
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 30/2022**

Precautionary Measure No. 46-22 and 193-22

Walnier Luis Aguilar Rivera and Ibrahim Domínguez Aguilar regarding Cuba

July 8, 2022

Original: Spanish

I. INTRODUCTION

1. On January 19 and March 16, 2022, the Inter-American Commission on Human Rights (“the Inter-American Commission,” “the Commission” or “the IACHR”) received two requests for precautionary measures submitted by the Cuban Observatory of Human Rights (*Observatorio Cubano de Derechos Humanos*) (“the requesting party” or “the applicants”), urging the Commission to request the State of Cuba (“the State” or “Cuba”) to adopt the necessary measures to protect the rights to life, personal integrity, and health of Walnier Luis Aguilar Rivera and Ibrahim Domínguez Aguilar, respectively. According to the request, the proposed beneficiaries are at risk due to their confinement since July 2021 as they are under severe detention conditions and lack adequate medical care.

2. Regarding *Walnier Luis Aguilar Rivera*, the IACHR requested additional information from the applicants on January 31, 2022 and received a response on April 5, 2022. On June 16, 2022, the IACHR requested information from the State and the applicants. The applicants submitted additional information on June 27, 2022. Regarding *Ibrahim Domínguez Aguilar*, the IACHR requested further information from the applicants on April 1, 2022 and received a response on April 10, 2022. On June 16, 2022, the IACHR requested information from the State and the applicants. The applicants submitted additional information on June 23, 2022. To date, the State has not responded to the two requests for information from the IACHR. The granted deadlines have now expired.

3. Upon analyzing the submissions of fact and law furnished by the applicants within the context they take place, the Commission considers that the information presented shows *prima facie* that the proposed beneficiaries are in a serious and urgent situation, given that their rights to life, personal integrity, and health are at risk of irreparable harm. Accordingly, Cuba is requested to: a) adopt the necessary measures to protect the rights to life, personal integrity and health of Walnier Luis Aguilar Rivera and Ibrahim Domínguez Aguilar; b) ensure that their detention conditions are in compliance with the applicable international standards on the matter; c) consult and agree upon the measures with the beneficiaries and their 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 PROVIDED BY THE APPLICANTS

A. Information provided by the applicants

- *Walnier Luis Aguilar Rivera*

4. According to the request, the proposed beneficiary is deprived of his liberty in the Combinado del Este Prison of Havana (*Prisión Combinado del Este de la Habana*). The request indicates that the proposed beneficiary participated in the demonstrations that took place in Cuba on July 11 and 12, 2021, particularly the ones that occurred in the La Guinera sector where clashes allegedly took place. It is

reported that the State repressed the demonstration and indiscriminately detained those who participated in the protest, including the proposed beneficiary.

5. The proposed beneficiary was arrested on July 20, 2021. It is alleged that he suffered an “enforced disappearance” during the first seven days, from July 20 to 27, 2021, as his parents were not informed of his arrest. He was reportedly held in detention centers with elderly persons and ordinary prisoners until he was taken to Combinado del Este Prison. At this location, he is detained with “dangerous” prisoners in cells which are for more rigorous treatment. The applicants submitted that, at that time and according to prison regulations, the proposed beneficiary reportedly should have been held in cells for those who are awaiting trial, and cells according to his age.

6. The Havana Provincial Prosecutor’s Office allegedly ordered a provisional measure of imprisonment against the proposed beneficiary. They alleged that the applicants had manipulated witnesses, lacked evidence, and other alleged violations of due process. The request states that the proceeding against the proposed beneficiary was for committing sedition, even though there is allegedly no evidence.

7. The applicants indicated that they reportedly requested that the imposed detention measure be modified. They requested a measure that does not involve confinement until the proposed beneficiary undergoes psychiatric expert test to determine the critical state of his mental health. In addition, testimonies that deny the accusations must also be taken first. However, all requests were reportedly denied. It was indicated that the State Security Crimes Chamber of the Provincial People’s Court of Havana (*Sala de los Delitos contra la Seguridad del Estado del Tribunal Provincial Popular de La Habana*) had roundly rejected the proposed beneficiary’s attorney’s claim to present a collection of documentary evidence, including medical examinations, regarding the proposed beneficiary’s mental health.

