
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 9/2023**

Precautionary Measure No. 552-20
María de los Ángeles Matienzo Puerto and Kirenia Yalit Núñez Pérez regarding Cuba
February 26, 2023
(Follow-up)
Original: Spanish

I. SUMMARY

1. The Inter-American Commission on Human Rights (IACHR) decides to issue this follow-up resolution on precautionary measures in the terms of Article 25 of its Rules of Procedure. The Commission regrets the lack of State response regarding the measures adopted to implement these precautionary measures. In view of the information available and evaluated as a whole, the Commission makes an urgent appeal to the Cuban State to adopt prompt and immediate measures for the implementation of the precautionary measures considering that the risk factors remain in force under Article 25 of the Rules of Procedure.

II. BACKGROUND INFORMATION

2. On March 14, 2021, the IACHR granted precautionary measures in favor of María de los Ángeles Matienzo Puerto and Kirenia Yalit Núñez Pérez, in Cuba. The petition alleged that the couple faced threats, surveillance, intimidation, and assault as part of their work as human rights defender or independent journalist. Consequently, the Commission requests that Cuba: a) adopt the necessary measures to protect the rights to life and personal integrity of María de los Ángeles Matienzo Puerto and Kirenia Yalit Núñez Pérez. To this end, the State must both ensure that state agents 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 may 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.¹

3. The representation is exercised by the International Institute on Race, Equality and Human Rights (“Race & Equality” or “the representation”).

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

7. During the time the precautionary measures were in force, the Commission has followed up on the situation regarding these measures by requesting information from the parties in accordance with Article 25 (10) of the Rules of Procedure. After the granting of the precautionary measures, the representation presented information on the beneficiaries’ situation on March 16, 2021, which was forwarded to the State on April 20, 2021; on April 7, 2021, transferred to the State on April 21, 2021; on July 26 and November 23, 2021 and on April 8 and June 7, 2022, which was forwarded to the State on August 22, 2022. The representation provided updated information on September 22 and December 19, 2022, the information was forwarded to the State on January 17, 2023. The Commission observes that, to date, the State has not submitted any relevant observations or information on the case at hand. In that regard, none of the allegations presented by the representatives have been disputed throughout these proceedings.

¹ IACHR. [María de los Ángeles Matienzo Puerto and Kirenia Yalit Núñez Pérez regarding Cuba \(PM-552-20\)](#). Resolution 26/2021. March 14, 2021.

A. Information provided by the representation

8. On March 16, the representation reported that on the morning of March 11, 2021, when Ms. Matienzo had gone downstairs to take out the trash, she sent a message to her partner, Yalit Núñez, stating that a State Security agent was present. Upon not returning promptly, Yalit Núñez began to call Matienzo but she did not answer. In this regard, it was indicated that when Matienzo took out the trash, two uniformed police officers and a State Security agent dressed in civilian clothes were present. After taking several photos to report, they ran to her, immobilized her, took her phone, and put her in the car. They then took her a few blocks from the house, left her about an hour, and was then taken to the Infanta Police Station. Once there, they put her in an interrogation room with an agent named Raúl.

9. The agent accused Matienzo of being one of the intellectual authors of a protest that was going to happen that same day, and of being part of the “*Exprésate*” (Express Yourself) campaign, which the beneficiary denied. In addition, they indicated that they know that she is a friend of the director of Cubalex. They said that the director and the two beneficiaries were the people behind the aforementioned campaign, and accused the director of giving them money to do what they want on the island. They also accused her of being friends with other activists, pointing out that this would not lead to any good. They stated the same thing about her partner Yalit Núñez, “because she is also an activist.” They reported that the agent assured her that they would continue to harass her and acknowledged that it is illegal to remove her from her house, but that it is not illegal to stop her on the public road. Matienzo allegedly replied that her house is not a dungeon, and she will leave when she has to leave.

10. In addition, the agents admitted that on March 11, 2021, they followed her throughout Old Havana. They stated that Matienzo was working that day and Núñez was shopping. In this regard, the beneficiaries consider that, after speaking with a member of *Damas de Blanco* (Ladies in White) and a former political prisoner, they realized that they had a police operation on them. This led the State to accuse them of planning a protest on national television. At the end of the interrogation, Ms. Matienzo received a warning letter to guarantee that she would not leave her house, which she refused to sign. She added that she was not registered at the station, since she was entered from the back door, and the patrol was not registered either. Subsequent to these events, the beneficiaries were besieged at their home on March 15, 2021, as a patrol was stationed outside their home.

