
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 78/2021**

Precautionary Measure No. 515-21

Manuel de Jesús Rodríguez García regarding Cuba

October 3, 2021

Original: Spanish

I. INTRODUCTION

1. On June 9, 2021, 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 Global Liberty Alliance (“the applicants”), urging the Commission to request that the State of Cuba (“the State” or “Cuba”) adopt the necessary measures to protect the rights to life, personal integrity, and health of Manuel de Jesús Rodríguez García (“the proposed beneficiary”). According to the request, the proposed beneficiary is an activist of the Patriotic Union of Cuba (UNPACU) and is deprived of his liberty in the Pinar del Río provincial prison. He is at risk within the framework of his deprivation of liberty as a result of beatings during his detention, as well as the conditions of his detention and an alleged lack of medical attention.

2. On June 14, 2021, the IACHR requested information from the State and the applicants, pursuant to Article 25(5) of its Rules of Procedure. To date, the State’s response has not been received. For their part, the applicants submitted additional information on June 21 and September 22, 2021.

3. Upon analyzing the submissions of fact and law furnished by the applicants, the Commission considers that the available information shows *prima facie* that Manuel de Jesús Rodríguez García is in a serious and urgent situation, given that his rights to life, personal integrity, and health are at risk of irreparable harm. Consequently, it requests that Cuba: a) adopt the necessary measures to protect the rights to life, personal integrity, and health of Mr. Manuel de Jesús Rodríguez García; b) ensure that the conditions of detention of Mr. Manuel de Jesús Rodríguez García are compatible with the applicable international standards on the matter; c) consult and agree upon the measures to be adopted with the beneficiary and his representatives; and d) report on the actions undertaken 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

A. Information provided by the applicants

4. Manuel de Jesús Rodríguez García is a young activist and member of the Patriotic Union of Cuba (UNPACU), an organization that, according to the applicant organization, advocates for the peaceful struggle and in defense of human rights.

5. On August 3, 2016, the proposed beneficiary was detained for demonstrating in defense of human rights in front of a sector of the National Revolutionary Police (PNR) in Consolación del Sur, Pinar del Río. The applicants stated that “the criminalization of the young Rodríguez was carried out because of his activism in his community, where he vigorously denounced the violations committed by public officials.” On December 2, 2016, he was sentenced to 8 years of deprivation of liberty for the crimes of “attack, contempt, sexual abuse, and defamation of institutions, of organizations, and of the heroes and martyrs of the homeland.” Mr. Rodríguez García is currently detained in the *Kilo 5 y Medio* Prison in Pinar del Río.

6. According to the applicants, from prison, Mr. Rodríguez García has denounced alleged mistreatment, abuse, and lack of medical attention, a situation that has put him at risk. He has been repeatedly denied medical

attention, as well as family visits. Thus, on January 4, 2017, another person deprived of liberty notified the mother of the proposed beneficiary, Ms. Nilda García Fleitas, by telephone that her son was in the infirmary, after suffering an attack by two other detainees, who beat him and threatened him that *“if he spoke again on the phone about what is happening in prison, it would be worse for him, and at the next meeting he would not result alive.”*

7. Subsequently, on February 23, 2018, Ms. García Fleitas learned that the proposed beneficiary was very ill due to a chronic condition of bronchial asthma, presenting with a respiratory crisis where he had been denied medical attention. According to other detainees, Mr. Rodríguez García “was able to get out of the crisis after several days feeling very bad, where on several occasions he expressed that he could not take it anymore and that he was going to die.”

8. On August 2, 2019, Ms. García Fleitas received a call from the headquarters of the *Kilo 8* prison in Pinar del Río, asking her to report to the prison that same day. When she arrived at the prison, the head of the prison asked her to speak with her son because he was on a hunger strike and was very weak.

9. On March 13, 2021, the proposed beneficiary was taken to a solitary confinement cell, on orders from the Prison Directorate, for allegedly taking information out of the prison. According to the applicants, Mr. Rodríguez García reported by telephone that there were people infected with COVID-19 in the *Kilo 5 y Medio* Prison, as well as its poor conditions and the mistreatment suffered by the inmates. On March 17, his mother spoke by telephone with a prison officer, who told her that *“her son pretended to be a journalist in prison, which is why he would spend a long time in the cell for having spoken.”* Three days later, on March 20, a detained person contacted Ms. García Fleitas, telling her that the proposed beneficiary was in a boarded-up cell in inhuman conditions, without a mattress to sleep on and without sheets for the cold, and that he was coughing a lot and feeling really bad.

