
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 90/2020**

Precautionary Measure No. 935-20
Ada Iris Miranda Leyva et al. regarding Cuba
November 23, 2020
Original: Spanish

I. INTRODUCTION

1. On September 28, 2020, the Inter-American Commission on Human Rights (“the Inter-American Commission”, “the Commission” or “the IACHR”) received a request for precautionary measures filed by the organization *Fundación para la Democracia Panamericana* (FDP) (“the applicants”), urging that the Commission require that the State of Cuba (“the State” or “Cuba”) adopt the necessary measures to protect the rights to life and personal integrity of Maydolis Leyva Portelles, Ana Iris Miranda Leyva, Ada Iris Miranda Leyva, Fidel Manuel Bastista Leyva, T.R.M., A.M.R.M. and María Casado Ureña (“the proposed beneficiaries”). According to the request, the proposed beneficiaries are being subjected to threats, harassment, detentions and acts of violence by state agents and third parties, allegedly as a result of their work as human rights defenders in Cuba.

2. Under the terms of Article 25.5 of its Rules of Procedure, the IACHR requested information from the State and the applicants on October 23, 2020. To this date, no response has been received from the State. For their part, the applicants submitted additional information on November 1, 2020.

3. After analyzing the submissions of fact and law presented by the applicants, the Commission considers that the information submitted demonstrates prima facie that Maydolis Leyva Portelles, Ana Iris Miranda Leyva, Ada Iris Miranda Leyva, Fidel Manuel Batista Leyva, T.R.M., A.M.R.M. and María Casado Ureña are in a serious and urgent situation, as their rights to life and personal integrity are at risk of irreparable harm. Consequently, the IACHR requests that Cuba: a) implement the necessary measures to protect the rights to life and personal integrity of Maydolis Leyva Portelles, Ana Iris Miranda Leyva, Ada Iris Miranda Leyva, Fidel Manuel Batista Leyva, T.R.M., A.M.R.M. and María Casado Ureña, with the incorporation of a gender perspective. To this end, the State must ensure that its agents respect the life and personal integrity of the beneficiaries, as well as 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 Maydolis Leyva Portelles, Ana Iris Miranda Leyva, Ada Iris Miranda Leyva and Fidel Manuel Batista Leyva can carry out their activities as human rights defenders without being subjected to acts of violence and harassment in the course of their work; c) agree upon the measures to be implemented with the beneficiaries and their representatives; and, d) report on the actions taken in order to investigate the alleged facts that led to the adoption of this resolution with the aim of preventing their reoccurrence.

II. SUMMARY OF FACTS AND ARGUMENTS

1. Information provided by the applicants

4. Ana Iris Miranda, Leyva, Ada Iris Miranda Leyva, Fidel Manuel Batista Leyva and Maydolis Leyva Portelles identify themselves as members of the *Comando Olegario Charlot Spileta Holguín* and the *Unión*

Patriótica de Cuba (“Patriotic Union of Cuba”, UNPACU by its Spanish acronym),¹ and as advocates of the civic campaign *Cuba Decide* (“Cuba Decides”).² T.R.M. (aged 14) and A.M.R.M. (aged 12) are Ada Iris’ children. The request alleges that the proposed beneficiaries have been persecuted, threatened, harassed and detained countless times during the last few years due to their work as human rights defenders in the country.

5. In this sense, according to the applicants, on January 3, 2014, Ada Iris Miranda Leyva and Maydolis Leyva Portelles were violently detained in the city of Holguín.³ On October 21 of the same year, the two proposed beneficiaries were arrested again, together with other activists, while they were holding a vigil in front of the Municipal Court of Holguín in favor of Lady in White (*Dama de Blanco*), Sonia Garro.⁴