11. On April 7, 2021, the representation indicated that at 12:00 p.m. on April 5, 2021, when Yalit Núñez left her home, she was intercepted by a police patrol and taken to the Infanta and Manglar Police Unit. She was detained for five hours, but was not interrogated. She was then threatened to have her shirt removed because it was from the “*Exprésate*” campaign; she was released at 5:00 p.m. In addition, María Matienzo was arrested around 3:30 p.m., when she went out to look for Yalit Núñez. She was taken to the Zapata Police Unit y C, where she was not interrogated until 5:30 pm.

12. On July 26, 2021, they reported on the context in Cuba. They indicated that on July 11, 2021, there were peaceful protests in various parts of the country due to human rights violations, the socioeconomic crisis, contagions and deaths due to the pandemic, among other topics. One of the marches in Havana reportedly had about 2,000 participants. President Diaz-Canel reportedly called on his supporters to take to the streets to defend the government, and deemed the protestors “mercenaries” and “counterrevolutionaries.” Unusual internet outages were reported on July 11, and the next day, international experts confirmed restrictions and disruptions by the state-owned communications company on messaging and streaming platforms. As a government response, the National Revolutionary Police (*Policía Nacional Revolucionaria*, PNR) and the Revolutionary Armed Forces (*Fuerzas Armadas Revolucionarias*, FAR), armed with sticks and batons, were deployed en masse. The applicants claimed that the streets of Havana and other locations were “militarized,

human rights violations were reported, and hundreds of people arrested. Several injuries were reported, one person confirmed dead, and another was pending confirmation.

13. The representation reported that the beneficiaries were besieged on several occasions. They pointed out that, during Luis Manuel Otero Alcántara's hunger strike, protesting that the beneficiaries could not visit him, they were besieged from April 15 to 21, 2021. As the hunger strike continued, they were besieged from April 28 to 29. On May 20, 2021, they were again besieged by rumors that there was a call for a national march. From June 30 to July 4 they were besieged again, during which Yalit Núñez had no access to the internet.

14. Between July 11 and 18, they were besieged again as several patrols stationed around their building. Considering the situation in the country around that time, they did not feel safe leaving their home and depended on the solidarity of neighbors who brought them food. Lastly, on July 26, 2021, the beneficiaries were again besieged, with a patrol outside their home and an agent dressed in civilian clothes.

15. In its communication from November 23, 2021, the representation indicated that on September 21, 2021, the authorities were requested to guarantee the rights of a peaceful march for November 20 at 2:00 p.m. The request was rejected on October 12, considering that the march was "illegal", as it constituted incitement of regime change for Cuba rehearsed in other countries. Consequently, on October 21, the Office of the Attorney-General of the Republic warned several citizens that, should they fail to comply with the decision, they would incur crimes of disobedience, unlawful demonstrations, incitement to crime, among others. In addition, the Cuban authorities announced mobilizations and military exercises on the same day to intimidate the march. The organizers decided to have it earlier, on November 15, 2021.

16. Regarding the beneficiaries, they indicated that Yalit Núñez was arrested on November 11, 2021 by a patrol that was 100 meters from her house. They reported that they were also waiting for her partner, María Matienzo. She was taken to the Zanja police station and then to the Fourth Station, where she was told that she would not be allowed to march on November 15 and that she and her partner were under siege and would be watched. They also communicated that they had outstanding consequences with both of them and the "Exprésate" campaign. Two hours later, they let Yalit Núñez go.

17. The representation reported that both beneficiaries were besieged from November 11 to 16, 2021. Despite Yalit Núñez expressing that she was in pain on November 13, she decided not to leave the house so as not to be arrested and they had to solve the medical issue at home. They indicated that this demonstrates how the State's strategy violates their rights. Furthermore, it was reported that Matienzo's telephone line was cut, and she had to resort to using a second line. On November 16, the second line was cut, and she had to use a third line.

18. In its report of April 8, 2022, it was mentioned that, on April 4, 2022, the beneficiaries sought to clarify the situation before the Office of Immigration and Aliens Services (*Oficina de Atención a la Población de Inmigración y Extranjería*) on why they are being regulated, after having filed a complaint. There they were told that both should remain in the office and, soon after, the State Security agent that monitors them arrived. He took them to the Office of the Head of the Municipal Identity Card of the Cerro (*Oficina de la Jefa del Carnet Municipal del Cerro*). He allegedly told Matienzo that it was not an interrogation, but she replied that she was there against her will. Núñez Pérez was told the same thing. They were both withheld their documents, including their identity cards, and informed them that they had to wait for his boss.

