
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 27/2024**

Precautionary Measures No. 484-11
José Daniel Ferrer García regarding Cuba
May 6, 2024
(Follow-up)
Original: Spanish

I. SUMMARY

1. The Inter-American Commission on Human Rights (IACHR) decides to issue this follow-up resolution in the terms of Article 25 of its Rules of Procedure. The Commission regrets the lack of response from the State regarding the measures that may have been adopted to implement these precautionary measures. The Commission also regrets all information showing that State agents have been carrying out actions that aggravate the risk that the beneficiary faces, instead of mitigating it. In view of the information available, evaluated as a whole, and in light of the human rights context observed in Cuba, the IACHR considered that, in the terms of Article 25 of the Rules of Procedure, a situation of risk continues to exist. The Commission has therefore decided as follows:

- a) continue to follow up on the precautionary measures granted on November 5, 2012, in order to protect Mr. José Daniel Ferrer García's life and personal integrity;
- b) require that the State implement the necessary measures to ensure that the beneficiary's detention conditions comply with applicable international standards;
- c) request that the State adopt measures to protect the beneficiary's health in a timely and adequate manner;
- d) require the parties to consult and agree upon the measures to be implemented. The foregoing must include allowing the representation to access information regarding the detention conditions and welfare of the beneficiary, either via family members or other representatives; and
- e) request that the State report on the actions taken in order to investigate the events that led to the adoption of this resolution, so as to prevent such events from reoccurring.

II. BACKGROUND INFORMATION

2. On November 5, 2012, the IACHR granted precautionary measures in favor of José Daniel Ferrer García, in Cuba. According to the request for precautionary measures, Mr. Ferrer García was deprived of his liberty, held in solitary confinement, and was threatened by security guards on numerous occasions in February, April, May, and July of 2012. In particular, the request states that police officers threatened to "imprison his wife" and "leave his three children parentless, out on the streets". The IACHR considered that Mr. José Daniel Ferrer García was at risk and ordered that the State of Cuba:

- a) adopt the necessary measures to guarantee the life and personal integrity of José Daniel Ferrer García;
- b) consult and agree upon the measures to be adopted with the beneficiary and his representatives; and

- c) report on the actions taken to investigate the facts that led to the adoption of precautionary measures.

3. In its 2021 Annual Report, the IACHR recorded, “allegations that detained persons remain incommunicado for weeks, in addition to having limited opportunities to communicate with their families and legal representatives,” among them José Daniel Ferrer García, leader of the Patriotic Union of Cuba (*Unión Patriótica de Cuba*, UNPACU).¹ On that occasion, the Commission was informed that the beneficiary began a hunger strike on March 20, 2021. He reportedly continued this form of protest for 21 days after the organization’s headquarters were surrounded by agents with patrols in order to prevent the organization from operating.² Subsequently, the Commission was informed that Ferrer García was sentenced to four and a half years of house arrest on April 22, 2021.

4. In the exercise of its monitoring functions, the IACHR observed that on Sunday, July 11, 2021, “thousands of people took to the streets in at least 40 municipalities and cities of the country to peacefully protest in order to demand the exercise of civil liberties and changes in the political structure of the country, in addition to protesting against the lack of access to economic, social, and cultural rights.”³ In this context, part of the protests were allegedly violently repressed, resulting in at least 151 people arrested or whose whereabouts were unknown.⁴ On July 11, beneficiary Ferrer García was sentenced to remain in prison.⁵ The Commission was concerned given that, according to the information received, the opposition leader was being held in an isolation cell and in poor health.⁶

5. In its 2022 Annual Report, the IACHR expressed concern about the intensifying repression of dissidents since the July 2021 protests:⁷

Since July 11, 2021, the IACHR has documented eight waves of repression by the State, in which it observed: (1) the use of force and intimidation and smear campaigns; (2) arbitrary arrests, mistreatment, and deplorable prison conditions; (3) criminalization of protesters, judicial persecution, and violations of due process; (4) closure of democratic forums through repression and intimidation to discourage new social demonstrations; (5) ongoing incarceration, trials without due process guarantees, and harsh sentences; (6) legislative proposals aimed at curtailing, surveilling, and punishing dissent and criticism of the Government and at criminalizing the actions of independent civil society organizations; (7) harassment of relatives of persons detained and charged for taking part in the protests; and (8) deliberate cuts in Internet access.⁸