8. According to the request, his medical certificates reportedly show that the proposed beneficiary has required psychiatric care since childhood. The applicants indicates that the proposed beneficiary is reportedly not currently receiving the prescribed medications and is not being treated by a psychiatrist, according to his father’s account. In this regard, they submitted the following information:

- Diagnosis issued by the Diagnosis and Guidance Center of the Arroyo Naranjo (*Centro de Diagnóstico y Orientación del municipio Arroyo Naranjo*) municipality that certified that, since 2014, the proposed beneficiary is being treated for his intellectual disability (mild mental retardation of multifactorial etiology, learning and behavior disorder).
- An awake electroencephalogram was carried out in 2017 and showed: “slightly decreased voltage in the left hemisphere of the brain without discharges”, which “shows a mild abnormality with a tendency to increase.” Due to his mental health, he reportedly requires the drug Chlorpromazine 100 mg, which is a typical antipsychotic. In addition, he requires natural essences which were reportedly prescribed to the proposed beneficiary since November 9, 2017.
- In 2018, the Military Recruitment Commission of Havana which is composed of a large medical-forensic team, including specialists in psychiatry, declared him “exempt from active military service for times of peace and reserve” due to his borderline intellectual disorder.

9. The applicant further reported that, by judgment of December 21, 2021, he was sentenced to 23 years in prison and stated the following:

“Since 2012, he has been treated for anxiety disorders, aggressiveness, insecurity, childish behavior and has mental retardation of multifactorial etiology, as well as a learning disorder of organic cause, and

psychology report, where there are several characterizations of psychopedagogy, psychometric test, and resolution of the Revolutionary Armed Forces, declaring him unfit for military service...”

10. The applicants indicated that the Prosecution allegedly acknowledged that Walnier “had a slight mental retardation”. In addition, it was reported that the conviction did not assess the psychiatric medical expert as relevant evidence.

11. The applicant stated that during the first days of detention, he had been physically ill-treated by a State Security instructor. The instructor allegedly attempted to coerce him with threats of never being released again if he did not write a confession or sign a document. He also allegedly underwent interrogations which “evaded legality” and received offenses, verbal abuse, and major hostility. Following his father’s recent visit, it was reported that prison officials allege that the proposed beneficiary is in good health and that he is reportedly lying about his need for medical treatment. In addition, he was reportedly told that, as long as his father continued to complain on social networks such as Facebook, he would be punished in prison. In addition, he was told that he would not receive equal treatment like the rest of the prisoners because he was a “counterrevolutionary”. In this sense, the proposed beneficiary allegedly has the right to telephone calls and visits only once a month or not at all, which is less than what the other inmates are allowed. It was reported that the proposed beneficiary had been blackmailed and threatened that he should behave well, or that otherwise his cellmates would “handle him”. Upon being notified of the sentence in his trial, the proposed beneficiary reportedly told his father of his intention to take his own life. The applicant considers that the proposed beneficiary could commit suicide if his mental health deteriorates.

12. According to the proposed beneficiary’s parents, they have not denounced the alleged facts because “in Cuba there is no independence of powers”. Furthermore, they stated that after publishing complaints through social networks, they allegedly received threats from the “political police” Regarding domestic remedies for access to medical care and treatment, it was reported that the proposed beneficiary’ father had been heard by the prosecutor in the case. He complained to the head of the Provincial Prosecutor’s Office and to public service officers of the Attorney General’s Office to warn them of his son’s mental illness, and even provided all the medical documentation. However, no authority was sensitized to the situation. He was asked to await the response, but he has not received a written response to date.

13. The applicants stated that the proposed beneficiary’s attorney is part of a single, non-independent lawyers’ organization, which allegedly explains the fact that he had accepted most of the mitigated criminal responsibility against the proposed beneficiary despite opposition from both himself and the parents. The counsel reportedly withdrew from the defense and did not hand over the petitions relating to the need for medical care and the modification of the provisional detention measure, nor did he provide the refusals to the requests. He argued that he could not extract them and that the refusals had been received orally.