19. The other agent arrived an hour later and told them they were there because of the complaint they had filed. He questioned Matienzo about her family and why she wanted to leave, Matienzo replied that she wanted to visit for leisure. The agent responded that he would review her immigration status, and she would receive a response on Friday. Yalit Núñez was asked the same questions and told her that they know that she would return to Cuba and not stay abroad. The agent kept both beneficiaries' identification papers.

20. In its communication of June 7, 2022, the representation indicated that, on May 30, 2022, several journalists, activists, and human rights organizations had operations carried out outside their homes. The aim was to prevent any action or protest against the trial of Luis Manuel Otero Alcántara and Maykel Osorbo, which began the same day, and who are prosecuted for the protests of June 11, 2021. It was indicated that there were also internet outages and militarization on the streets.

21. In relation to the beneficiaries, on May 30, 2022, they were informed that there were two patrols and four State Security agents outside their home. There were also two alleged patrols in one street corner and two in another corner. The beneficiaries would have to pass by these corners to be able to leave their house, and were therefore surrounded. Yalit Núñez was also cut off from the internet.

22. On June 5, 2022, around 10:00 a.m., the beneficiaries were left without internet. Then they left for the airport because Ms. Matienzo was planning to travel to the Summit of the Americas. When they arrived at the airport, three State Security agents were waiting for them, two of whom usually repressed them. Ms. Matienzo registered on her flight and, on her way to migration, they sent her behind a red line and requested her address. The migration officer returned with her passport and indicated that she could not travel that day. Matienzo requested the grounds for this decision, but the officer did not respond. All three officers were present but did not intervene.

23. The representation submitted an additional report on September 22, 2022. They reported that on August 29, 2022, the beneficiaries were preparing to travel to Argentina when two State agents entered the airport and went to talk to the immigration authorities. While they were doing the check-in for their flight, a man they had never seen began filming them. When they finished checking-in their suitcases, Yalit Núñez went out to smoke and saw that there were more reported State Security agents, who made a call when she finished smoking. Thus, before going through migration, they were separated from the queue and an officer indicated that he wanted to talk to them. They took them to one meter room two with a camera on the roof, where the two referred agents were waiting for them. Matienzo went first, she was told to enjoy this trip because it could be her last and that, when she returned, “they were going to give her their all” because they did not tolerate them anymore. They pointed out that they were going to check her suitcase because she could not take any “subversive document” abroad and, when trying to check her laptop, she refused and was able to stop them. They told her that “the system was activated and that this trip could bring them international consequences.” Yalit Núñez was told the same thing.

24. After the questioning, they returned to the migration line. A migration officer took one of them by the arm and told her that they had already been processed. After going through, the agents were on the boarding side and, although Customs did not detect anything in their hand luggage, they told them to take out their bags and wallets to check them. Two migration officers removed all the contents of their bags and, since the beneficiaries refused to let them read personal papers, the officers did not. They then passed Ms. Matienzo’s hard disk through the X-ray, passed a device through her neck and extremities, and made them go through a body X-ray machine that requires them to lift their arms and open their legs. They indicated that one hour and 40 minutes had elapsed during this process.

25. As they went through the process, they went to the bathroom and one of the officers followed them to the bathroom. They then sat next to them as they were boarding to take pictures of them as they showed their tickets and boarded. The representation indicated that, as of the date of the report, they had not returned to Cuba and fear greater harassment and threats upon their return.

26. Lastly, the representation sent an update on December 19, 2022. They referred to the context on LGBTI people in Cuba, reporting that in 2019 the Ministry of Public Health canceled the “Conga against Homophobia” and the State called for not leaving that day after considering it a “subversive day”. Those who went out were stopped by State Security after a kilometer and at least three activists were arrested. At the same time, LGBTI

activists were allegedly besieged. In turn, a list of people who have had to leave the country or who had closed community projects due to the repression was provided.²

27. In relation to the above, the representation indicated that the beneficiaries have suffered “differentiated effects for being a lesbian couple”, the State makes them invisible with attitudes that do not recognize their right to form a family. In this regard, it was pointed out that the State Security and the police of Cuba have mocked them for being lesbians, have denied their recognition as a couple, and they have stated that the officers exchange subtle looks, move away from them, or do not want to touch them when they learn of their sexual orientation. It was indicated that they usually call “Kirenia to threaten Matienzo or both” and that they never detain them or interrogate them together. Nor do they recognize them as a couple, referring to them as friends or acquaintances.