6. Subsequently, siblings Ana Iris Miranda Leyva, Ada Iris Miranda Leyva and Fidel Batista Leyva, and their mother Maydolis Leyva Portelles, were arrested on November 27, 2016 –two days after the death of Fidel Castro–.⁵ The siblings were sentenced to one year in prison for the alleged offenses of “defamation of heroes and martyrs, and public disorder”, reportedly for having left their home during the period of official mourning.⁶ In this regard, the request indicates that, at that time, Amnesty International declared them “prisoners of conscience”.⁷

7. More recently, on June 17, 2020, the proposed beneficiaries were allegedly verbally offended and beaten by police officers and other persons in front of their residence.⁸ On September 26, 2020, they were allegedly victims of a new act of violence, which, according to the request, unlike previous occasions, resulted in the partial destruction of the Miranda Leyva family’s house.⁹ According to the testimonies of the proposed beneficiaries, the group of persons responsible was composed of members of the *Brigadas de Respuesta Rápida* (“Rapid Response Brigades”), the *Comité de Defensa de la Revolución* (“Committee for the Defense of the Revolution”) and the Ministry of Interior (MININT), neighbors and police agents. The request reported that the proposed beneficiaries had to take shelter on the roof of their home, but that this did not prevent them from being attacked, given that the aggressors threw bricks, stones and other blunt objects at them, in addition to shouting insults and threats of “burning all the members of the family of Cuban opponents”.

8. After being attacked and seeing their home partially destroyed, the proposed beneficiaries left their home and went to the Bishopric of Holguín, where they requested humanitarian asylum. However,

¹ The applicants indicated that the Patriotic Union of Cuba (UNPACU) is the largest and most active organization of “non-violent political activism” in Cuba.

² The applicants indicated that Cuba Decides is a citizen initiative to change the political and economic system in Cuba, causing a peaceful transition process towards democracy.

³ Radio Televisión Martí. “[Police arrested women with their children in Holguín](#)”. January 10, 2014 (Available in Spanish).

⁴ Radio Televisión Martí. “[Holguín Police arrests opponents to avoid vigil in favor of Sonia Garro](#)”. October 22, 2014 (Available in Spanish).

⁵ Radio Televisión Martí. “[Arrests, threats and other violations of human rights during mourning of Castro in Cuba](#)”. December 4, 2016 (Available in Spanish).

⁶ Radio Televisión Martí. “[Family arrested during mourning for the death of Fidel Castro awaits trial](#)”. December 12, 2016 (Available in Spanish); Radio Televisión Martí. “[Repression against opponents increases in Cuba after two years of Cuban thaw](#)”. December 16, 2016 (Available in Spanish).

⁷ Amnesty International. [Cuba: Further Information: Ex-Prisoners of Conscience Intimidated](#). AMR 25/6650/2017. June 30, 2017.

⁸ Radio Televisión Martí. “[Family of opponents in Holguín denounces violent acts of repudiation](#)”. June 18, 2020 (Available in Spanish).

⁹ ADN Cuba. “[Cuban opponent family is once again victim of violence](#)”. September 27, 2020 (Available in Spanish); Periódico Cubano. “[House of opponent family Miranda Leyva is set on fire in Holguín](#)”. September 27, 2020 (Available in Spanish); Radio Viva 24. “[Hitmen of the Cuban regime allegedly attempted to burn family of peaceful opponents alive](#)”. September 27, 2020 (Available in Spanish).

the Bishopric allegedly denied them the assistance requested, only offering to call the authorities to return them to their home.¹⁰

9. The request states that, in view of the constant violation of their rights and the vulnerability of the proposed beneficiaries, they allegedly began a hunger strike on September 27, 2020. T.R.M. and A.M.R.M., both minors, reportedly ended their hunger strikes on the same day.

10. Subsequently, on September 30, the proposed beneficiaries reportedly received two threatening telephone calls. Later, on October 20, they were allegedly arbitrarily detained in the municipality of Calixto García in the province of Holguín while they were trying to travel to Havana with the intention of requesting political asylum in an embassy. According to the testimony of the proposed beneficiaries, after several hours of being detained and attacked by police agents, they were returned to their home where pro-government persons were waiting for them and threatened them to death once again.