14. Lastly, on June 27, 2022, the applicant indicated that it is difficult to communicate with the proposed beneficiary’s father due to power outages and internet malfunctions. However, they indicated that the proposed beneficiary’s detention conditions have not improved. An appeal process was reportedly initiated but has not yet been resolved. The applicants indicated that the Cuban State Security hinders and manages all the proposed beneficiary’s communication, notifications, and interactions with his attorney. It is therefore impossible for him to act on his own. It was reported that there is surveillance and improper espionage against him. In its last communication, it was reported that a State Security Officer arrived at Walnier’s father’s house informing him that the proposed beneficiary’s sentence had been reduced. However, the applicant indicated that it is unofficial information since the proposed

beneficiary's attorney has not been informed about it. They expressed concern that the police had this information as they are not a part of the criminal process.

- *Ibrahim Domínguez Aguilar*

15. According to the request, the proposed beneficiary has been deprived of liberty, initially under allegedly arbitrary provisional detention, since July 12, 2021. It was indicated that, for several years, the proposed beneficiary has had critical views of Cuba's current government and that he identifies as an independent opponent. It was alleged that he is held in very poor conditions in Boniato Prison. He reportedly lacks proper medical treatment after being beaten by police officers.

16. The applicants indicated that on December 25, 2019, as an act of protest, he was allegedly beaten by four members of the police while naked. Due to this incident, he reportedly had bruises and sutures on his head. In addition, he also had a sprain that left sequelae when walking. The police reportedly informed him that he was charged with assaulting an authority and that he would be imprisoned for two years. However, a video circulated on social media which allegedly identified the polices' excessive use of force against him. Therefore, the authorities have decided to impose a bail of \$500 [USD 20] and a fine of \$400 Cuban pesos [USD 16] to finalize the proceedings against the proposed beneficiary.

17. On July 11, 2021, a municipal government official dressed in civilian clothes appeared in front of house of Rosana Borrero Zorrilla, the proposed beneficiary's girlfriend. He allegedly pointed a gun at the proposed beneficiary on a public road, on the central road of the town of Contramaestre, after his participation in a peaceful demonstration with other citizens. In addition, his girlfriend was allegedly arbitrarily detained for posting protests on social media just before the incident. The State agent reportedly threatened the proposed beneficiary by demanding that he cease protest participation and stop demanding his girlfriend be released. It was indicated that the state agent had been deterred by the demonstrators and that the proposed beneficiary had managed to enter his girlfriend's residence.

18. A few hours later, on the same day, the proposed beneficiary's girlfriend was reportedly released due to protests with other citizens. However, after her release, they were reportedly persecuted by police officers and State agents in civilian clothes, who were armed with logs and stones. Once they reached the residence, state agents allegedly surrounded the house and threw stones at it. They also attempted to enter the house by force and shouted insults against them. The neighbors who attempted to help them were reportedly disorganized by a large police deployment that allegedly beat several people and closed the accesses to the location. This situation reportedly went on all night until July 12, 2021.

19. On the morning of July 12, 2021 the proposed beneficiary allegedly took refuge in his girlfriend's house. However, police surveillance mobilized to his girlfriend's house and the police reportedly began flooding the house with pepper spray to force him out. The proposed beneficiary reportedly fled the house and returned to his residence. Subsequently, as the proposed beneficiary considered that his situation seemed risky, he decided to go to his aunts' house. He tried to not to attract any attention on his way and he remained there until about 4:00 p.m.

20. On the afternoon of the same day, the proposed beneficiary allegedly decided to return to his girlfriend's residence as he believed that the situation had de-escalated. However, an act against him, which was allegedly organized by the State Security, was again initiated. Over 200 state agents and unknown persons dressed in civilian clothes stood outside the building, armed with timber and stones, reportedly intimidating and threatening him for being "counterrevolutionary". The proposed beneficiary reportedly left the house with a machete to defend himself and to dissuade people. At that time, neighbors allegedly gathered in his favor. However, a police officer managed to get into the house from the back and

dealt him a violent blow. At that time, other aggressors reportedly took the opportunity to invade the house. The proposed beneficiary was allegedly kicked and beaten with logs. This resulted in “severe head and body injuries”, due to which he subsequently fainted. His girlfriend and his girlfriend’s sister, who is a minor, were also allegedly beaten.

21. The petition alleges that the proposed beneficiary was transferred by police patrol to the Contramaestre Officer Police unit while already seriously injured. At the unit, the police allegedly beat him more and sprayed him in the eyes due to his alleged attitude of resistance. At the police unit, he was allegedly accused of being the leader of the protests and learned that his girlfriend had also been arrested. She was reportedly having a “severe nervous breakdown due to fear.” The Chief of Police, seeing that the proposed beneficiary was injured, decided to transfer him to a hospital where he received emergency medical care. After regaining his health, he was reportedly violently handcuffed which caused wounds to his skin.