28. On the other hand, it was pointed out that the house where they live is legally registered under Kirenia, and that Matienzo is not allowed to put this address on her identity card. Although she has gone to the Department of Housing several times, they are not allowed to live together as a homosexual couple, which can generate legal implications. This is despite the fact that State Security knows that they both live there.

29. Specifically, the following events were reported:

- a. When the beneficiaries were arrested on June 15, 2019, Kirenia was admitted to the police station and Matienzo was left outside. The latter asked about Kirenia and explained that they were a couple, she received taunts from the officers and refused to report on her whereabouts;
- b. After one of Matienzo’s detentions on October 26, 2020, while the police were taking her back to her house, they wanted to take her to the address on her identity card. When she indicated that this was not her house and that Kirenia is her partner, the police woman walked away and the three men looked at her with a mocking face;
- c. On March 11, 2021, when Matienzo was approached while throwing away the garbage, two female police officers approached her and asked her “why she did not dress more like a woman” and added that “she was very obese”. Matienzo replied that she likes her overalls. In addition, the officers asked “why she not have children and that it was time for her to think about it”;
- d. During an act of repudiation in 2021, both received pejorative comments about their sexual orientation.

30. In relation to the above, the representation indicated that the beneficiaries report that they have ignored or normalized the State agents’ conduct. They stated their their main concern is simply to find out where the other person is detained or seek their release. They also pointed out that when they travelled outside of Cuba and in therapy, they were able to recognize the different lesbophobic discriminations they have faced during years. Considering the above, the representation argues that there must be a differential approach in the adoption of precautionary measures, but that this should not be used to determine the requirements of urgency and risk since it can generate a hierarchy when determining who can be a beneficiary of protection measures.

B. Information provided by the State

31. Following the granting of the precautionary measures, the Commission has not received a response from the State on the corresponding implementation of these precautionary measures. Nor has it received information indicating that the State has been adopting measures in this regard. The previous situation has

² Raúl Soublett closed the Afro-Cuban Alliance, Jancel Moreno closed the organization “*Dame la Mano*” and left the country with his partner, as well as Daniela Rojo, Orelvis Cabrera, Nelson Julio Mairata, Yuniur Luis Pino, and others.

been maintained over time despite the requests for information made to the State through communications from the IACHR on April 20 and 21, 2021, August 22, 2022 and January 17, 2023.

IV. ANALYSIS OF THE REQUIREMENTS OF URGENCY, SERIOUSNESS, AND IRREPARABLE HARM

32. 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.

33. The Inter-American Commission and the Inter-American Court of Human Rights (hereinafter “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.³ Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.⁴ To do this, the IACHR shall assess the 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.⁵ 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.

³ 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. (Only available 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 8; I/A Court H.R. [Case of Bámaca Velásquez](#). Provisional measures regarding Guatemala, Order of the Court of January 27, 2009, considerandum 45 (Only available in Spanish); 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 available in Spanish)

⁵ 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 available 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 available in Spanish)

34. 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 shall assess whether the serious and urgent situation and the risk of irreparable harm that caused the adoption of the precautionary measures persist. 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 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 2/2020 of April 15, 2020, the IACHR ruled on the possibility of issuing Follow-up Resolutions.

35. Considering the nature of the information available and given the lack of response from the State over time, the Commission considers it appropriate to assess the situation of the beneficiaries in the terms of Article 25 of its Rules of Procedure. The Commission recalls that, in this matter, it has requested information from the parties under the terms of the Rules of Procedure, and only received a reply from the representation. With this Follow-up Resolution, the Commission seeks to visibilize the situation that the beneficiaries continue to face in the current context that Cuba is experiencing, while taking into account the vulnerabilities to which they have been exposed over time. In addition, the Commission decides to issue this resolution considering the lack of information by the State on the measures actually taken and in response to the request for representation to take action to ensure the effectiveness of these precautionary measures.

36. 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 detentions or the various procedural and substantive questions following the questioning of the detentions. The Commission is also not called upon to rule on the attribution of criminal or other liabilities regarding the persons involved in this matter. The analysis carried out by the Commission herein relates exclusively 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 as this is specific to the petition and case system.⁶

37. The Commission performs the corresponding analysis in the following order: (i) Validity of the requirements established in Article 25 of the Rules of Procedure; and (ii) Differentiated impact as members of the LGBTI community.