11. The request also states that currently Ana Iris Miranda Leyva, Ada Iris Miranda Leyva, Fidel Batista Leyva and Maydolis Leyva have been charged with the crime of “threats”.¹¹ In the criminal proceeding, the family has not been allowed to present witnesses or to testify.

12. On the other hand, according to the applicants, Ada Iris Miranda Leyva has been accused of “other acts contrary to the normal development of minors”, for which she could be sentenced to prison and lose custody of both her children –T.R.M. and A.M.R.M.–, since they would be transferred to a “behavioral school”.¹²

13. In this same sense, for the past 3 years, the minors have allegedly not been able to attend the Julio Grave de Peralta primary school in Holguín because, according to the proposed beneficiaries, “their lives are in danger at the school due to countless beatings, acts of repudiation, moral offenses and threats”.¹³ These violent incidents were reported to the Minister of Education by way of several letters. In addition, the request alleges that both minors have been denied access to public healthcare, indicating that they suffer from depression as a result of the harassment of which they have been victims. Thus, the proposed beneficiary T.R.M. has allegedly attempted to take her own life four times.

14. Lastly, the request expresses that the proposed beneficiaries have not filed complaints with the competent authorities in relation to the alleged facts, since similar complaints have reportedly been previously rejected by the authorities.¹⁴

2. Information provided by the State

¹⁰ Periódico Cubano. “[House of opponent family Miranda Leyva is set on fire in Holguín](#)”. September 27, 2020 (Available in Spanish); Diario de Cuba. “[Family of Cuban opponents settles in Holguín Bishopric after denouncing ‘attacks’ to their residence](#)”. September 28, 2020 (Available in Spanish).

¹¹ Radio Televisión Martí. “[Opponent family was informed of an ordinary criminal proceeding pending against all of them](#)”. September 15, 2020 (Available in Spanish).

¹² Radio Televisión Martí. “[Leyva siblings demand the end of threats to withdraw legal custody of children from one of them](#)”. January 29, 2018 (Available in Spanish); Diario de Cuba. “[Cuban activist denounces a ‘manoeuvre’ by the regime to take her children away](#)”. September 21, 2020 (Available in Spanish).

¹³ Radio Televisión Martí. “[Leyva siblings demand the end of threats to withdraw legal custody of children from one of them](#)”. January 29, 2018 (Available in Spanish); Diario de Cuba. “[Family of Cuban opponents settles in Holguín Bishopric after denouncing ‘attacks’ to their residence](#)”. September 28, 2020 (Available in Spanish).

¹⁴ Radio Televisión Martí. “[Family alerts about indifference of the authorities regarding harassment](#)”. August 6, 2020 (Available in Spanish).

15. The Commission requested information from the State on October 23, 2020, but has not received any response to this date.

III. ANALYSIS OF THE ELEMENTS OF SERIOUSNESS, URGENCY AND IRREPARABILITY

16. The precautionary measures mechanism is part of the Commission's functions of overseeing Member State compliance with the human rights obligations established in Article 106 of the Charter of the Organization of American States ("OAS"). These general functions are set forth in Article 41(b) of the American Convention on Human Rights, as well as in Article 18(b) of the Statute of the IACHR. Moreover, the precautionary measures mechanism is enshrined in Article 25 of the Rules of Procedure, by which the Commission grants precautionary measures in serious and urgent situations, where such measures are necessary to prevent irreparable harm.

17. 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, one being protective and the other being precautionary. Regarding their protective nature, these measures seek to avoid irreparable harm and to protect the exercise of human rights. With regards to their precautionary nature, these measures have the purpose of preserving legal situations while the bodies of the Inter-American System analyze a petition or case. Their objective 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 *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, according to Article 25.2 of the Rules of Procedure, the Commission considers that:

- a. "Serious situation" refers to a grave impact that an action or omission can have on a protected right or on the eventual effect of a pending decision in a case or petition before the organs of the Inter-American System;
- b. "Urgent situation" is determined by means of the information provided and refers to risk of 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.