10. About a month later, on April 21, 2021, Ms. García Fleitas learned through a call from another inmate that her son had been transferred to the Abel Santamaría Provincial Hospital in Pinar del Río, because his life is allegedly at “imminent risk.” The person who called Ms. García Fleitas gave her two versions, one was that there had existed an attempt on the life of the proposed beneficiary, and the other was that he was dying because the conditions of the solitary confinement cell where he was held had affected his respiratory system, almost dying asphyxiated. Mr. Rodríguez García was discharged on April 28. However, on May 15, he was again at the prison medical post because he was very weak and had respiratory problems. The following day, May 16, the proposed beneficiary contacted Ms. García Fleitas and informed her that they had taken him out of the solitary confinement cell for the gallery, but that the threats and mistreatment continued. In particular, the officers threatened him, telling him that *“if he went on another hunger strike or denounced the prison situation, he would be punished again.”* In addition, the proposed beneficiary informed her that his state of health was delicate, given the conditions of the solitary confinement cell in which he was for months, as well as the hunger strike that he carried out at the end of 2020, presenting with a lot of shortness of breath, muscle pain, constant diarrhea, and severe headaches.

11. More recently, on September 8, 2021, Ms. García Fleitas contacted the *Kilo 5 y Medio* Prison to find out about the proposed beneficiary, since she had not heard from him for more than 20 days. The officer’s response received was that the prison was under COVID-19 quarantine and that phone calls to detainees had been prohibited. Two days later, on September 10, Ms. García Fleitas contacted the penitentiary again and was informed that the proposed beneficiary “spent 20 days in galleries where those infected with COVID-19 were held and that he was well.” This same day, Ms. García Fleitas called the Citizen Service of the Provincial Delegation of Pinar del Río to ask if her son no longer had COVID-19, because they would not allow him to call her. The officer who answered the call told her that *“she should not worry, that they will respond to her complaints as soon as possible.”* On September 12, the proposed beneficiary called his mother, telling her that this morning “an officer opened the gallery where he was staying and told him that he would let him call his

mother, but that he should be brief and tell his mother that he was fine, and not to give her any more details.” Mr. Rodríguez García explained that he had been infected with COVID-19 and had difficult days, because they did not give him medicines but only eucalyptus-flavored infusions for his ailments. He also indicated that, in the galley where he remained with COVID-19 there were more than 90 infected persons, while there were 4 more galleys with the same number of infected persons.

12. On September 17, 2021, Ms. García Fleitas received a call from the proposed beneficiary, who informed her that he suffered from dengue fever and that he continued with sequelae of COVID-19 such as loss of smell. When his mother tried to call him back, she was denied the possibility of speaking with him, the officers complaining about her repeated attempts to contact him. A few days later, a prison official called Mr. Rodríguez García’s aunt to inform her that he was in the infirmary and, therefore, was unable to communicate with his family. In this regard, the applicants stated that “given the history and sequelae of COVID-19 and the other conditions of Mr. Rodríguez García, in addition to the lack of medicines in Cuban prisons, his current contagion of dengue fever is extremely worrying.”

13. The applicants reported that the family members of Mr. Rodríguez García have exhausted the judicial instances and have not received a response. In this regard, on January 10, 2017, Ms. García Fleitas appeared before the Pinar del Río Municipal Prosecutor’s Office and verbally denounced that her son, on January 4, 2017, was attacked by two persons deprived of liberty for giving information by telephone to his relatives about the situation that existed inside the prison. The Public Prosecutor’s Office only commented to Ms. García Fleitas that they would review the situation, but later she did not receive any response, nor was she given any document to confirm her complaint. On February 25, 2018, Ms. García Fleitas went to the Provincial People’s Court in Pinar del Río to file a complaint about the situation of the proposed beneficiary, but she was only heard, the civil servant did not accept the document she was carrying. A few days later, Ms. García Fleitas appeared at the National Directorate of Jails and Prisons in Havana to denounce the situation of the proposed beneficiary, emphasizing that he suffers from bronchial asthma and was not receiving the medical attention that he allegedly requires. Subsequently, on August 1, 2019, Ms. García Fleitas filed a complaint with the Pinar del Río Municipal Prosecutor’s Office regarding the situation of the proposed beneficiary, given that he was on a hunger strike and was taken to a solitary confinement cell. On this occasion, upon filing her complaint, Ms. García Fleitas was allowed to visit her son in prison. On March 22, 2021, Ms. García Fleitas filed another complaint with the Pinar del Río Municipal Prosecutor’s Office in relation to the lack of medical care for the proposed beneficiary. The public prosecutor informed her that he would transfer the complaint to the prison to analyze the situation, but Ms. García Fleitas never knew whether anything had been investigated in this regard. A few days later, on March 26, Ms. García Fleitas reported to the Citizen Service of the Ministry of the Interior in Pinar del Río that her son was taken into a solitary confinement cell, without obtaining a response.