6. The IACHR continues to monitor the persistent repression of those who have participated in the protests.⁹

III. SUMMARY OF INFORMATION PROVIDED BY THE REPRESENTATIVES FOLLOWING THE GRANTING OF THE PRECAUTIONARY MEASURES

¹ IACHR, [2021 Annual Report Chap. IV.b. Cuba](#). OEA/Ser.L/V/II. May 26, 2022, para. 71.

² *Ibidem*, para. 103.

³ IACHR, [Press Release No. 177/21](#). The IACHR and Its Special Rapporteurships Condemn State Repression and the Use of Force during Peaceful Social Protests in Cuba, and Call for Dialogue on Citizen Demands. July 15, 2021.

⁴ *Ibidem*.

⁵ IACHR, [2021 Annual Report Chap. IV.b. Cuba](#). OEA/Ser.L/V/II. May 26, 2022, para. 71.

⁶ *Ibidem*.

⁷ IACHR, [2022 Annual Report Chap. IV.b. Cuba](#). OEA/Ser.L/V/II. April 1, 2023, section III.B.

⁸ *Ibid.*, para. 44.

⁹ IACHR, [Press Release 153/22](#). One Year After Historic Protests, IACHR Condemns Persistent Repression of Demonstrators in Cuba. July 11, 2022; IACHR, [Press Release 157/23](#). IACHR and RFOE: 2 Years on from July 11 Protests, the State Must Stop Repression in Cuba. July 17, 2023.

7. After the precautionary measures were granted, the Commission continued to follow up on this matter by requesting information from the parties.¹⁰ The IACHR most recently received information from the representation on August 17, 2023, and February 12, March 18, and April 9, 2024. To date, the State of Cuba has not issued a response.

8. On November 7, 2023, the IACHR held a Public Hearing within the framework of its 188th Period of Sessions, related to these precautionary measures. In this context, it received updated information on the beneficiary's situation.¹¹

A) Information provided by the representation

9. In its communication of August 17, 2023, the representation informed that the beneficiary, recognized as a leader of the Patriotic Union of Cuba (UNPACU) and promoter of the citizens' campaign "Cuba Decide", was again arrested on July 11, 2021 in the midst of social demonstrations in Cuba. He was allegedly held in the Mar Verde prison, located in Santiago de Cuba. Following his arrest, the State annulled a previous sentence of four years and 14 days, imposed in 2020, which he was serving at liberty. According to the beneficiary's family, since August 14, 2021, Mr. Ferrer García was confined to a punishment cell. As of March 17, 2023, he has been kept in solitary confinement, noting that, even before that date, signs of deterioration in his health were already visible.

10. On August 6, 2023, the beneficiary's wife, Nelva Ortega Tamayo, indicated that it had been five months since the beneficiary last called. On August 9, 2023, she indicated that the beneficiary was "in a solitary confinement cell, isolated from any penal community, and was a victim of torture, both physical and psychological, in inhuman, cruel, and degrading conditions." She reiterated that the beneficiary did not have access to the medicine provided by his relatives and that his access to multivitamins was strictly controlled by the prison authorities.

11. At the public hearing before the Commission on November 7, 2023, Mr. Ferrer García's representatives reiterated that he is being detained in "subhuman" conditions. He is allegedly held in an isolated cell, which is swarming with mosquitoes and surrounded by guards. They stated that allegedly there is not enough food served in prison, and he therefore relies on the food his family manages to send him to survive. Moreover, the beneficiary allegedly lacks access to his own medications and, when they are provided, he is unable to determine what the medications are. He alleges that the prison authorities use the medications as blackmail leverage. In addition, at the public hearing, the IACHR was informed that the beneficiary "has been subjected to forced disappearance several times." During these times, his family was reportedly unaware of his condition for extended periods of time. His daughter, Marta Beatriz Ferrer, indicated that the last time she saw him was on October 30, 2023, in the Mar Verde prison after five months without any type of contact.