18. 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.¹⁵

19. In addition, in the present case, the Commission observes that the alleged situation of risk of the proposed beneficiaries is framed within a specific context related to the situation of human rights defenders in Cuba, generally characterized by a climate of hostility, persecution and harassment,

¹⁵ See in this regard: I/A Court H.R. [Matter of Residents of the Communities of the Miskitu Indigenous People of the North Caribbean Coast Region regarding Nicaragua](#). Extension of Provisional Measures. Order of the Inter-American Court of Human Rights of August 23, 2018. Considerandum 13; I/A Court H.R. [Matter of the children and adolescents deprived of their liberty in the "Complexo do Tatuapé" of the Fundação CASA](#). Request for extension of precautionary measures. Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of July 4, 2006. Considerandum 23.

particularly with respect to those who have expressed their opposition to the government.¹⁶ Thus, those who defend human rights in the country are subjected to serious processes of criminalization and judicial persecution, and accusations of crimes such as contempt, dangerousness and pre-criminal social dangerousness, non-payment of fines, public disorder and resistance or rebellion, all with the aim of obstructing or paralyzing their work in defense and promotion of human rights.¹⁷ Other forms of harassment include being summoned to police stations, searches of their homes, assaults, prohibitions from leaving their homes with the use of official operations and surveillance of their communications.¹⁸ Further, the Commission has observed that human rights defenders are victims of repeated arbitrary detentions as a method of harassment by police and state security actors.¹⁹ Once deprived of their liberty, human rights defenders may be subjected to attacks, threats and ill-treatment within prisons.²⁰ Considering the situation of special risk faced by human rights defenders in Cuba, the IACHR has granted several precautionary measures.²¹

20. In addition, the Commission warns that the proposed beneficiaries Maydolis Leyva Portelles, Ana Iris Miranda Leyva and Ada Iris Miranda Leyva, as women human rights defenders, face an increased risk due to gender stereotypes, historical discrimination and prejudices related to how women should dress, act or the roles that women should play in society.²² Thus, the Commission has observed that women human rights defenders are particularly exposed to violations of their rights to life and personal integrity, including various forms of violence against their families in retaliation for their work, and that deeply rooted gender stereotypes are repeatedly used against them to delegitimize their work.²³

21. Bearing in mind this context, the Commission will proceed to analyze the regulatory requirements regarding the proposed beneficiaries.

22. The Commission considers that the requirement of seriousness has been met. When assessing this requirement, the Commission identifies that the risk situation of the proposed beneficiaries is directly related to their work as human rights defenders. In this sense, the Commission observes that

¹⁶ IACHR. [Situation of Human Rights in Cuba](#). OAS/Ser.L/V/II. Doc. 2. February 3, 2020. Para. 172; IACHR. [Annual Report 2019. Chapter IV.B Cuba](#). OAS/Ser.L/V/II. Doc. 5. February 24, 2020. Para. 22.

¹⁷ IACHR. [Situation of Human Rights in Cuba](#). OAS/Ser.L/V/II. Doc. 2. February 3, 2020. Paras. 173 & 188; IACHR. [Annual Report 2019. Chapter IV.B Cuba](#). OAS/Ser.L/V/II. Doc. 5. February 24, 2020. Para. 22.

¹⁸ IACHR. [Special Report on the Situation of Freedom of Expression in Cuba](#). OAS/Ser.L/V/II. IACHR/RFOE/INF.21/18. December 31, 2018. Para. 136.

¹⁹ IACHR. [Situation of Human Rights in Cuba](#). OAS/Ser.L/V/II. Doc. 2. February 3, 2020. Para. 178; IACHR. [Annual Report 2019. Chapter IV.B Cuba](#). OAS/Ser.L/V/II. Doc. 5. February 24, 2020. Para. 22.

