

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 14/2021**

Precautionary Measure No. 1101-20
20 identified members of the San Isidro Movement (MSI) regarding Cuba
February 11, 2021
Original: Spanish

I. INTRODUCTION

1. On November 27, 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 Génesis María Dávila Vázquez and Harold Arturo Miñarro Escalona from “Defiende Venezuela,” Laritza Diversent from “Cubalex,” and Leopoldo Maldonado from “Article 19,” urging the Commission to request that the State of Cuba (hereinafter “the State” or “Cuba”) protect the rights of 20 members of the San Isidro Movement (MSI).¹ According to the request, such persons are at risk due to harassment and other acts of violence of which they have allegedly been victims given their status as human rights defenders. According to the request received, the proposed beneficiaries are at risk due to threats, harassment, surveillance, persecution, detention and acts of violence by state actors and third parties because of their work as activists and journalists, human rights defenders in Cuba.

2. In accordance with Article 25.5 of the Rules of Procedure, the IACHR requested information from the State on December 3, 2020, and from the applicants on December 3 and 28, 2020. To date, the State’s response has not been received. For their part, the applicants submitted additional information on December 11, 15 and 30, 2020.

3. Upon analyzing the allegations of fact and law submitted by the applicants, the Commission considers 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. 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 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 representatives; and, d) report on the actions taken to investigate the alleged events that led to the adoption of this precautionary measure, so as to prevent them from reoccurring.

II. SUMMARY OF FACTS AND ARGUMENTS PROVIDED BY THE PARTIES

1. Information provided by the applicants

4. The persons proposed as beneficiaries –members of the San Isidro Movement (MSI)– identified themselves as human rights defenders. The request stated that, during the first week of November 2020,

¹ (1) Denis Solís González, (2) Luis Manuel Otero Alcántara, (3) Maykel Castillo Pérez, (4) Iliana Hernández Cardosa, (5) Anamely Ramos González, (6) Oscar Casanella, (7) Katherine Bisquet Rodríguez, (8) Omara Ruiz Urquiola, (9) Adrián Rubio, (10) Jorge Luis Estien, (11) Alfredo Martínez, (12) Amaury Pacheco, (13) Michel Matos, (14) Esteban Rodríguez, (15) Iris Ruiz, (16) Miguel Yasser Castellano Guerrero, (17) Anyell Valdés Cruz, (18) Jorge Luis Capote Arias, (19) Niovel Alexander Tamayo (Abu) Formen, and (20) Osmani Pardo Guerra.

state security agents visited the house of Denis Solís González –a musician and MSI activist– and allegedly telephoned him to intimidate him. In this regard, on the morning of November 6, 2020, Mr. Solís González allegedly expelled from his house an agent of the National Revolutionary Police (PNR), who reportedly entered it without authorization. On November 9, 2020, Mr. González was violently detained by three men in civilian clothes who were allegedly part of the counterintelligence of the State. On November 11, 2020, Mr. Solís González was tried and sentenced to 8 months imprisonment for the crime of “contempt,” and was transferred to the Valle Grande maximum security prison, where he was held incommunicado until November 16, 2020, when he was allowed to make a phone call.

5. On November 12, 2020, Luis Manuel Otero Alcántara and Iliana Hernández Cardosa,² members and activists of the Movement, were detained while they were investigating Mr. Solís González’s whereabouts. That same day, Héctor Luis Valdés Cocho, was detained by unidentified persons, who were traveling in a police patrol and on a motorcycle. These persons told him to turn off his mobile and get into the vehicle. Later, he was transferred to a police station, where he was beaten, threatened and humiliated for his sexual orientation, and was released at night.

6. On November 13, 2020, members of the MSI agreed once again to request information on the reasons for Mr. Solís González’s detention. However, Maykel Castillo Pérez was detained by police officers before he could reach the police station, and he was transferred to two different police stations before being released. On the other hand, Anamely Ramos González was violently detained at the police station in Cuba and Chacón by three police officers. One of them reportedly covered her mouth until she felt asphyxiated. Subsequently, she was allegedly transferred to the La Lisa police station and then to a state security house in Miramar, where she was interrogated. She was released at midnight the next day.