12. On February 12, 2024, the representation indicated that the beneficiary was still being held in the Mar Verde prison, Santiago de Cuba. It was also reported that throughout 2023, his wife, Nelva Ortega Tamayo, reportedly only saw him eight times. During three of those occasions, she saw him in the prison cell corridors and, during her last visit on November 28, 2023, she was only able to see him for one minute. At the date the report was sent, a reported 76 days had gone by without any family member being able to see him. The representation added that the beneficiary's children have not seen their father since June 22, 2023. In addition, it was pointed out that the beneficiary is prohibited personal visits and that the State has also blocked

¹⁰ To both parties: December 3, 2019; December 6, 2023; and March 19, 2024. To the representation: October 28, 2022.

¹¹ IACHR, Public Hearing [Cuba: Follow-up of precautionary measures of beneficiaries deprived of liberty \(Ex officio\)](#), 188 POS. November 7, 2023.

all telephone communications with Ferrer García. In March 2024, it was a year since his family had been able to speak to him on the phone.

13. On March 18, 2024, the representatives informed the IACHR that the beneficiary was subjected to a regime of “extreme isolation”. It was reported that, since November 28, 2023, they had not received news about his health or general well-being. In that scenario, the representation indicated that there were “growing rumors about his death”, mainly due to the “context of the recent protests in Santiago de Cuba.” On April 9, 2024, the representatives reported that “despite the precarious detention conditions and his deteriorating health, [...] they confirmed he is alive.” On March 18, 2024, the beneficiary’s daughter, Fátima Victoria Ferrer, was able to verify his condition in the Mar Verde prison, Santiago de Cuba. Subsequently, on April 1, 2024, his wife was able to see him for two minutes in prison. During these meetings, Ferrer allegedly reported that he had recovered from significant debilitation after a five-day hunger strike, which he had launched in protest against the lack of medical assistance provided to Fernando Gonzalez Vaillant.¹²

14. The representation added that, in the context of the lack of information on the beneficiary’s condition and well-being, they had taken “multiple actions” before the Cuban state authorities in order to request information on Mr. Ferrer García. However, “to date, the answers have been insufficient or non-existent, which increases our concern for his well-being”. It was also indicated that, despite the fact that the beneficiary has already served his entire sentence, he has not yet been released.

B. Response from the State

15. The IACHR has not received a response from the State on the implementation of the precautionary measures, nor has information been received indicating that the State has been adopting measures in this regard throughout its duration. All deadlines granted to the State have since expired.

IV. ANALYSIS ON THE ELEMENTS OF SERIOUSNESS, URGENCY, AND IRREPARABLE HARM

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

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, both protective and precautionary.¹³ Regarding the protective nature, these measures seek to avoid irreparable harm and preserve the exercise of human rights.¹⁴ To do this, the IACHR shall assess the

¹² Beneficiary of PM 1077-19 granted by the IACHR through [Resolution No. 16/20](#), Roilan Zárraga Ferrer et al., February 13, 2020.

¹³ 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 March 30, 2006, considerandum 5; [Case of Carpio Nicolle et al. v. Guatemala](#), Provisional Measures. Order of July 6, 2009, considerandum 16.

¹⁴ I/A Court H.R., [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#). Provisional Measures regarding Venezuela, Order of February 8, 2008, considerandum 8; [Case of Bámaca Velásquez](#), Provisional Measures regarding Guatemala, Order of January 27, 2009, considerandum 45; [Matter of Fernández Ortega et al.](#), Provisional Measures regarding Mexico, Order of April 30, 2009,

problem raised, the effectiveness of state actions to address the situation described, and the vulnerability to which the persons proposed as beneficiaries would be exposed if the measures are not adopted.¹⁵ Regarding their precautionary nature, these measures have the purpose of preserving a legal situation while under consideration by the organs of the inter-American system. They aim to safeguard 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 (*effet utile*) of the final decision. In this regard, precautionary or provisional measures enable the State concerned to comply with the final decision and, if necessary, to implement the ordered reparations. In the process of reaching a decision, according to Article 25(2) of its Rules of Procedure, the Commission considers that:

- a) “serious situation” refers to a grave impact that an action or omission can have on a protected right or on the eventual effect of a pending decision in a case or petition before the organs of the inter-American system;
- b) “urgent situation” refers to risk or threat that is imminent and can materialize, thus requiring immediate preventive or protective action; and
- c) “irreparable harm” refers to 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 review¹⁶ to determine whether a serious and urgent situation exists. Similarly, the Commission recalls that, by its own mandate, it is not called upon to determine any individual liabilities for the facts alleged. Moreover, in this proceeding, it is not appropriate to rule on violations of rights enshrined in the American Convention or other applicable instruments.¹⁷ This is better suited to be addressed by the Petition and Case System. The following analysis relates exclusively to the requirements set forth in Article 25 of the Rules of Procedure, which can be resolved without making any determinations on the merits.¹⁸

19. With respect to the foregoing, Article 25(9) provides that the Commission shall evaluate periodically, at its own initiative or at the request of either party, whether to maintain, modify or lift the precautionary measures in force. In this regard, the Commission should assess whether the serious and urgent situation and possible irreparable harm that caused the adoption of the precautionary measures persist, so as to keep the precautionary measures in force. Moreover, the Commission shall consider if new situations have arisen that might meet the requirements set forth in Article 25 of the Rules of Procedure. Similarly, Article 25.10 establishes that the Commission shall take appropriate follow-up measures, such as requesting relevant

considerandum 5; [Matter of Milagro Sala](#), Request for Provisional Measures regarding Argentina, Order of November 23, 2017, considerandum 5 [only in Spanish].

¹⁵ I/A Court H.R. [Matter of Milagro Sala](#), Request for Provisional Measures regarding Argentina, Order of November 23, 2017, considerandum 5; [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#), Provisional Measures regarding Venezuela, Order of February 8, 2008, considerandum 9; [Matter of the Criminal Institute of Plácido de Sá Carvalho](#), Provisional Measures regarding Brazil, Order of February 13, 2017, considerandum 6.

¹⁶ I/A Court H.R., Matter of Inhabitants of the communities of the Miskitu indigenous people of the North Caribbean Coast Region of Nicaragua, Extension of Provisional Measures, Order of August 23, 2018, considerandum 13 [only in Spanish]; Matter of the children and adolescents deprived of their liberty in the “Complejo do Tatuapé” of the Fundação CASA, Request for extension of provisional measures regarding Brazil, Order of July 4, 2006, considerandum 23.

¹⁷ IACHR, Resolution 2/2015. Precautionary Measure No. 455-13. Matter of Nestora Salgado regarding Mexico, January 28, 2015, para. 14; IACHR, Resolution 37/2021. Precautionary Measure No. 96/21. Gustavo Adolfo Mendoza Beteta and family regarding Nicaragua, April 30, 2021, para. 33.

¹⁸ 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: I/A Court H.R., Matter of James et al. regarding Trinidad and Tobago, Provisional Measures, Order of August 29, 1998, considerandum 6; Case of Barrios Family v. Venezuela, Provisional Measures, Order of April 22, 2021, considerandum 2 [only in Spanish].

information from the interested parties on any matter related to the granting, observance and maintenance of precautionary measures. These measures may include, as appropriate, timetables for implementation, hearings, working meetings, and visits for follow-up and review. Through Resolution 2/2020¹⁹ of April 15, 2020, the IACHR ruled on the possibility of issuing Follow-up Resolutions.

20. Regarding the matter at hand, the Commission decides to issue a resolution to follow up on precautionary measures considering the information presented by the representation regarding Mr. José Daniel Ferrer García's situation, the current context, and the lack of information from the State on the measures effectively adopted for his protection. In this sense, the analysis of this matter will be divided as follows: i. Current context for human rights defenders and persons identified or perceived as political opponents of the government in Cuba; ii. Lack of information from the State regarding the implementation of these precautionary measures; and iii. Ongoing risk against José Daniel Ferrer García under the terms of Article 25 of the IACHR Rules of Procedure.

i) Current context for human rights defenders and persons identified or perceived as political opponents of the government in Cuba