14. According to the applicants, since June 2020, Ms. García Fleitas has not physically visited the proposed beneficiary, noting that she has appeared at least 12 times at the prison where he is being held and only receives a response from the guards that he cannot be seen. However, she knows that relatives of other detainees have been able to visit them.

B. Information provided by the State

15. The Commission requested information from the State on June 18, 2020. There has been no response to this date.

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

16. The precautionary measures mechanism is part of the Commission 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 18(b) of the Statute of the IACHR, whereas

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.

17. The Inter-American Commission and the Inter-American Court of Human Rights (“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.¹ Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.² To do this, the IACHR shall assess the problem raised, the effectiveness of state actions to address the situation described, and how vulnerable the persons proposed as beneficiaries would be left in case the measures are not adopted.³ Regarding their precautionary nature, these measures have the purpose of preserving legal situations while under the consideration of the IACHR. The object and purpose of precautionary measures is to preserve 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 (*efet utile*) of the final decision. In this regard, precautionary or provisional measures enable the State in question to comply with the final decision and, if necessary, to implement the ordered reparations.⁴ In the process of reaching a decision, and 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 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. The information provided should be assessed from a *prima facie* standard of review to determine whether a serious and urgent situation exists.⁵ Similarly, the

¹ See in this regard: I/A Court H.R. [Matter of the Yare I and Yare II Capital Region Penitentiary Center](#). 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.

² 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 [only in Spanish].

³ 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 [only in Spanish]; 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 [only in Spanish].

⁴ 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 7; I/A Court H.R. [Matter of “El Nacional” and “Así es la Noticia” newspapers](#). Provisional Measures regarding Venezuela. Order of the Court of November 25, 2008, considerandum 23; I/A Court H.R. [Matter of Luis Uzcátegui](#). Provisional Measures regarding Venezuela. Order of the Court of January 27, 2009, considerandum 19.

⁵ See in this regard: I/A Court H.R. [Matter of Members of the Miskitu Indigenous Peoples of the North Caribbean Coast regarding Nicaragua](#). Extension of Provisional Measures. Order of the Inter-American Court of Human Rights of August 23, 2018,

Commission recalls that it is not called upon to make determinations on the criminal liability of individuals, nor to determine through this mechanism any violation of due process in the local investigations or proceedings, which is specific to a petition or case. The Commission will only analyze whether the proposed beneficiary is at risk pursuant to Article 25 of the Rules of Procedure, which can be resolved without making any determinations on the merits.⁶

19. Added to this, in the matter at hand, the Commission notes that the alleged situation presenting a risk for the proposed beneficiary 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, particularly with respect to those who have expressed their opposition to the government.⁷ Hence, those who defend human rights in the country are subject to serious processes of criminalization and judicial persecution, and accusations of crimes such as contempt, dangerousness, and pre-criminal social dangerousness, as well as non-payment of fines, public disorder, and resistance or rebellion. All of this with the aim of obstructing or paralyzing their work in defense and promotion of human rights.⁸ Furthermore, the Commission has noted that human rights defenders are victims of repeated arbitrary detentions as a method of harassment by police and State security actors.⁹ Once deprived of their liberty, defenders may be subject to attacks, threats, and mistreatment within prisons, while the Commission has even granted various precautionary measures in this regard.¹⁰

20. Taking into consideration the membership of the proposed beneficiary in specific groups in Cuba, such as the Patriotic Union of Cuba (UNPACU), the Commission also notes, in analyzing the submissions offered, the seriousness of the events that persons of that group have faced when have been deprived of their liberty. Along these lines, it should be noted that, in 2020, the Commission granted precautionary measures in favor of Maikel Herrera Bones,¹¹ Keilylli de la Mora Valle,¹² Fernando González Vaillant, José Pupo Chaveco,¹³ and RoilanZárraga Ferrer, all members of the UNPACU. Similarly, in December 2019, the Commission urged the

considerandum 13 [only in Spanish]; I/A Court H.R. [Matter of Children and adolescents deprived of 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.