7. That same day, in front of the same police station where Mr. Solís González’s release was demanded, Otero Alcántara, Katherine Bisquet, Omara Ruiz Urquiola, Jovian Batista, Adrián Rubio, Oscar Casanella and Jorge Luis Estien were also detained. Some proposed beneficiaries were detained for several hours before being released. Omara Ruiz Urquiola was dragged across the floor by a motorized police officer trying to snatch her phone, which caused her to bleed from injuries she has on her body, possibly because she suffers from cancer. Jovian Batista remained detained for 24 hours and was transferred to another municipality, under the assumption that he had a complaint. Subsequently, he was released at 7:00 p.m. on November 14, 2020. Iliana Hernandez was also detained and transferred to another police station, where she was released after a few hours.

8. On November 14 and 15, 2020, the detention of several of the proposed beneficiaries was repeated,³ two of whom suffered injuries as a result of the violence used against them by State actors.

9. On November 16, 2020, upon the notification of the Havana Tribunal, the persons proposed as beneficiaries decided to meet at the MSI headquarters to carry out symbolic acts of protest against the “arbitrary procedure” followed against Mr. Solís González. From then until November 23, 2020, the authorities organized surveillance operations at the headquarters and around the houses of other

² The proposed beneficiary was detained in the Playa municipality when he was leaving the house of some friends and a patrol was waiting for him. They detained him and transferred him to the police station located in the La Lisa municipality. At 8:30 a.m. he was released. Ms. Hernandez Cardosa was detained at noon in the Pan-American Village and was transferred to the police station located in the locality of Cojimar where she was held for four hours until 6:40 p.m. when she was released.

³ On November 14, at 3:00 a.m., Anamely Ramos González and Luis Manuel Otero Alcántara were detained in a park near the police station “Cuba y Chacón” and transferred to the police station in the San Miguel del Padrón municipality. Otero Alcántara was released at 12:30 a.m. and Ramos González was transferred to the police station of the Regla municipality, and then released at 11:30 p.m. In turn, Hernández Cardosa was detained when leaving his house, by a state security officer dressed in civilian clothes and a patrol. She was transferred to the local police station and released at 1:00 p.m. later nearby her home. Osvaldo Castillo, Anyell Valdés and Alfredo Martínez were detained at 10:00 a.m. and then released the next day. Amaury Paheco, Michel Matos, Lázaro Yuri Valle Roca and Eraldis Frómata, who were reading poems in protest, were also detained. During Frómata’s detention, he suffered an injury in one of his legs and detachment of ligaments in one of his arms.

individuals suspected of being associated with the MSI.

10. Some of the proposed beneficiaries were visited by security officers, who ordered them not to leave their houses under penalty of detention. Moreover, the activists' houses were monitored 24 hours a day by men in civilian clothes who remained outside the residences. The applicants claim that they belong to the State security. The surveillance prevented the proposed beneficiaries from leaving their houses. There were also reports of street lighting being turned off to disguise the surveillance, as well as cuts in mobile data service. In at least two of the proposed beneficiaries, cell phone calls were reported to have been cut off. This measure also affected the relatives who lived together with the persons under surveillance, especially in the case of the couple Iris Ruiz and Amaury Pacheco, who have 4 minor children in their care.

11. On November 17, 2020, Diaz Batista was detained and interrogated, and was released at 6:30 p.m. On that same day, Diasniurka Salcedo was detained; she reported that she had been sexually abused by a security officer named "Oscar." On November 18, 2020, people inside the headquarters went on a hunger and thirst strike. The police allegedly placed a fence around the headquarters and no provisions were reportedly allowed to pass. On November 19, 2020, the drinking water tank at the organization headquarters where the protesters were staying was contaminated –allegedly with hydrochloric acid–. On the same day, journalist Valdez Cocho was detained and held for 24 hours when he was going to the MSI headquarters with food for the proposed beneficiaries. Journalist Hernández Cardosa's mother was also detained as she approached the MSI headquarters, where her daughter was.

12. On November 21, 2020, the authorities mistreated the underage daughters of two of the defenders,⁴ preventing them from passing the police fence and from receiving water and other essential items. Maykel's wife was mistreated as well. On that night, a man showed up at the headquarters and attacked Luis Manuel Otero with a hammer, smashed the door with it and threw bottles inside.

13. On November 26, 2020, state authorities entered the MSI headquarters by force, detaining twelve of the persons proposed as beneficiaries after they refused to undergo PCR tests in establishments. At the time, the location that they were taken to was unknown as no hospital or police station confirmed their presence there. Subsequently and according to the request, they were all released except Luis Manuel Otero Alcántara and Osmani Pardo.