21. Since 1985, the Inter-American Commission has continuously included Cuba in Chapter IV.B of its Annual Report in accordance with Article 59, paragraphs 6.a, 6.b, 6.c, and 6.d.²⁰ In 2022, in regard to Cuba the IACHR stated the following:

The Commission observes that the failure to uphold the essential elements of representative democracy and its institutions, as well as the lack of provisions to ensure the separation of powers and the absence of guarantees of judicial independence, are persistent structural factors that profoundly affect the exercise of human rights and fundamental freedoms in Cuba.²¹

22. Accordingly, it again incorporated the country in its chapter IV.B considering the following:

As the IACHR has noted in the past, systematic repression is carried out in Cuba by state agents and groups allied with the ruling party, the aim being to prevent peaceful gatherings, demonstrations, or protests organized by political dissidents, social leaders, activists, human rights defenders, artists, and journalists. The Commission finds that political and ideological dissent remain the principal factors that trigger the silencing, repression, and prosecution of those who express thoughts or opinions that are critical of, or divergent from, the state party line imposed in Cuba.

Allegations received by the Commission state that a large number of people who took part in the demonstrations were subjected to beatings, abuse, and other acts of violence in connection to their arrests, and their detention conditions are deplorable. In its 2021 Annual Report, the Commission reported the following prison conditions: i) severe overcrowding; ii) lack of access to safe drinking water and adequate food; iii) use of isolation measures; and iv) structurally defective cells.²²

23. Most recently, on February 21, 2024, the Commission and its Special Rapporteurship for Freedom of Expression (SRFoE) condemned the persistence of repressive actions against organizations and the press in Cuba, urging the State to cease the harassment, as well as to respect and guarantee freedom of expression, peaceful assembly, and association. The following was highlighted:

So far in 2024, civil society organizations have reported close to 300 repressive actions against human rights activists and defenders, political dissidents, journalists, independent artists, and relatives of persons deprived of liberty for political reasons before the IACHR. These actions include arbitrary detentions,

¹⁹ IACHR, [Resolution 2/2020](#), Strengthening of the Monitoring of Precautionary Measures in Force, April 15, 2020.

²⁰ IACHR, [Rules of the Inter-American Commission of Human Rights](#), August 1, 2013, Art. 59.6.

²¹ IACHR, [2022 Annual Report Chap. IV.b. Cuba](#), OEA/Ser.L/V/II. April 1, 2023, para. 3.

²² IACHR, [2022 Annual Report Chap. IV.b. Cuba](#), OEA/Ser.L/V/II. April 1, 2023, paras. 47 and 49.

physical violence, and medical negligence in the context of deprivation of liberty, house arrests, threats and coercion, selective internet and communication cuts, internal mobility restrictions, police summonses, and interrogations lacking respect for legal guarantees.

The IACHR and its Special Rapporteurship for Freedom of Expression observe that this situation is within a context of increased restrictions on freedom of association and expression in the country, as well as an increase in violence by State security forces. Between 2018 and 2023, civil society groups have voiced concerns over a significant number of incidents involving physical violence by state forces. Among these incidents, 95 individuals reportedly lost their lives due to either direct state action or negligence, and the majority of these cases occurred within the confines of state-run prisons.²³

ii) Lack of information from the State regarding the implementation of these precautionary measures

24. The Commission states that it has not received official information from the State on the measures which are reportedly being adopted to implement these precautionary measures. Despite requests for information to the State between 2019, 2023, and 2024, the IACHR has not received a response with the requested information. The Commission regrets the lack of willingness of the State, given that dialogue and agreement are essential for an adequate implementation of precautionary measures and, ultimately, for the protection of the beneficiaries' rights to life and integrity. Without information from the State, it is impossible to know the possible efforts or progress that the State is making in order to protect the rights of the beneficiaries, as well as to learn the challenges it faces in such protection. On the contrary, all the information available, both in the matter at hand and through the monitoring of the situation in Cuba, allows this Commission to affirm that State agents have been adopting actions that intensify the risk that the beneficiary faces, instead of mitigating it.