⁶ In this regard, the Court has indicated that “[it] cannot, in a provisional measure, consider the merits of any arguments pertaining to issues other than those which relate strictly to the extreme gravity and urgency and the necessity to avoid irreparable damage to persons.” See in this regard: I/A Court H.R. [Matter of James et al. regarding Trinidad and Tobago](#). Provisional Measures. Order of the Inter-American Court of Human Rights of August 29, 1998, considerandum 6; I/A Court H.R. [Case of Barrios Family v. Venezuela](#). Provisional Measures. Order of the Inter-American Court of Human Rights of April 22, 2021, considerandum 2 [only in Spanish].

⁷ IACHR. [Situation of Human Rights in Cuba](#). OEA/Ser.L/V/II., Doc. 2, February 3, 2020, para. 172; IACHR. [Annual Report 2019. Chapter IV.B Cuba](#). OEA/Ser.L/V/II., Doc. 5. February 24, 2020, para. 22.

⁸ IACHR. [Situation of Human Rights in Cuba](#). OEA/Ser.L/V/II., Doc. 2, February 3, 2020, paras. 173 & 188; IACHR. [Annual Report 2019. Chapter IV.B Cuba](#). OEA/Ser.L/V/II., Doc. 5. February 24, 2020, para. 22.

⁹ IACHR. [Situation of Human Rights in Cuba](#). OEA/Ser.L/V/II., Doc. 2, February 3, 2020, para. 178; IACHR. [Annual Report 2019. Chapter IV.B Cuba](#). OEA/Ser.L/V/II., Doc. 5. February 24, 2020, para. 22.

¹⁰ See in this regard: IACHR. [Resolution 5/2021](#). Precautionary Measure No. 1068-20. Yandier García Labrada regarding Cuba. January 7, 2021; IACHR. [Resolution 69/2020](#). Precautionary Measure No. 799-20. Maikel Herrera Bones regarding Cuba. October 14, 2020; IACHR. [Resolution 39/2020](#). Precautionary Measure No. 530-20. Silverio Portal Contreras regarding Cuba. July 18, 2020; IACHR. [Resolution 37/2020](#). Precautionary Measure No. 578-20. Keilylli de la Mora Valle regarding Cuba. July 17, 2020; IACHR. [Resolution 16/2020](#). Precautionary Measure No. 1077-19. Roilan Zárraga Ferrer et al. regarding Cuba. February 13, 2020; IACHR. [Resolution 29/2019](#). Precautionary Measure No. 306-19, 307-19, and 326-19. Iosiel Guía Piloto, Iván Amaro Hidalgo, and Jesús Alfredo Pérez Rivas regarding Cuba. June 11, 2019; IACHR. [Resolution 23/2019](#). Precautionary Measure No. 81-19. Edilberto Ronal Arzuaga Alcalá regarding Cuba. April 22, 2019; IACHR. [Resolution 16/2018](#). Precautionary Measure No. 39-18. Eduardo Cardet Concepción regarding Cuba. February 24, 2018.

¹¹ IACHR. [Resolution 69/2020](#). Precautionary Measure No. 799-20. Maikel Herrera Bones regarding Cuba. October 14, 2020

¹² IACHR. [Resolution 37/2020](#). Precautionary Measure No. 578-20. Keilylli de la Mora Valle regarding Cuba. July 17, 2020.

¹³ IACHR. [Resolution 16/2020](#). Precautionary Measure No. 1077-19. Roilan Zárraga Ferrer et al. regarding Cuba. February 13, 2020.