(i) Validity of the requirements established in Article 25 of the Rules of Procedure

38. The Commission has been observing the context in Cuba. In this regard, the Commission has received information “on the use of pre-trial detention or temporary detention of persons including political dissidents and human rights defenders in the context of peaceful social protests”.⁷ In its 2020 report on Cuba, the Commission recalled, within the framework of its monitoring functions, that “arbitrary arrests of human rights defenders put these people in a vulnerable situation”.⁸

39. In the 2018 “Report on Freedom of Expression in Cuba”, the Office of the Special Rapporteur for Freedom of Expression (SRFOE) referred to information it received regarding frequent interrogations of independent journalists. These are reportedly directly threatened by state agents with deprivation of liberty

⁶ IACHR. [María de los Ángeles Matienzo Puerto and Kirenia Yalit Núñez Pérez regarding Cuba \(PM-552-20\)](#). Resolution 26/2021. March 14, 2021. 29.

⁷ IACHR. [Annual Report 2014 Chapter IV.B – Cuba](#), paras. 197-201, 224, 272, et seq.

⁸ IACHR. [Situation of Human Rights in Cuba](#). OAS/Ser.L/V/II. Doc. 2. February 3, 2020, para. 186.

or other reprisals, including threats not to let them leave the country and with accounts of people who, after having been summoned to Immigration and Aliens, find State Security agents waiting for them there.⁹ In addition, information has been received on interrogations and harassment of women by male officers. This includes a testimony from a journalist who counted 22 cases of arrests and interrogations against her by male officers. She indicates that on, one occasion, she was arrested for taking a photograph on the street and taken to a police station, where she was interrogated for more than three hours by four male officers.¹⁰

40. Moreover, in its report, the SRFOE reported the use of arbitrary detentions as a method of intimidation or reprisal, which allegedly last hours or even days and there is reportedly no record or document about their deprivation of liberty. In addition, short-lived detentions are reported in order to prevent displacement or prevent the coverage of protests, the arrests of critical journalists, or the mistreatment towards dissident journalists.¹¹ This is in addition to the practice of arresting and imprisoning independent journalists near dates of events related to internal police issues or their participation in international forums or on human rights.¹²

41. This is not exclusive to independent journalists, as a practice of harassment has been detected against those who express their ideas, including artists, human rights defenders, political dissidents, intellectuals, and opinion leaders.¹³ In this regard, regarding defenders, the report gives an account of the criminal types of contempt, attack, and public disorder used to deprive them of their liberty, as well as harassment through internal deportations, summonses to police centers, home searches, assaults, impediments when leaving or entering the country, impediments when leaving their homes with the use of official operatives, and surveillance of their communications.¹⁴ In turn, female defenders have been victims of physical aggression as a result of exercising their freedom of expression, including concerning harassment or arrests against defenders after their participation in UN bodies or in the IACHR.¹⁵ Moreover, its 2020 report on Cuba, regarding the situation of the members of the *Damas de Blanco* organization, in relation to the arrest of several of its members on January 24, 2019 within the framework of the constitutional referendum procedure, collected testimonies that indicated that the “the police allegedly mistreat the detained women² by saying obscene and nasty things to them, and leaving them in prisons with people who disagree with them so that they will be mistreated.¹⁶

42. The Commission has maintained constant monitoring of the situation in Cuba. On February 5, 2021, the SRFOE expressed concern about persistent attacks against independent journalists, defenders and artists, in the context of the call for the march on January 27, 2021.¹⁷ The harassment of those who exercise freedom of expression was condemned again on May 13, 2021. There is information on the detention of multiple people including both beneficiaries after having gone to the police station of Old Havana to seek information on the whereabouts of the detained artist, Luis Manuel Otero, and demand his release.¹⁸ The Commission also learned of the repression and serious human rights violations in the framework of the peaceful social protests of July

⁹ IACHR, [Special Report on the Situation of Freedom of Expression in Cuba](#), OAS/Ser.L/V/II, IACHR/RSFE/INF.21/18, December 31, 2018. 91-93.

¹⁰ *Ibidem*, para. 94.

¹¹ *Ibidem*, paras. 97-98.

¹² *Ibidem*, para. 99.

¹³ *Ibidem*, para. 125.

¹⁴ *Ibidem*, para. 136.

¹⁵ *Ibidem*, paras. 142-146.

¹⁶ IACHR, [Situation of Human Rights in Cuba](#), OEA/Ser.L/V/II., Doc 2, February 3, 2020, para. 180

¹⁷ IACHR, [The Office of the Special Rapporteur expresses concern about the persistent harassment against journalists, artists, and human rights defenders who exercise their freedom of expression in Cuba](#). Press release R28/21. February 5, 2021.