25. The foregoing assessment is especially relevant since the representation has indicated that the risk persists and that, similar to when these measures were granted, the beneficiary is deprived of his liberty in State custody. In this regard, the IACHR recalls that the State is in a special position of guarantor that implies the duty to respect their life, integrity, health, and other human rights, inasmuch as prison authorities exercise a strong control or command over the persons in their custody.²⁴ This is due to the unique relationship and interaction of subordination between the person deprived of liberty and the State. This is characterized by the particular intensity with which the State can regulate their rights and obligations, and by the very circumstances of imprisonment. In these circumstances, prisoners are prevented from satisfying on their own a series of basic needs that are essential for the development of a dignified life.²⁵

26. The Commission recalls that the failure to comply with the State duty to report on all the measures adopted in the implementation of its decisions of international protection measures, such as precautionary measures, is particularly serious, given the legal nature of these measures, which seek to prevent irreparable harm to people in serious and urgent situations.²⁶ The duty to inform constitutes a dual obligation

²³ IACHR. [Press Release 38/2024](#). IACHR and RELE condemn the persistence of repressive actions against organizations and the press in Cuba. February 21, 2024.

²⁴ 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.

²⁵ IACHR, Report on the Human Rights of Persons Deprived of Liberty in the Americas, OEA/Ser.L/V/II. Doc. 64, December 31, 2011, paras. 49-50.

²⁶ I/A Court H.R., Matter of Communities of Jiguamiandó and Curvaradó regarding Colombia, Provisional Measures, Order of February 7, 2006, considerandum 16; and Case of Luisiana Ríos et al. (Radio Caracas Televisión – RCTV), Provisional Measures, Order of September 12, 200, considerandum 17.

that requires, for its effective fulfillment, the formal presentation of a document on time, and the specific, true, current and detailed material references to the issues on which that obligation falls.²⁷

iii) Ongoing risk against José Daniel Ferrer García under the terms of Article 25 of the IACHR Rules of Procedure.

27. The Commission observes that, at the time these precautionary measures were granted in favor of José Daniel Ferrer García, he was at risk of being deprived of liberty, subjected to incommunicado detention, and was receiving threats from state agents. In this context, the IACHR requested Cuba to adopt the necessary measures to guarantee the life and personal integrity of José Daniel Ferrer García; to consult and agree upon the measures to be adopted with the beneficiary and his representatives; and to report on the actions taken to investigate the facts that led to the adoption of these precautionary measures. During the years these precautionary measures have been in force, the Commission did not receive information from the parties that would allow it to assess the timely implementation of the precautionary measures.

28. According to the information available, the beneficiary was arrested and deprived of liberty again on July 11, 2021, in the midst of the social demonstrations that took place in Cuba.²⁸ On August 14, 2021, he was reportedly sent to a “punishment cell”. Subsequently, since March 17, 2023, he was allegedly kept under prolonged periods of solitary confinement. Moreover, between August 2023 and March 2024, the representation provided information that indicates that Mr. Ferrer García’s situation has been deteriorating.

29. In addition to the above, the Commission understands the following:

- The beneficiary, in addition to being isolated from the prison population, is allegedly a victim of torture, both physical and psychological, in inhuman, cruel, and degrading conditions.
- The beneficiary does not receive his medication in a timely manner. When the medication is supplied, it is impossible to determine if they are being provided correctly and there has been an evident deterioration of his health. It was added that the prison authorities allegedly use medicine as a form of blackmail.
- There are allegations of insufficient food supply in the prison.
- For at least a year, the State has reportedly suspended Mr. Ferrer García’s telephone communications.
- His situation of incommunicado detention has reportedly worsened. The representatives stated there have been periods of several months during which his family was completely unaware of his situation and well-being.

30. The Commission observes that, between November 28, 2023, and March 18, 2024, updated information on the beneficiary’s general health and well-being under the deprivation of liberty were still unknown. This scenario was reportedly aggravated by “rumors about the death” of the beneficiary. While it was confirmed that he was alive on both March 18 and April 1, 2024, the Commission expresses deep concern over the prolonged period of incommunicado detention and the dearth of information regarding his health and well-being. This situation has left his family in a state of prolonged uncertainty as they have been unable to

²⁷ I/A Court H.R., Matter of Communities of Jiguamiandó and Curvaradó regarding Colombia, Provisional Measures, Order of February 7, 2006, considerandum 16; and Case of Luisiana Ríos et al. (Radio Caracas Televisión – RCTV), Provisional Measures, Order of September 12, 2005, considerandum 17.

