

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION 5/2013**

Matter of Iván Hernández Carrillo regarding Cuba  
PRECAUTIONARY MEASURE No. 245-13<sup>1</sup>  
October 28, 2013

**I. INTRODUCTION**

1. On August 1, 2013, the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission," "Commission" or "IACHR ") received a request for precautionary measures submitted by "The International Group for Corporate Social Responsibility in Cuba" (hereinafter "'GIRSCC" or "the petitioners") requiring that the Republic of Cuba ("Cuba" or "the State") protect the life and physical integrity of Iván Hernández Carrillo (hereinafter "the proposed beneficiary"), allegedly a journalist serving as Secretary General of the "Confederation of Independent Workers of Cuba". The request alleges that the proposed beneficiary is in a situation of risk because he was subjected to a number of attacks, threats, arrests and acts of intimidation perpetrated by agents of the Department of Security of the State of Cuba, because of his work as a human rights defender.

2. The petitioners provided additional information on August 27 and September 18, 2013. On August 23, 2013, the IACHR requested information from the State. But, as at the date of the adoption of this resolution, the State has not responded to the request for information.

3. After analyzing the allegations of fact and law presented by the petitioners, the Commission finds that the information available demonstrates *prima facie* that Mr. Iván Hernández Carrillo faces a serious and urgent situation and that his life and physical integrity are at risk. Consequently, in accordance with Article 25 of the Commission's Rules of Procedure, the Commission requests that the State of Cuba: a) take the necessary measures to guarantee the life and physical integrity of Iván Hernández Carrillo, b) agree with the beneficiary or his representatives over the measures to be adopted; and c) report on the actions taken to investigate the facts that led to the adoption of this precautionary measure, in order to prevent their recurrence.

**II. ALLEGATIONS SUBMITTED BY THE PETITIONERS**

4. According to the petitioners' initial and subsequent allegations, there is currently a context of attacks, acts of intimidation and threats against Iván Hernández Carrillo, because of his work in defense of human rights in Cuba; particularly, in his support for the cause of the "Ladies in White", and for his activities as a union leader. The petitioners' allegations may be summarized as follows:

a) The proposed beneficiary "was arrested during the wave of crackdowns taking place in March 2003, and he was sentenced to 25 years in prison as a member of the well-known 'Group of the 75' in a short summary trial lacking due process guarantees." Mr. Iván Hernández Carrillo was released on February 19, 2011. The petitioners assert that, after his release, the proposed beneficiary was "threatened with charges of incitement to disorder and that he would be sent back to jail".

---

<sup>1</sup> See: IACHR "2012 Annual Report" March 5, 2013. On January 31, 1962, the Government of Cuba was excluded from participating in the inter-American system by Resolution VI adopted at the Eighth Meeting of Consultation of Ministers of Foreign Affairs, held in Punta del Este (Uruguay). On June 3, 2009, during its Thirty-ninth Regular Session held in Honduras, the General Assembly of the Organization of American States (OAS) set aside Resolution VI adopted at the Eighth Meeting of Consultation of Ministers of Foreign Affairs and established that "the participation of the Republic of Cuba in the OAS will be the result of a process of dialogue initiated at the request of the Government of Cuba, and in accordance with the practices, purposes, and principles of the OAS."

b) According to the petitioners, "[t]he harassment and repressive acts against Ivan Hernandez by agents of the Department of Security of the Cuban State are constant and take different forms, ranging from open tailing of all his movements and surveillance of his home by the police, to severe beatings and short terms in prison under inhumane conditions." In this regard, the petitioners claim that due to the deterioration of the situation, the acts of aggression against the proposed beneficiary may lead to a "possible political assassination".

c) On July 14, 2013, "five plain-clothed police officers attacked the union leader in the street and beat him repeatedly in his stomach and his back. The proposed beneficiary also felt a weird 'jab' in his left shoulder, "while another state agent threatened him by saying that he was only waiting for "orders to kill you all". The petitioners define "jab" as a colloquial way to refer to the penetration by a sharp object at the time on which the arrest [of the proposed beneficiary] took place. According to the petitioners, this method has been widely used in recent years and there is "fear that it was the method that caused the death of the leader of the 'Ladies in White', Laura Pollan." Iván Hernández Carrillo was then allegedly arrested and taken "in a jeep with official license plates, to a remote village in a town called '6 de Agosto,' in which there was a sugar mill, where he was then released."