State of Cuba to comply with the precautionary measures of José Daniel Ferrer García of the same organization, which have been in force since 2012.¹⁴

21. On the other hand, the Commission recalls that, in relation to persons deprived of liberty in general, the State is in a special position of guarantor, inasmuch as the prison authorities exercise a strong control or command over the persons subject to their custody.¹⁵ This is the result of the special relationship and interaction of subjection between the person deprived of liberty and the State, characterized by the particular intensity with which the latter can regulate its rights and obligations, and by the circumstances of imprisonment, in which the inmate is prevented from satisfying on his own a series of basic needs essential for the development of a dignified life.¹⁶ More specifically, and in light of the facts narrated by the applicants, the Commission recalls that, based on the principle of non-discrimination, the Inter-American Court has indicated that this duty implies the obligation of the State to guarantee their physical and mental health, specifically through the provision of a regular medical check-up and, when required, adequate, timely, and, where appropriate, specialized medical treatment according to the special care needs required by the detained persons in question.¹⁷

22. Moreover, in the context of the COVID-19 pandemic, the Commission has urged States to adopt urgent measures to guarantee the health and integrity of the population deprived of liberty so as to address the effects of the pandemic, and to ensure dignified and adequate conditions of detention in centers of deprivation of liberty, noting that this context may mean a greater risk for those persons who make up groups in vulnerable situations.¹⁸ In this regard, the Commission has recommended that the States ensure that, in cases of persons at risk in the context of the pandemic, requests for prison benefits and alternative measures to the prison sentence are evaluated.¹⁹

23. Taking into account the particular context of Cuba, the Commission will proceed to analyze the procedural requirements regarding Manuel de Jesús Rodríguez García.

24. As for the requirement of seriousness, the Commission considers that it has been met. When assessing this requirement, in accordance with the context set forth, the Commission observes that the proposed beneficiary is deprived of his liberty and the allegations are purportedly attributable to state authorities responsible for his custody, which is particularly serious. In this regard, the Commission observes that the alleged risk is also reportedly related to the profile of the proposed beneficiary as an activist and human rights defender.

25. Thus, it is noted that, since his detention in 2016, until today, the proposed beneficiary alleges mistreatment and lack of medical attention in the prison where he is being held. Thus, it is observed that, in January 2017, Mr. Rodríguez García was allegedly attacked in prison by other detainees and threatened that *“if he spoke again on the phone about what is happening in prison, it would be worse, and the next meeting he was not going to result alive.”* In this regard, on March 13, 2021, after allegedly reporting by telephone that there were persons infected with COVID-19 in prison, the proposed beneficiary was purportedly transferred to a

¹⁴ IACHR. [Press Release No. 326/19](#). IACHR urges the State of Cuba to comply with precautionary measures in favor of José Daniel Ferrer García. December 17, 2019.

¹⁵ See in this regard: I/A Court H.R. [Case of Mendoza et al. v. Argentina. Preliminary Objections, Merits and Reparations. Judgment of May 14, 2013](#). Series C No. 260, para. 188; IACHR. [Report on the Human Rights of Persons Deprived of Liberty in the Americas](#). OEA/Ser.L/V/II, Doc. 64, December 31, 2011, para. 49.

¹⁶ IACHR. [Report on the Human Rights of Persons Deprived of Liberty in the Americas](#). OEA/Ser.L/V/II, Doc. 68, December 31, 2011, paras. 49-50.

¹⁷ I/A Court H.R. [Case of Chinchilla Sandoval et al. v. Guatemala. Preliminary objection, merits, reparations, and costs](#). Judgment of February 29, 2016. Series C No. 312, para. 171.

¹⁸ IACHR. [Press Release No. 66/2020](#). The IACHR urges States to guarantee the health and integrity of persons deprived of liberty and their families in the face of the COVID-19 pandemic. March 31, 2020.

¹⁹ IACHR. [Resolution 1/2020. Pandemic and Human Rights in the Americas](#). Adopted by the IACHR on April 10, 2020, para. 46.

solitary confinement cell in retaliation, where he was reportedly in inhuman conditions, without a mattress to sleep on and without sheets for the cold. In the same way, the Commission notes that, on at least five occasions, Mr. Rodríguez García was allegedly ill and did not receive the medical care that he reportedly required. In this regard, it is noted that, more recently, the proposed beneficiary, who suffers from bronchial asthma, resulted purportedly infected with COVID-19 and has allegedly received only “eucalyptus-flavored infusions” as treatment. Furthermore, he currently has dengue and has allegedly been in the infirmary, while his relatives do not know his current state of health.