²⁸ IACHR, [Press Release No. 177/21](#), The IACHR and Its Special Rapporteurships Condemn State Repression and the Use of Force during Peaceful Social Protests in Cuba, and Call for Dialogue on Citizen Demands. July 15, 2021; IACHR, [Press Release R189/21](#), The Office of the Special Rapporteur expresses concern over the reports of serious human rights violations in the context of the protests in Cuba. July 23, 2021.

access official updates about his condition. The IACHR notes that this situation persisted despite the “multiple actions” taken by family members before the Cuban State authorities requesting information on Mr. Ferrer García; however, they were unable to obtain an adequate and timely response.

31. The foregoing is especially relevant in the analysis of keeping these precautionary measures in force, considering that Mr. Ferrer García is a beneficiary and, therefore, subject of the State’s duty to protect. However, the alleged perpetrators of the risk events against him are the state agents themselves. This denotes particular seriousness to this matter, since these authorities play a role related to the guarantee and protection of rights.²⁹ Similarly, the seriousness of this scenario is reflected in the above-mentioned context of state repression, in which the representation has been registering an aggravation in the beneficiary’s detention conditions and health.

32. In this sense the Commission believes that Mr. Ferrer García’s alleged current situation implies a serious and urgent risk of irreparable harm to his health, life, and personal integrity if he continues to be deprived of his liberty under the conditions analyzed. Despite the precautionary measures in his favor, no measures have been adopted to protect his life and integrity. Nor have there been any concerted efforts to investigate as requested by the IACHR approximately 12 years ago.

V. DECISION

33. The Inter-American Commission on Human Rights considers that a situation of risk remains in force in this matter and meets the requirements of seriousness, urgency and irreparable harm contained in Article 25 of its Rules of Procedure in relation to Mr. José Daniel Ferrer García, in the terms indicated throughout this resolution. Accordingly, it decides as follows:

- a) continue to follow up on the precautionary measures granted on November 5, 2012, in order to protect Mr. José Daniel Ferrer García’s life and personal integrity;
- b) require that the State implement the necessary measures to ensure that the beneficiary’s detention conditions comply with applicable international standards;
- c) request that the State adopt measures to protect the beneficiary’s health in a timely and adequate manner;
- d) require the parties to consult and agree upon the measures to be implemented. The foregoing must include allowing the representation to access information regarding the detention conditions and welfare of the beneficiary, either via family members or other representatives; and
- e) request that the State report on the actions taken in order to investigate the events that led to the adoption of this resolution, so as to prevent such events from reoccurring.

34. The Commission requests the Government of Cuba to report, within 10 days from the date of notification of this resolution, on the adoption of the precautionary measures required and to update this information periodically.

35. The Commission stresses 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

²⁹ IACHR. [Resolution 7/2024](#). PM 95-24 - Eddy Antonio Castillo Muñoz, Nelly Griselda López García and Juan Carlos Baquedano regarding Nicaragua. March 1, 2024, para. 29; IACHR. [Resolution 25/2023 \(PM 61-23\)](#). Members of the Pataxó Indigenous People located in the Barra Velha and Comexatibá Indigenous Lands in the state of Bahia regarding Brazil, April 24, 2023, para. 51.

prejudgment regarding the violation of the rights protected in the American Convention and other applicable instruments.

36. The Commission instructs its Executive Secretariat to notify this Resolution to the State of Cuba and to the representation.

37. Approved on May 6, 2024, by Roberta Clarke, President; Carlos Bernal Pulido, First Vice-President; José Luis Caballero Ochoa, Second Vice-President; Edgar Stuardo Ralón Orellana; Arif Bulkan; Andrea Pochak; and Gloria Monique de Mees, members of the IACHR.

Tania Reneaum Panszi
Executive Secretary