d) According to the information provided by the petitioners, the proposed beneficiary had been the subject of the following attacks in recent months: i) on August 4, 2013, the proposed beneficiary was "beaten and arrested again." During the arrest, he was handcuffed so forcefully that his circulation was restricted. Later, he was taken "to a police unit of the Municipality of Jagüey Grande, where he was interrogated . . . and he was issued with a police caution where ... they threatened him with incarceration for an alleged crime of . . . instigation to commit crimes and spreading false news," ii) On August 14, 2013, [the proposed beneficiary] was again "arrested and . . . another official warning issued for similar reasons [to those discussed above]" ; iii ) On August 11 and 18, 2013, [State agents] "proceed[ed] in the same way to arrest [him] and leave [him] " in remote locations, tens of miles away from his home .

e) On September 16, 2013, the petitioners reported that "the threats continue and Ivan has not renounced his right to peacefully attend Mass Services in the Church of Colón, Matanzas "to join the 'Ladies in White' in their prayers. On this occasion, "after arresting and abandoning him more than 100 km away from his home, he was warned that if he persisted [in attending the Mass Service the following Sunday], [State agents] would crackdown on him harder and he would be released in an even more remote area."

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

5. The mechanism of precautionary measures is a part of the Commission's function of overseeing Member State 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 set forth in Article 41 (b) of the American Convention on Human Rights, and Article 18 of the Commission's Statute. The mechanism of precautionary measures is set out in Article 25 of the Commission's Rules of Procedure. According to this Article, the Commission issues precautionary measures in situations that are serious and urgent, and where such measures are necessary to prevent irreparable harm to persons.

6. The Inter-American Commission and the Inter-American Court of Human Rights have repeatedly established that precautionary and provisional measures have a dual nature, precautionary and protective. Regarding their protective nature, the measures seek to avoid irreparable harm and preserve the exercise of human rights. Regarding their precautionary nature, the measures have the purpose of preserving a legal situation being considered by the IACHR. Their precautionary nature aims to preserve those rights at risk until the petition in the Inter-American system is resolved. Its object and purpose are to ensure the integrity and effectiveness of the decision on the merits and, thus, avoid infringement of the rights at issue, a situation that may adversely affect the useful purpose (*effet utile*) of the final decision. In this regard, precautionary measures or provisional measures thus enable the State concerned to fulfill the final decision and, if necessary, to comply with the reparations ordered. As such, for the purposes of making a decision, and in accordance with 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 injury to rights which, due to their nature, would not be susceptible to reparation, restoration or adequate compensation.

7. In the present situation, the Commission notes that the State has not responded to its request for information of August 23, 2013, intended to gather comments on the request for precautionary measures and on any protective measures that might have been implemented by the State, based on the situation alleged by the petitioners. In this scenario, although the lack of a response from a State is not sufficient reason to grant a request for precautionary measures, it does provide an element of assessment when making a decision. In this regard, the lack of information from the State precludes the Commission from learning about any measures implemented by the State to address the situation and, in general, its position on the allegations.

8. The Commission considers that in the instant case the requirement of seriousness is met, in view of the acts of harassment, threats and physical attacks allegedly perpetrated by state agents against Ivan Hernandez Carrillo. Specifically, the information provided indicates that the perpetrators surrounded his home and arbitrarily detained the proposed beneficiary for short periods in retaliation for his activities accompanying the “Ladies in White”, and as a union leader, journalist and human rights defender.

9. Within the context of the analysis of this requirement, and as an element of context, the Commission notes that Iván Hernández Carrillo is a victim in the *Case of Oscar Elias Biscet et al vs. Cuba*. In its report on the merits, the Commission determined “that during March 2003, the State unleashed a crackdown against a succession of human rights activists and independent journalists. As a result, a number of dissidents and members of the opposition were detained and arrested, among them . . . Iván Hernández Carrillo.”<sup>2</sup> In this regard, the Commission concluded “[t]hat the State [was] responsible for violations of Articles I, II, IV, VI, XX, XXI, XXII, XXV and XXVI of the American Declaration, to the detriment of . . . Iván Hernández Carrillo.”<sup>3</sup>

10. In these circumstances, the Commission takes note that the information provided in this case is consistent with the general information that the Commission has received about the attacks and short-term arrests that have been carried out against several human rights defenders in Cuba in recent years.<sup>4</sup> The Commission has expressed its concern about these situations in several Annual Reports and even about the situation of Iván Hernández Carrillo, who was subjected to, *inter-alia*, various attacks during 2012.<sup>5</sup>

11. Taking into consideration the information provided and the particular context in which it is presented, the Commission considers that it has been established *prima facie* that the rights to life and physical integrity of Iván Hernández Carrillo are at stake.

12. Regarding the requirement of urgency, the Commission believes that it is satisfied, to the extent that the allegations regarding acts of violence have increased continuously as time goes. In this respect, the allegations on the absence of measures to address the situation of risk and its worsening in recent months, suggest that Iván Hernández Carrillo is defenseless.