²⁰ See: IACHR. [Resolution 37/2020. Precautionary Measure No. 578-20. Keilylli de la Mora Valle regarding Cuba](#). July 17, 2020 (Available in Spanish); IACHR. [Resolution 29/2019. Precautionary Measures No. 306-19, 307-19 and 326-19. Josiel Guía Piloto, Iván Amaro Hidalgo and Jesús Alfredo Péres Rivas regarding Cuba](#). June 11, 2019 (Available in Spanish); IACHR. [Resolution 23/2019. Precautionary Measure No. 81-19. Edilberto Ronal Arzuaga Alcalá regarding Cuba](#). April 22, 2019 (Available in Spanish); IACHR. [Resolution 16/2018. Precautionary Measure No. 39-18. Eduardo Cardet Concepción regarding Cuba](#). February 24, 2018 (Available in Spanish).

²¹ See: IACHR. [Resolution 12/2020. Precautionary Measure No. 1116-19. Nancy Alfaya and her husband Jorge Olivera regarding Cuba](#). February 5, 2020 (Available in Spanish); IACHR. [Resolution 13/2020. Precautionary Measure 3-20. María Elena Mir Marrero regarding Cuba](#). February 5, 2020 (Available in Spanish); IACHR. [Resolution 22/2018. Precautionary Measure No. 954-16. José Ernesto Morales Estrada regarding Cuba](#). March 18, 2018 (Available in Spanish); IACHR. [Situation of Human Rights in Cuba](#). OAS/Ser.L/V/II. Doc. 2. February 3, 2020. Para. 172.

²² IACHR. [Towards Effective Integral Protection Policies for Human Rights Defenders](#). OAS/Ser.L/V/II. Doc. 207/17. December 29, 2017. Paras. 43 & 146; IACHR. [Second Report on the Situation of Human Rights Defenders in the Americas](#). OAS/Ser.L/V/II. Doc. 66. December 31, 2011. Para. 283.

²³ IACHR. [Towards Effective Integral Protection Policies for Human Rights Defenders](#). OAS/Ser.L/V/II. Doc. 207/17. December 29, 2017. Para. 303; IACHR. [Violence and discrimination against women, girls and adolescents: Good practices and challenges in Latin America and the Caribbean](#). OAS/Ser.L/V/II. Doc. 233. November 14, 2019.

they have been persecuted, threatened and harassed countless times in recent years. Moreover, they have been victims of acts of violence, which have allegedly involved state agents and which have intensified over time, such as the attack committed against them on September 26, 2020, that resulted in the partial destruction from their home. The Commission also notes that the proposed beneficiaries have been detained for various periods of time on at least 4 occasions from January 2014 to date. While it is not the responsibility of the IACHR on this occasion to determine the compatibility of the detentions with the American Declaration, it does take into account the allegations of aggressions reportedly attributable to state agents during these detentions.

23. For the Commission, the aforementioned risk events reflect that the proposed beneficiaries have severe limitations on their ability to freely carry out their activities as human rights defenders in Cuba. The events to which they have been exposed also indicate that there is a special fixation by state actors on them with the aim of keeping them under strict surveillance and control over time.

24. In view of the situation analyzed above, the Commission regrets the lack of response from the State, after having requested its observations on this request. While the foregoing is not sufficient per se to justify the granting of a precautionary measure, it does prevent the Commission from obtaining information from it on the situation of the proposed beneficiaries. Given the lack of response from the State, the Commission does not have elements that allow it to disprove the applicants' allegations or identify information on measures effectively adopted by the State to mitigate the alleged risk situation of the proposed beneficiaries. On the other hand, although it is not the Commission's responsibility to determine the authorship of the risk events, or whether they are attributable to state agents, when assessing this request it does take into account the seriousness of the possible participation of State agents, in accordance with the allegations made, since this would place the proposed beneficiaries in a vulnerable situation.