22. On July 12, 2021, after leaving the hospital, the proposed beneficiary was reportedly transferred, in secret and with no notice to his relatives, to the so-called “Technician of Versailles” (*Técnico de Versailles*), a criminal investigation organism in Santiago de Cuba. Upon reaching the location, he was reportedly systematically interrogated for 22 days to confess to crimes he had not committed. He was allegedly threatened with disappearance if he reported what had happened. Moreover, he was allegedly placed in an extremely narrow cell, which was isolated, had no ventilation or natural light. The cell had a concrete bed, no mattress, and he reportedly lacked the right to food and minimum water requirements. He did not receive any medical attention either, despite the high fever and injuries caused by the beatings. It was stated that, during that period, upon insisting, he was able to contact an alleged defense attorney only once on July 27, 2021, 15 days after his arrest. The attorney reportedly told him that they had not been able to access the file and that they had to be “prepared for the worst due to his actions”.

23. On August 3, 2021, the proposed beneficiary was allegedly transferred to the provincial detention center known as “El Enérgico” in Santiago de Cuba. In this penitentiary, he was reportedly insulted, was not able to contact his relatives, and did not have the same benefits as other prisoners. After a month of detention without any contact with his relatives, the proposed beneficiary reportedly made a short and monitored phone call on August 12, 2021. On or around August 20, 2021, the proposed beneficiary was allegedly transferred to the maximum security Boniato Prison in Santiago de Cuba. He was reportedly assigned a collective cell with repeat inmates, and these inmates warned him to take “daily surveillance measures”. In addition, he was reportedly only allowed to contact his relatives once a month and under heavy police surveillance.

24. The request states that, during the first month of detention, since July 12, 2021, the proposed beneficiary was missing and “presumed dead”. His relatives and attorney had no information about him until his first telephone contact on August 12, 2021. It was alleged that the proposed beneficiary was not given the right to meet with his relatives until October 12, 2021, three months after his arrest. In addition, the proposed beneficiary allegedly did not have access to the accusations filed against him until October 27, 2021. It was indicated that the sum of years of imprisonment requested by the Prosecutor’s Office reportedly exceed 38 years. This sentence is for the alleged crimes of public disorder, contempt, and assault. The request alleged failures of due process and judicial guarantees of the proposed beneficiary during the proceedings against him, such as lack of evidence, testimony manipulation, and denial of procedural representation.

25. The proposed beneficiary is in the Prison of Boniato, where he has been detained for over 11 months. He is being held in inadequate conditions, does not have regular contact with his relatives, and is subjected to ill-treatment. In addition, it was stated that, despite his health, the medical treatment he

received for beatings was reportedly inadequate. He did not receive medicines or food. The proposed beneficiary reported that he frequently suffers from severe headache, dizziness, and muscle aches. In addition to the above, he allegedly fears for his life and that of his relatives.

26. The applicant informs that the complaints filed with the criminal investigation organism and the Prosecutor's Office reportedly went unanswered. His attorney allegedly insists that he cannot provide copies of his petitions or responses as he reportedly unauthorized to do so.

27. On June 23, 2022, the applicants reported that the proposed beneficiary shares detention with inmates who have a history of violence. This situation reportedly remains unchanged despite the proposed beneficiary's and his mother's demands to change his cell. It was indicated that the proposed beneficiary has no medical check-ups or access to medicines. Furthermore, it was stated that a State Security agent was reported to have threatened the proposed beneficiary with a statutory weapon in his hand. Additionally, it was reported that an agent who had participated in the events of June 2021 also threatened him. The proposed beneficiary also reported being treated under *amparo* by Order No.7 of the Deputy Minister of the Interior "Disciplinary Regulations of the Penitentiary System" (*Reglamento Disciplinario del Sistema Penitenciario*) as a "special" prisoner, for being "counterrevolutionary". The applicant contested that, after almost one year of detention, his sentence of 10 years' imprisonment is not yet final. A month ago, the appeal hearing was allegedly scheduled. The proposed beneficiary's mother reportedly stated the situation to the Military Prosecutor's Office, which has not responded to the effects of her analysis and record.