14. According to the information recently provided by the applicants, Mr. Solís González is still deprived of liberty.⁵ Mr. Solís reportedly contacted his next of kin on December 2, 14 and 25, 2020. On the latter date he reported that the director of the prison spoke to him and told him that they would allow him to make 10-minute phone calls every day from Monday to Saturday, and that his family could bring him essential items starting the following Monday, December 28, 2020. These decisions were taken allegedly because of complaints of his family on social networks. However, visits from family members or legal representatives are still not allowed. Thus, the conditions of his imprisonment are unknown as no family member or member/associate of MSI has been allowed inside the prison.

15. Similarly, Mr. Solís González reportedly informed his next of kin about the existence of inmates who exercise disciplinary functions, known within the Cuban prison system as "*disciplinas*." They told him that if he continued protesting for his situation of isolation, it would constitute grounds for officers to subdue him with violence. In addition, the proposed beneficiary mentioned the possibility of being beaten up by another inmate. Mr. Solís also reported that he was admitted –with a high fever– to the National Hospital for Inmates (HNI) in the same penitentiary for two weeks due to infections in two wounds in his

⁴ Esteban Rodríguez and Maykel Castillo, 15 and 5 years old, respectively.

⁵ Solís González reported that he was initially in the Valle Grande Penitentiary Center and is currently in the Combinado del Este, Building 1, *Segundo Sur, destacamento 4, compañía 1229*.

foot that he suffered at the time of his detention. According to the request, the lack of adequate medical attention in one of the wounds made him get lymphangitis. His family was never informed of that.

16. The applicants indicated that two writs of habeas corpus were filed in favor of Mr. Solís González and both were rejected.⁶ They added that the sentence against Mr. Solís González is non-appealable. The applicants raised various questions about the process.

2. Information provided by the State

17. The Commission requested information from the State on September 3, 2020. There has been no response to this date.

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

18. 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.

19. 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 to protect the exercise of human rights. Regarding 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 render moot or disprove 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” refers to risk or threat that is imminent and can materialize, thus requiring immediate preventive or protective action; and
- c. “irreparable harm” refers to impact on rights which, due to their nature, would not be susceptible to reparation, restoration or adequate compensation.

20. 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.⁷

⁶ The first writ of habeas corpus was filed on November 10, 2020 and was rejected by the Havana Court on November 16. The second writ of habeas corpus was filed on November 18, 2020 and was again rejected by the Havana Court on November 23.

⁷ For instance, in relation to provisional measures, the Inter-American Court has considered that this standard requires a minimum of detail and information that allow for the *prima facie* assessment of an extremely serious and urgent 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.

21. 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 arrests or various procedural and substantial challenges to the criminal process of one of the members of the San Isidro Movement. The Commission is also not called upon to rule on the attribution of criminal or other liability to the persons involved in this matter. The analysis carried out herein by the Commission 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.

22. Regarding the universe of proposed beneficiaries, the Commission notes that the applicants referred to 20 duly identified persons who are currently part of the so-called San Isidro Movement in Cuba. The information available indicates that the Movement includes people from the artistic and social sectors, such as defenders and journalists. 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 occurred affecting their members. For example, its members recently participated in denouncing the arrest and imprisonment of one of its members, Mr. Solís González.

23. Although the applicants did not provide specific information on each of the 20 persons proposed as beneficiaries, the Commission understands that the reported events of risk are closely connected with the membership of such persons in the San Isidro Movement. In this sense, the Commission will proceed to analyze the common risk factors reported in this request, considering the events that the members of the aforementioned movement have faced individually in Cuba.

24. The Commission is also taking the context of Cuba into account when understanding the alleged facts. In this regard, it is emphasized that the Commission has consistently identified that human rights defenders in Cuba are often deprived of their liberty in an allegedly arbitrary manner under certain types of criminal offenses –such as contempt, public attacks and disorder– and are sometimes subjected to attacks, threats and mistreatment within prisons.⁸ 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,⁹ reiterating the obligations of the State of Cuba in terms of freedom of expression, as well as personal liberty and security.¹⁰ Such statements took place after indications of the existence of allegedly arbitrary detentions of some activists, as well as the violent breaking into the facilities of the San Isidro Movement in Cuba by State actors.