¹⁸ IACHR, [IACHR and Offices of Special Rapporteurs Condemn Harassment of Artists, Journalists, and Activists in Cuba and Call on State to Cease Acts of Persecution Against Those Exercising the Right to Freedom of Expression and Artistic Creation](#). Press release 119/21. May 13, 2021.

11, 2021 in Cuba.¹⁹ For its part, the Commission expressed concern about the repressive actions in the context of the impediment of the march convened for November 15, 2021. It received information of intimidating acts between November 12 and 15, with “reports of alleged house detentions with police surveillance, arbitrary arrests, acts of repudiation, and harassment against the organizers and those who supported the march, summonses to interrogations in police stations, threats of imputation of crimes, and deliberate interruptions in the internet service”.²⁰ More recently, the Commission condemned the persistence of the repression one year after the protests of July 11, 2021, where the following was highlighted:

In the weeks following [the July 11, 2021 protests], a second wave [of state repression] included hundreds of arbitrary arrests and other violations of due process guarantees, mistreatment, and deplorable conditions of detention, as well as the implementation of a reinforced surveillance strategy on the streets across the country and monitoring of the residences of activists.²¹

43. Taking into account the contextual elements narrated and recently monitored, the Commission proceeds to analyze the beneficiaries’ alleged situation. In this regard, the Commission observes that, after the granting on March 14, 2021 to date, the following events have occurred against the beneficiaries:

- i. The beneficiaries have been detained on various occasions when leaving their home, at times, only one of them or sometimes both separately. They were sometimes held in police units and at other times they were questioned by male officers. Within the framework of these arrests, the beneficiaries were threatened and placed in small rooms, referring to their work and prohibitions on participating in protest events. In addition, according to the information available, their entries in police units are allegedly not registered;
- ii. The beneficiaries have been besieged and at their home with a high presence of police and State Security agents, mainly around moments of political altitude in the country and in situations in which they seek to be present in the framework of the work they carry out. Specifically: April 15-21, April 28-29, May 20, June 30-4, July 11-18, July 26, November 11-16, 2021 and June 5, 2022;
- iii. It has been stated that the beneficiaries have been followed by state agents while carrying out personal errands;
- iv. On the topic of immigration, their documents have been conditioned by the state authorities, and their reasons for travel and possible return to the country have even been questioned. It is noted, for example, that state authorities did not allow Ms. Matienzo to board her flight to the Summit of the Americas on June 2, 2022; and, on August 29, 2022, while preparing to travel to Argentina, they were detained, searched, and threatened by state agents.

¹⁹ IACHR. [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](#) Press release 177/21. July 15, 2021; [The Office of the Special Rapporteur expresses concern over the reports of serious human rights violations in the context of the protests in Cuba](#). Press release R189/21. July 23, 2021; [IACHR and Special Rapporteurs Express Concern over Reports of Arbitrary Detentions, Incommunicado Detention, Lack of Legal Defense, and Other Violations of Due Process during the July 11 Protests in Cuba](#). Press release 211/21. August 12, 2021; [IACHR Concerned About Tougher Repression and Human Rights Violations in Cuba Since the Protests that Took Place in July](#). Press release 295/21. November 5, 2021.

²⁰ IACHR. [IACHR and Its Special Rapporteurship for Freedom of Expression Concerned About State Repression that Prevented Civic Rally in Cuba on November 15](#). Press release 317/21. November 29, 2021.

²¹ IACHR. [One Year After Historic Protests, IACHR Condemns Persistent Repression of Demonstrators in Cuba](#). Press Release 153/22. July 11, 2022.

44. The Commission warns, in turn, that the information provided by the representation on the risk events against the beneficiaries is consistent with the information available to the Commission in accordance with its monitoring of the situation in the country. In the same way, the moments reported by the representation as of greater intensity, and in which the risk situations occurred, are consistent with those that the IACHR itself has been observing in its monitoring work.

45. For the Commission, the aforementioned elements reflect that the risk situation identified through various elements in its March 2021 Resolution²² remains in force to date and with high intensity over time. To arrive at this determination, the Commission notes that the State has not disputed any of the allegations of representation, despite the various requests for information made over time. As to the nature of the alleged facts, the Commission observes that all the risky facts were allegedly attributed to personnel of the Department of State Security and/or the Cuban National Revolutionary Police. This is especially serious given that they are State agents, which places the beneficiaries in a particularly vulnerable situation. While it is not appropriate in this procedure to perform a compatibility analysis of detentions in light of the American Declaration and applicable standards, the Commission does take into account the various risk factors that have accompanied these detentions over time. In particular, allegations that they have been accompanied or preceded by threats, harassment, and intimidation by State agents.