28. Lastly, the applicant indicated that it is impossible to submit other documentation as the Cuban State and Government representatives that handle Ibrahim's case consider invoking the right not to provide information or written responses. The attorney cannot cooperate either as he would be dismissed from his job.

B. Response from the State

29. On June 16, 2022, the IACHR requested information from the State regarding the situation that Walnier Luis Aguilar Rivera and Ibrahim Domínguez Aguilar face. To date, the State did not submit a response and the granted deadlines have expired.

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

30. Precautionary measures are one of the mechanisms of the Commission for the exercise of its function of overseeing compliance with human rights obligations, as established in Article 106 of the Charter of the Organization of American States. These general oversight functions are established in Article 18(b) of the Statute of the IACHR, while 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.

31. 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, protective and precautionary.¹ Regarding the protective nature, these

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 [only in Spanish].

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 the vulnerability to which the persons proposed as beneficiaries would be exposed if 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. 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.⁴ 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.

32. In analyzing these 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 Commission recalls that, by its own mandate, it is not called upon to make any determination on any individual criminal 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.⁶ This is better suited to be addressed by the Petition and Case system. The following analysis

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 (Available only 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 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 [only in Spanish]; 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, considerandum 13 [only in Spanish]; I/A Court H.R. [Matter of Children 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 IACHR. [Resolution 2/2015](#). Precautionary Measure No. 455-13. Matter of Nestora Salgado regarding Mexico. January 28, 2015, para. 14 [only in Spanish]; IACHR. [Resolution 37/2021](#). Precautionary Measure No. 96-21. Gustavo Adolfo Mendoza Beteta and family regarding Nicaragua. April 30, 2021, para. 33. [only in Spanish].

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.⁷

33. As a context, the Commission recalls that in its 2021 Annual Report, it included Cuba's situation within Chapter IV.B. On that occasion, the Commission recalled the repercussions of the protests in Cuba on July 11, 2021. These have given rise to a situation of exacerbation of the repression of dissidence in the country and serious violations of human rights.⁸ During these demonstrations, the IACHR received information regarding dozens of people who were injured as a result of the disproportionate use of force by the police, as well as threats, harassment and stigmatization directed at demonstrators.⁹ The IACHR was informed of allegations of hundreds of arbitrary detentions and other violations of due process guarantees, ill-treatment, and deplorable detention conditions. In addition, a reinforced practice of surveillance and monitoring of the homes of activists was also reported.¹⁰ In addition, civil society organizations denounced that, regarding the people who participated in the protests, legal proceedings that tend to criminalize them have been filed.¹¹

34. Likewise, the Commission recalls that during the hearing on the "Human rights situation in the context of the protest in Cuba", held on October 21, 2021, civil society organizations denounced that, regarding the people who participated in the protests, judicial proceedings have been presented. These tend to criminalize them and reportedly resulted in the Prosecutor's Office requesting high sentences. They also indicated that these proceedings are reportedly characterized by violations of judicial guarantees, such as: (i) isolated detention of detainees; (ii) interrogations for intimidation purposes; and (iii) the impossibility of adequate legal defense.¹²

35. In response to the allegations presented in the requests for precautionary measures, the Commission understands that they take place within Cuba's context that has been followed by the IACHR within the framework of its monitoring powers. In this regard, the applicants have alleged that the proposed beneficiaries' current situation is related to their participation in the July 2021. In addition, state authorities and sectors of Cuban society consider them "counterrevolutionaries".

36. While considering the specific context that the State of Cuba is experiencing, the Commission proceeds to analyze the regulatory requirements regarding Mr. Walnier Luis Aguilar Rivera and Mr. Ibrahim Domínguez Aguilar. When analyzing these requirements, the Commission also observes that they are deprived of their liberty under sentences issued by courts of first instance and with appeals pending decision or formal notification. In this regard, 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

⁷In this regard, the Court has indicated that "[it] Therefore, the Court 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.

⁸IACHR. [Annual report of the Inter-American Commission on Human Rights 2021](#). OAS/Ser.L/V/II.doc 64 rev. 1, May 26, 2022, Chapter IV.b Cuba, para. 4.