25. Considering the foregoing, the Commission concludes that the information provided by the applicants, assessed in the previously mentioned context, is sufficient to consider from a prima facie standard that the rights to life and personal integrity of Maydolis Leyva Portelles, Ana Iris Miranda Leyva, Ada Iris Miranda Leyva, Fidel Manuel Batista Leyva, T.R.M., A.M.R.M. and María Casado Ureña are at serious risk.

26. The Commission considers that the urgency requirement has been met, in view of the continuity and exacerbation of the harassment, threats and attacks allegedly committed against the proposed beneficiaries, and that their situation of risk is related to their work as human rights defenders. The Commission warns that these acts are likely to be repeated in the near future, requiring the adoption of immediate measures to protect their rights. In this same sense, as indicated above, the Commission does not have specific information provided by the State that would allow it to assess any actions that have been taken to address the alleged situation of risk.

27. The Commission considers that the requirement of irreparability has been met, insofar as the potential impact on the rights to life and personal integrity of the proposed beneficiaries constitutes the maximum situation of irreparability.

28. Lastly, the Commission wishes to reiterate the importance of the work of human rights defenders in the region, placing special emphasis on the fact that acts of violence, criminalization and other attacks against them not only affect the guarantees of every human being, but also undermine the

fundamental role that human rights defenders play in society and add to the defenselessness of all those for whom they work.²⁴

IV. BENEFICIARIES

29. The Commission declares that the beneficiaries of this precautionary measure are Maydolis Leyva Portelles, Ana Iris Miranda Leyva, Ada Iris Miranda Leyva, Fidel Manuel Batista Leyva, T.R.M., A.M.R.M. and María Casado Ureña, who are duly identified in this proceeding.

V. DECISION

30. The Inter-American Commission on Human Rights concludes that the present matter meets prima facie the requirements of seriousness, urgency and irreparable harm contained in Article 25 of its Rules of Procedure. Consequently, the IACHR requests that the State of Cuba:

- a) implement the necessary measures to protect the rights to life and personal integrity of Maydolis Leyva Portelles, Ana Iris Miranda Leyva, Ada Iris Miranda Leyva, Fidel Manuel Batista Leyva, T.R.M., A.M.R.M. and María Casado Ureña, with the incorporation of a gender perspective. To this end, the State must ensure that its agents respect the life and personal integrity of the beneficiaries, as well as 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 Maydolis Leyva Portelles, Ana Iris Miranda Leyva, Ada Iris Miranda Leyva and Fidel Manuel Batista Leyva can carry out their activities as human rights defenders without being subjected to acts of violence and harassment in the course of their work;
- c) agree upon the measures to be implemented with the beneficiaries and their representatives; and,
- d) report on the actions taken in order to investigate the alleged facts that led to the adoption of this resolution with the aim of preventing their reoccurrence.

31. The Commission requests the State of Cuba to inform, within a period of 15 days from the date of this resolution, on the adoption of the precautionary measures requested and to update such information periodically.

32. The Commission emphasizes that, in accordance with Article 25(8) of its Rules of Procedure, the granting of this precautionary measure and its adoption by the State do not constitute prejudgment of any violation of the rights protected in the applicable instruments.

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

34. Approved on November 23, 2020 by: Joel Hernández García, President; Antonia Urrejola Noguera, First Vice-President; Flávia Piovesan, Second Vice-President; Margarette May Macaulay;

²⁴ IACHR. [Towards Effective Integral Protection Policies for Human Rights Defenders](#). OAS/Ser.L/V/II. Doc. 207/17. December 29, 2017. Para. 8; IACHR. [Situation of Human Rights in Cuba](#). OAS/Ser.L/V/II. Doc. 2. February 3, 2020. Para. 172.

Esmeralda Arosemena de Troitiño; Julissa Mantilla Falcón; and, Edgar Stuardo Ralón Orellana, members of the IACHR.

María Claudia Pulido
Acting Executive Secretary