46. The Commission notes that the harassment and threats directed at two beneficiaries have been maintained over time, have increased in intensity, and that state authorities have been identified as the main perpetrators, according to the representation. The continuation of this situation may give rise to more serious harassment if no²³ immediate measures are taken for its protection. In this regard, the Commission notes that the actions carried out by agents of the State take place in diverse areas and by various means. Thus, operations are reportedly carried out in homes, via prolonged surveillance actions, monitoring and arrests.

47. More specifically, the IACHR notes that, given the beneficiaries' frequent arrests, it was indicated that state agents do not register the beneficiaries' entries in the police stations. This exposes them to different types of risk, especially in the face of the threats that the state agents themselves reportedly express against them. The foregoing also affects the possibility of the beneficiaries reporting the facts and determining responsibilities. At the same time, the numerous occasions in which the beneficiaries have been "besieged" in their homes to prevent them from participating in events or their mobilization in particular are highlighted, which also include being isolated due to interrupted Internet and telephone service. For the Commission, these events present a serious risk to their rights, as they cannot obtain food or basic needs, or even medical care that can become irreparable if not received promptly. As an example, they mentioned the pain that Ms. Núñez could attend to on November 13, 2021 when she was besieged.

48. Taking these elements as a whole into account, the Commission considers it necessary to assess the situation of risk to the health, life, and integrity of the beneficiaries from a gender perspective, which implies not only analyzing the situation of risk itself but also taking into consideration the dimension of the differentiated impact, thus allowing a comprehensive assessment. In this regard, the Commission notes that the harassment and abuse to which the beneficiaries Matienzo and Núñez are subjected may be aggravated by the existence of additional vulnerability factors that they face as female human rights defenders and independent journalists. In this regard, the Commission has observed the pattern of harassment towards woman who have been detained in the past. It warns with particular concern that the beneficiaries have been detained in small rooms with male agents who, on one occasion, threatened to remove Yalit Núñez shirt on the grounds that it alluded to the "*Exprésate*" campaign. This is in addition to the impact as people of the LGBTI community, which will be addressed in the following section.

²² IACHR. [María de los Ángeles Matienzo Puerto and Kirenia Yalit Núñez Pérez regarding Cuba \(PM-552-20\)](#). Resolution 26/2021. March 14, 2021. 31-33

²³ See *inter alia*: I/A Court H.R. Matter of Yarce et al. Colombia. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 22, 2016. Series C No. 325, para. 188

49. For the IACHR it is particularly serious that, after the latest acts of harassment, abuse, and threats at the airport prior to boarding a flight to Argentina, the beneficiaries fear returning to their own country. They fear that the context of threats and harassment against them will intensify. The Commission is watchful of the events that may arise after the beneficiaries return to their country.

50. Considering the above elements, the IACHR considers that the risk factors assessed continue to be present and that the requirements of Article 25 of the Rules of Procedure remain in force. The Commission requests the State of Cuba to take all necessary measures immediately to protect the rights of the beneficiaries. This call is made while taking into account that, since the granting of the precautionary measures in March of 2021, there have been no substantial changes in the beneficiaries' situation. In this regard, the Commission has continued to receive information indicating that acts of threats, intimidation, harassment, and violence have been attributed to State authorities. This has a reported serious impact on the exercise of the tasks carried out by the beneficiaries as defenders and independent journalists, as well as within the framework of their "Exprésate" campaign, which have been hindered over time. The Commission warns that these actions are likely to continue over time, to the extent that the beneficiaries continue to exercise their rights to freedom of expression, which are exponentiated by moments of political altitude and polarization in Cuba.

(ii) *Differentiated impact due to the LGBTI community membership of the beneficiaries*

51. In addition to the above, while the Commission agrees with the representation that people's sexual orientation does not *per se* result in a situation of risk as such (see *supra* para. 30), the Commission has taken into account the differentiated impacts that can take place in people at risk, as well as their increase in the face of a multiplicity of vulnerability factors²⁴, including discrimination and violence suffered by the LGBTI community.²⁵ In this regard, the Commission has recognized "the existence of certain factors that make LGBTI people especially vulnerable to violence, or that worsen the consequences of such violence".²⁶ In the case of precautionary measures, the analysis is also carried out in the light of the available information submitted by the parties under the terms of Article 25 of the Rules of Procedure.