⁹IACHR. [Annual report of the Inter-American Commission on Human Rights 2021](#). OAS/Ser.L/V/II.doc 64 rev. 1, May 26, 2022, Chapter IV.b Cuba, para. 35.

¹⁰IACHR. [Annual report of the Inter-American Commission on Human Rights 2021](#). OAS/Ser.L/V/II.doc 64 rev. 1, May 26, 2022, Chapter IV.b Cuba, para. 37.

¹¹IACHR. [Annual report of the Inter-American Commission on Human Rights 2021](#). OAS/Ser.L/V/II.doc 64 rev. 1, May 26, 2022, Chapter IV.b Cuba, para. 39.

¹²IACHR, Hearing on the "Situation of Human Rights in the Context of the Protest in Cuba" 181 Period of Sessions, held on October 21, 2021

exercise a strong control or command over the persons subject to their custody.¹³ This is due to the unique relationship and interaction of subordination between the person deprived of liberty and the State, characterized by the particular intensity with which the State can regulate their rights and obligations, and by the very circumstances of imprisonment, where prisoners are prevented from satisfying on their own a series of basic needs that are essential for the development of a dignified life.¹⁴ More specifically, the Commission recalls that, based on the principle of non-discrimination, the Inter-American Court has indicated that this duty implies the State's obligation to guarantee their physical and mental health, specifically through the provision of a regular medical review and, when required, of adequate, timely and, where appropriate, specialized medical treatment according to the special needs of care required by the persons detained in question.¹⁵

37. With regard to the requirement of *seriousness*, the Commission considers that it has been met. Both Mr. Aguilar and Mr. Domínguez have been deprived of their liberty since July 2021. Within the framework of the detention conditions that both proposed beneficiaries face, from the information submitted by the applicants, the Commission understands the following:

- After their arrest in July 2021, the relatives were not formally informed about the proposed beneficiaries' whereabouts for a certain temporary period. The foregoing prevented them from activating the resources they considered pertinent in favor of the proposed beneficiaries in a timely manner. Initial contact with their own attorney was only allowed days after the arrests.
- In Mr. Domínguez Aguilar's case, it is also observed that his detention was preceded by acts of violence against him and/or persons close to him.
- There have been periods of isolated detention between the proposed beneficiaries and their families. At other times, the proposed beneficiaries have faced obstacles when attempting to communicate with their relatives, despite being under the same conditions as other persons deprived of liberty. In this regard, it was indicated that the possibilities of telephone communication with relatives were allegedly short and monitored, and that family visits were carried out under heavy police surveillance.
- In both cases, the detention conditions were reportedly considered "severe", and they were subjected to ill-treatment and threats by the prison authorities with the aim of making them confess to crimes. Other threats are said by the applicants to be threats of "disappearance". In that vein, it was reported that interrogations were allegedly conducted with violence and offense in a context of "major hostility".
- The proposed beneficiaries were reportedly qualified as "repeat offenders". They were told that cellmates could "handle them", meaning possible aggressions against them. This situation reportedly arises in an alleged context of blackmail and threats to behave well within the prisons where they are held. In the case of Domínguez Aguilar, it was also reported that he had been

¹³See 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.

¹⁴IACHR. *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.

¹⁵I / A Court HR. *Case of Chinchilla Sandoval et al. v. Guatemala*. Preliminary Exception, Fund, Reparations and Costs. Judgment of February 29, 2016. Series C No. 312, para. 171.

detained in a narrow cell that lacked ventilation or natural light. It has a concrete bed and he has no access to food and only minimum water requirement.

- Regarding health, it is observed that Mr. Aguilar Rivera reportedly has a medical condition that has required psychiatric treatment since he was a child. In this regard, it has been alleged that he is reportedly not receiving his medical treatment. This has caused a “critical” state of mental health which manifested in intentions of suicide. In Mr. Domínguez Aguilar’s case, it was reported that he received beatings in 2021 and was therefore treated urgently. However, recently, despite suffering from high fever, headaches, dizziness, and muscle pain frequently, he reportedly did not receive any medical treatment.

