Notwithstanding the foregoing, the Commission notes that in analyzing whether this matter should remain in force, the beneficiary reported that he has been in the United States of America for three years, and no situation placing at risk has been reported after the events of 2014. Thus, considering that Mr. Jorge Luís García Pérez Antúnez does not currently reside in Cuba and no ongoing events presenting a risk have been reported, the IACHR does not identify the existence of an imminent risk in the terms of Article 25 of the Rules of Procedure. This is so, because the circumstances that led to the granting of these precautionary measures, which were related to threats while he was in prison, have changed, and although there were worrisome events in 2014, to date the beneficiary is at liberty residing outside the country, and the requirements of seriousness, urgency, and the need to prevent a risk of irreparable harm are not present. In view of the above, and considering the exceptional and temporary nature of precautionary measures,<sup>13</sup> the Commission deems it appropriate to lift these measures.

20. The Commission regrets the lack of information from the State requested in the framework of Article 25(5) of the IACHR Rules of Procedure. In this regard, the absence of accurate, detailed, and up-to-date information from the State, which was exercising custody over the beneficiary, has made it impossible for the Commission to have updated elements to timely assess whether the situation presenting a risk persists. This is especially serious given the nature of the facts alleged at the time of granting the precautionary measures, as well as the actions of State agents against Mr. Jorge Luis during 2014.

21. Finally, the Commission emphasizes that, regardless of the lifting of these measures, it is the obligation of the State of Cuba to respect and guarantee the rights recognized in the applicable instruments.

## **V. DECISION**

22. The Commission decides to lift the precautionary measures granted in favor of Jorge Luís García Pérez Antúnez, in Cuba.

23. The Commission instructs its Executive Secretariat to notify this resolution to the State of Cuba and the representatives.

24. Approved on September 20, 2022, by Julissa Mantilla Falcón, President; Edgar Stuardo Ralón Orellana, First Vice-President; Esmeralda Arosemena de Troitiño; and Roberta Clarke, members of the IACHR.

Tania Reneaum Panszi  
Executive Secretary

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<sup>13</sup> I/A Court H.R., Matter of Adrián Meléndez Quijano et al. Provisional Measures regarding El Salvador. Order of the Court of August 21, 2013, para. 22, and Matter of Galdámez Álvarez et al. Provisional Measures regarding Honduras. Order of the Inter-American Court of Human Rights of November 23, 2016, para. 24