26. For the Commission, the above facts are indications of a serious situation that the proposed beneficiary has been facing as a person deprived of liberty, given that the specific incidents reported are attributable to state officers responsible for his custody. Moreover, the numerous occasions on which he has been threatened, added to the lack of medical care, may have irreversible effects on his health, personal integrity, and life. In this regard, the Commission observes that an attempt was made to file at least seven domestic remedies in relation to the proposed beneficiary’s conditions of detention and in order for him to receive medical care. Of these, none have been answered by the competent authorities. It should be noted that the Inter-American Court has indicated that the lack of adequate medical care for a person deprived of their liberty and in the custody of the State could be considered a violation of the prohibition against torture.²⁰

27. In view of the situation previously analyzed, the Commission regrets the lack of information from the State. Even though the foregoing is not enough *per se* to justify the granting of a precautionary measure, it does prevent the Commission from analyzing whether the submissions of the applicants may be disproved, or to learn of any actions that the authorities may be taking, as appropriate, to address the alleged risk. The foregoing is particularly relevant, because the threatening incidents have been attributed to state officers, and given the State’s unique position as guarantor of the rights of the proposed beneficiary, who is in its custody.

28. In this regard, the Commission observes that, according to the information available, the State has learned of the health situation of Mr. Rodríguez García at least since January 2017, through complaints made before the Municipal Prosecutor’s Office of Pinar del Río, the Provincial People’s Court in Pinar del Río, and the Attention to Citizens of the Ministry of the Interior. However, the Commission notes that, despite such actions, the State has not addressed the situation of the proposed beneficiary.

29. In this regard, it should be noted that the IACHR has received worrisome information on the ongoing deplorable conditions of detention for persons deprived of liberty in Cuba, such as prison overcrowding; lack of medicines, food, and drinking water; inadequate hygiene and sanitation; poor medical assistance; and wide margin of discretion available to officers when guaranteeing order within prisons.²¹ Although the above does not necessarily show the specific situation of the proposed beneficiary, the Commission considers that this contextual information is relevant when assessing the plausibility or credibility of the applicants’ allegations, especially upon verifying that the State, under the *prima facie* standard, has not properly disproved the existence of a risk concerning Mr. Rodríguez García given that it did not provide any response.

30. In these circumstances, the Commission considers that the facts alleged by the applicants, which were not disproved by the State, are likely to seriously affect the rights to life, personal integrity, and health of the proposed beneficiary. Thus, the Commission concludes, from the applicable *prima facie* standard, that it is sufficiently proven that the rights to life, personal integrity, and health of Mr. Manuel de Jesús Rodríguez García are at serious risk.

31. Regarding the requirement of urgency, the Commission deems that it has been met, given that as long as the proposed beneficiary is not allowed to access adequate medical treatment, while remaining in the

²¹ IACHR. Situation of Human Rights in Cuba. OEA/Ser.L/V/II, Doc. 2, February 3, 2020, para. 373

custody of the State in the circumstances described, he may be subjected to subsequent violations of his rights, without his family members or representatives being able to timely intervene and ensure that his detention conditions are adequate. Thus, he requires the adoption of immediate measures. In this sense, as indicated above, the Commission does not have specific information from the State sufficient to assess the actions that have been purportedly taken to address the alleged risk.

32. As it pertains to the requirement of irreparable harm, the Commission finds that it is met, since the possible impact on the rights to life and personal integrity constitutes the maximum situation of irreparability.

IV. BENEFICIARY

33. The Commission declares as beneficiary Mr. Manuel de Jesús Rodríguez García, who is duly identified in this proceeding.

V. DECISION

34. The Inter-American Commission 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, it requests that Cuba:

- a) adopt the necessary measures to protect the rights to life, personal integrity, and health of Mr. Manuel de Jesús Rodríguez García;
- b) ensure that the conditions of detention of Mr. Manuel de Jesús Rodríguez García are compatible with the applicable international standards on the matter;
- c) consult and agree upon the measures to be adopted with the beneficiary and his representatives; and
- d) report on the actions undertaken to investigate the alleged events that led to the adoption of this precautionary measure, so as to prevent them from reoccurring.

35. The Commission requests that the State of Cuba report, within 15 days from the date of this resolution, on the adoption of the precautionary measures requested and to update that information periodically.

36. 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 a prejudgment on any violation of the rights protected in the applicable instruments.

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

38. Approved on October 3, 2021, by: Antonia Urrejola Noguera, President; Julissa Mantilla Falcón, First Vice President; Flávia Piovesan, Second Vice President; Margarette May Macaulay; Joel Hernández García and Edgar Stuardo Ralón Orellana, members of the IACHR.

Tania Reneaum Panszi
Executive Secretary