38. When analyzing the matter at hand, the Commission warns that the proposed beneficiaries, who have deprived of liberty since July 2021 after participating protests, are allegedly in severe detention conditions and have not received adequate medical attention to date. This is the current situation after 11 months of detention and despite their delicate health conditions. The Commission also observes that family members and attorneys have filed appeals with the competent authorities to address the proposed beneficiaries’ situation, however, no response has been received. The Commission also notes that the persons who exercise the proposed beneficiaries’ legal defense have also faced alleged limitations in their actions. In addition, state authorities are reportedly not providing written answers or information. The Commission therefore understands that there are serious limitations on the applicants’ part to provide documentary support in certain allegations in Cuba’s current context.

39. The Commission stresses the seriousness of the applicant’s allegations regarding the ill-treatment that the proposed beneficiaries reportedly suffered in prison and the severe detention conditions that they are allegedly subjected to, in particular considering that the events at risk are reportedly attributable to prison authorities. This information therefore identified a continuum of risk factors the proposed beneficiaries faced after their arrest in July 2021.

40. In addition to the above, the Commission observes that the applicant’s allegations are consistent with the information that has been received since the country’s monitoring. In this regard, in 2020, concerning information was received on deplorable conditions of detention of persons deprived of liberty in Cuba, such as prison overcrowding; insufficient medicines, food, and drinking water; inadequate hygiene and sanitation; poor medical assistance; and wide margin of discretion available to its agents in guaranteeing order within prisons.¹⁶ Consequently, in February 2022, the IACHR expressed concern about the people detained as a result of participating in the protests of July 2021 in Cuba. They remain in detention with high levels of overcrowding, they lack to access to drinking water and adequate food, have negligent medical care, and are under isolation measures.¹⁷

41. After requesting information from the State under Article 25 of the Rules of Procedure, the Commission regrets Cuba’s lack of response. Therefore, the Commission does not have information to verify that the alleged situations that place the proposed beneficiaries at risk have been mitigated or that measures have been taken to safeguard their rights. In this sense, the Commission does not have elements that distort the applicants’ allegations, which are also consistent with the information received from the thematic and country monitoring. The Commission again regrets the lack of response from the State, which prevents it from knowing its position on this matter. On the contrary, as narrated by the applicants,

¹⁶IACHR. [Human Rights Situation in Cuba](#). OEA/Ser.L/V/II., Doc. 2, February 3, 2020, par. 373

¹⁷. [IACHR Expresses Concern Over Ongoing Detention and Prosecution of People Who Took Part in Protests in Cuba](#). February 16, 2022

the described situation with risk reportedly arises from the action of State agents. This places the proposed beneficiaries in a situation of vulnerability, as they are in the custody of these agents.

42. Given the above, the Commission considers, from the applicable *prima facie* standard, that it is sufficiently proven that the rights to life, personal integrity, and health of Walnier Luis Aguilar Rivera and Ibrahim Domínguez Aguilar are at serious risk.

43. With regard to the *urgency* requirement, the Commission considers that it has been met, insofar as the proposed beneficiaries continue to be deprived of their liberty in the aforementioned circumstances and may become subject to further infringements of their rights, thus requiring immediate action. This is particularly relevant considering that there are allegations of ill-treatment at the hands of state authorities, and that they have not received medical attention at present. Furthermore, the Commission does not have information provided by the State that allows it to assess the actions they would be reportedly taking to address the situation that places the proposed beneficiaries at risk.

44. Regarding the requirement of *irreparability*, the Commission considers that it has been met, since the potential impact on the rights to life, personal integrity, and health constitutes, by its very nature, the maximum situation of irreparable harm.

V. BENEFICIARIES

45. The Commission declares Walnier Luis Aguilar Rivera and Ibrahim Domínguez Aguilar as beneficiaries, who are duly identified in these proceedings.

VI. DECISION

46. 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) take the necessary measures to protect the rights to life, personal integrity and health of Walnier Luis Aguilar Rivera and Ibrahim Domínguez Aguilar;
- b) ensure that their detention conditions are in compliance with the applicable international standards on the matter;
- c) consult and agree upon the measures to be adopted with the beneficiaries and their 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.

47. The Commission also requests that the State of Cuba report, within 15 days as from the day after this resolution, on the adoption of the required precautionary measures and to update that information periodically.

48. 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 under the applicable instruments.

49. The Commission requests that the Secretariat of the IACHR notify the State of Cuba and the applicants of this Resolution.

50. Approved on July 8, 2022, 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.

Mario López-Garelli
By authorization of the Executive Secretary