52. In this regard, the Commission has observed that, despite the progress made in this area in Cuba, LGBTI persons and human rights defenders working on issues related to the LGBTI community "suffer violence, discrimination, restrictions on their rights of assembly and association, and curtailment of their freedom of expression and dissemination of thought",²⁷ as well as specific testimonies that account for the persistence of violence against LGBTI persons in Cuba.²⁸ In addition, the Commission considers the information provided by the representation on the context of discrimination based on membership of the LGBTI community, which have generated repression and caused various people to leave the country or abandon their projects.

53. In this regard, the Committee notes, in the context of the facts that place individuals at risk that have been observed by the Committee in considering the continued existence of the risk situation (see *para.* 43 et al), in at least four situations. In these situations, the representation referred to: mockery towards their sexual orientation or for being a couple; refusal to report the location of the beneficiary after their detention, despite being reported to be a couple; questions about the clothing of the beneficiaries by not dressing "as a woman", including questions about their physique; and derogatory messages about their sexual orientation (see *supra*

²⁴ See, for example: IACHR. [Sofia Isabel Montenegro Alarcón and sixteen other women human rights defenders with regarding Nicaragua \(Extension\) \(PM-1067-18\)](#). Resolution 60/2019 of December 24, 2019, para. 103 (Available only in Spanish); and, [7 pregnant women of the Wichí ethnic group regarding Argentina \(PM-216-21\)](#). Resolution 32/2021 of April 16, 2021, para. 78.

²⁵ See: IACHR. [C.F.M.T. regarding the Dominican Republic \(PM-289-16\)](#). Resolution 20/2019 of April 10, 2019, para. 15-16. (Available only in Spanish)

²⁶ IACHR. [Violence against LGBTI persons](#). OAS/Ser.L/V/II.rev.2. Doc. 36. November 12, 2015, para. 262 and subsequent.

²⁷ IACHR, [Situation of Human Rights in Cuba](#), OEA/Ser.L/V/II., Doc 2, February 3, 2020, para. 326.

²⁸ *Ibidem*, paras. 331-336. See also: IACHR. Violence against LGBTI persons. 102.

para. 29). This situation is further aggravated by the presence of State agents, who have an obligation to respect and protect the population on an equal footing. For the IACHR, these situations place the beneficiaries in a greater situation of vulnerability, considering the context of violence against LGBTI people in the face of harassment, threats, and acts of violence to which the beneficiaries are constantly exposed.

54. The IACHR therefore notes that, although the beneficiaries are subject to acts of risk mainly because of their work in defense of human rights and as an independent journalist, with emphasis on their critical position to the government of Cuba, this situation of risk increases with a multiplicity of vulnerability factors, such as the fact of being women and, particularly because they belong to the LGBTI community.

55. Therefore, the Commission considers that the State must take differentiated measures to ensure that its agents respect the beneficiaries' rights related to their sexual orientation, as well as protect them against possible acts of violence that may come from third parties.

V. DECISION

56. The Inter-American Commission on Human Rights considers that this matter continues to meet *prima facie* the requirements of seriousness, urgency, and irreparable harm contained in Article 25 of its Rules of Procedure under the terms indicated throughout this resolution. Accordingly, it decides as follows:

- a) Maintain the precautionary measures granted in favor of María de los Ángeles Matienzo Puerto and Kirenia Yalit Núñez Pérez in the terms indicated in Resolution 26/2021. March 14, 2021, as well as consider what is established in the paragraphs of this Follow-up Resolution.
- b) Request that the State to take protective measures, with a gender and LGTBI focus, to ensure that its agents respect the rights of the beneficiaries in accordance with international standards in the field, and therefore allow them to continue their work as a human rights defender and independent journalist;
- c) Request the State to submit specific, detailed, and up-to-date information on the situation of the beneficiaries with a view to further assess their situation under the terms of Article 25 of the Rules of Procedure, as well request that the representation continue to send information;
- d) To continue implementing the appropriate follow-up measures pursuant to Article 25.10 and other provisions of its Rules of Procedure.

57. The Commission requests the parties to submit the aforementioned information to the Commission within 60 days from the date of this resolution.

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

59. Approved on February 26, 2023, by Julissa Mantilla Falcón, President; Edgar Stuardo Ralón Orellana, First Vice-President; Margarette May Macaulay, Second Vice-President; Esmeralda Arosemena de Troitiño; Joel Hernández García; Roberta Clarke; and Carlos Bernal Pulido, members of the IACHR.

Tania Reneaum Panszi
Executive Secretary