---

<sup>2</sup> See: IACHR. *Oscar Elias Biscet et al vs. Cuba*. Report 67/07; Case 12.476, decision on the merits, October 21, 2006. para. 12

<sup>3</sup> See: IACHR. *Oscar Elias Biscet et al vs. Cuba*. Report 67/07; Case 12.476, Decision on the merits, October 21, 2006. para. 269

<sup>4</sup> See: IACHR. “2012 Annual Report” OEA/Ser.L/V/II.147 Doc. 1, March 5, 2013; “2011 Annual Report” OEA/Ser.L/V/II. Doc. 69, December 30, 2013; “2010 Annual Report” OEA/Ser.L/V/II.Doc. 5 corr. 1, March 7, 2011

<sup>5</sup> See: IACHR. “2012 Annual Report” OEA/Ser.L/V/II.147 Doc. 1, March 5, 2013; “2011 Annual Report” OEA/Ser.L/V/II. Doc. 69, December 30, 2013; “2010 Annual Report” OEA/Ser.L/V/II.Doc. 5 corr. 1, March 7, 2011

13. Regarding the requirement of irreparability, the Commission believes that it has been met, to the extent that the possible risk to the right to life and physical integrity embodies the highest situation of irreparability.

14. The Commission reiterates the importance of the work of human rights defenders in the region. In this regard, the Commission has consistently pointed out the importance of the work carried out by persons engaged in the promotion, monitoring and advocacy of human rights and the organizations to which many of them are affiliated. For its part, the Court has stated “[t]hat the State must protect and respect the functions that may be exercised by non-governmental entities and by other groups or individuals that defend human rights and the essential liberties of persons deprived of liberty, since said actions are a positive contribution and a supplement to all efforts made by the State in its capacity of guarantor of the rights pertaining to the persons held under its custody.”<sup>6</sup> In these circumstances, the Commission considers that acts of violence and other attacks against human rights defenders not only affect the protection that they are due as human beings, but such acts undermine their fundamental role in society and leave all those people for whom they work helpless.

#### **IV. BENEFICIARIES**

15. The request for precautionary measures has been submitted in favor of Ivan Hernández Carrillo, who is fully individualized in the documents submitted in this proceeding.

#### **V. DECISION**

16. In view of the above-mentioned information, the Commission considers that this matter *prima facie* meets the requirements of seriousness, urgency and irreparability contained in Article 25 of its Rules of Procedures. Accordingly, the Commission requests that the Government of Cuba:

- a) take the necessary measures to guarantee the life and physical integrity of Iván Hernández Carrillo;
- b) agree on the measures to be adopted with the beneficiary or his representatives; and
- c) report on the actions taken to investigate the facts that led to the adoption of this precautionary measure, so that their repetition can be prevented.

17. The Commission also requests the Government of Cuba to inform the IACHR, within 15 days from the date of this resolution, on the adoption of the precautionary measures requested and update such information regularly.

18. The Commission emphasizes that, according to Article 25 (8) of its Rules of Procedure, the granting of this precautionary measure and its adoption by the State shall not constitute a prejudgment on any possible violation of the rights protected in the American Declaration or other applicable instruments.

19. The Commission orders the Executive Secretariat of the Inter-American Commission to notify the Government of Cuba and the applicants of this resolution.

20. Approved on the 28 days of October, 2013 by: Jesús Orozco, President; Tracy Robinson, First Vice President; Rosa Maria Ortiz, Second Vice President; Commissioners Felipe González, Dinah Shelton, Rodrigo Escobar Gil, and Rose-Marie Belle Antoine.

---

<sup>6</sup> Inter-American Court of Human Rights, *Matter of the Monagas Judicial Confinement Center (“la pica”)*. Provisional Measures Regarding the Bolivarian Republic of Venezuela. Order of the Inter-American Court of Human Rights of February 9, 2006, Considering number 14; Case of the Plan de Sánchez Massacre. Provisional Measures Regarding Guatemala. Order of the Inter-American Court of Human Rights of November 25, 2006, Considering number 12; *Matter of Gloria Giralte de García-Prieto et al.* Provisional Measures Regarding El Salvador. Order of the Inter-American Court of Human Rights of September 26, 2006, Considering number 8. Similarly, see Organization of American States, *Human Rights Defenders in the Americas: Support for the Individuals, Groups, and Organizations of Civil Society Working to Promote and Protect Human Rights in the Americas* AG/RES. 1671 (XXIX-O/99) June 7 1999; AG/Res. 1711 (XXX-O/00) June 5, 2000, and AG/Res. 2412 (XXXVIII-O/08) June 3, 2008