25. Considering the foregoing, and with regard to the requirement of seriousness, the Commission notes that, according to the information provided, the following events transpired against members of the Movement between November and December 2020: i) entry of police officers in homes without warrants; ii) intimidating phone calls; iii) acts of violence at the time of certain arrests, accompanied by threats and, in one case, acts of humiliation due to the sexual orientation of a member of the Movement. Among the denounced acts of violence, there were beatings, attempts of suffocation, dragging people on the floor, and sexual abuse in the case of a member of the Movement; iv) the detentions have also been accompanied by transfers of persons between various police stations before being released; v) upon being detained, there have been periods where the detainees are held incommunicado or their whereabouts are unknown; vi)

⁸ IACHR, Special Report on the Situation of Freedom of Expression in Cuba, 2018, paragraph 136.

⁹ 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.

¹⁰ Press Release No. 286-20, The IACHR rejects the arbitrary operation against the San Isidro movement in Cuba and reiterates its international human rights obligations, available [in Spanish] at <http://www.oas.org/es/cidh/prensa/comunicados/2020/286.asp>, Washington, November 28, 2020.

surveillance operations at the headquarters of the Movement and around the homes of its members by people dressed as civilians; vii) restrictions to leave their own homes by police officers; viii) an unidentified man attacked a member of the Movement and also smashed the door of the headquarters with a hammer, and ix) in the case of Mr. Solís, he was not provided adequate medical attention, among others.

26. The Commission notes that the alleged events occurred as the members of the Movement were preparing to protest themselves by carrying out “symbolic acts,” and particularly when they were preparing to take actions due to the detention of Mr. Solís González, also a member of the San Isidro Movement. In the same manner, it is observed that the alleged events have not only prevented them from carrying out actions typical of their Movement but were also aimed at intimidating its members in order to stop their actions. This situation has persisted even after they were detained and in the custody of the State, as reflected in the case of Mr. Solís González. There is special concern as it has been identified that several of these events have been attributed to police officers or unknown individuals who have even attacked and injured several of its members in recent times.

27. The Commission notes that, despite having requested information from the State, to date no communication has been received from the State of Cuba. The Commission regrets the lack of response from the State, which prevents the Commission from knowing the State’s position regarding this request, as well as the actions implemented in order to address the risk described. At the same time, according to the information provided by the applicants, the risk described reportedly comes from 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 the Commission does take into account the seriousness of the possible participation of State actors, according to the allegations presented, as this would place the proposed beneficiaries in a situation of greater vulnerability.

28. In these circumstances, and in light of the analysis carried out, the Commission considers that, from the applicable *prima facie* standard and in the context that the State of Cuba is going through, it is sufficiently proven that the rights to life and personal integrity of the 20 identified persons of the San Isidro Movement (MSI) are at serious risk.

29. Regarding the urgency requirement, the Commission deems it 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 Movement Isidro continue with their activities. The Commission does not have specific information provided by the State sufficient to assess the actions that have been taken to address the alleged situation of risk. There is also no information available to indicate that the alleged situation has been properly mitigated or no longer exists.

30. 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

31. The Commission declares that the beneficiaries of this precautionary measure are the following members of the San Isidro Movement (MSI): (1) Denis Solís González, (2) Luis Manuel Otero Alcántara, (3) Maykel Castillo Pérez, (4) Iliana Hernández Cardosa, (5) Anamely Ramos González, (6) Oscar Casanella, (7) Katherine Bisquet Rodríguez, (8) Omara Ruiz Urquiola, (9) Adrián Rubio, (10) Jorge Luis Estien, (11) Alfredo Martínez, (12) Amaury Pacheco, (13) Michel Matos, (14) EstebaM Rodríguez, (15) Iris Ruiz, (16) Miguel Yasser Castellano Guerrero, (17) Anyell Valdés Cruz, (18) Jorge Luís Capote Arias, (19) Niovel Alexander Tamayo Formen, and (20) Osmani Pardo Guerra. All the above-indicated persons are

duly identified in the framework of this procedure.

V. DECISION

32. 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 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 representatives; and
- d) report on the actions taken to investigate the alleged events that led to the adoption of this precautionary measure, so as to prevent them from reoccurring.

33. The Commission also requests that the Government of Cuba kindly inform the Commission, within a period of 15 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.

34. The Commission emphasizes 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 Convention and other applicable instruments.

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

36. Approved on February 11, 2021, by Joel Hernández, President; Antonia Urrejola Noguera, First Vice-President; Flávia Piovesan, Second Vice-President; Margarete May Macaulay, Esmeralda Arosemena de Troitiño; Edgar Stuardo Ralón Orellana; and Julissa Mantilla Falcón, members of the IACHR.

María Claudia Pulido
Acting Executive Secretary