
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 77/2022**

Precautionary Measure No. 333-21
José Ernesto Lasorsa regarding Venezuela
December 26, 2022
Original: Spanish

I. INTRODUCTION

1. On April 17, 2021, the Inter-American Commission on Human Rights (“the Inter-American Commission”, “the Commission”, or “the IACHR”) received a request for precautionary measures filed by the organization *Defiende Venezuela* (“the applicants”) urging the Commission to require that the State of Venezuela (“the State” or “Venezuela”) adopt the necessary measures to protect the rights to life, personal integrity, and health of José Ernesto Lasorsa. According to the request, the proposed beneficiary is a cancer patient in critical condition who is deprived of liberty in the facilities of the Fénix Lara Penitentiary, in the city of Barquisimeto, Venezuela. It was indicated that he “urgently” requires chemotherapy treatment in order to prevent his health condition from worsening. However, the unit where he is deprived of liberty is allegedly not providing him with the necessary medical care.
2. In accordance with Article 25 of its Rules of Procedure and the Inter-American Convention to Prevent and Punish Torture, the IACHR requested information from the applicants on April 22, 2021. Upon request for extension, the applicant submitted additional information on April 30, 2021. The IACHR requested information from the State on July 2, 2021. To date, the State has not provided specific information on the proposed beneficiary’s situation. The applicants submitted additional information on February 8, June 22, and December 15, 2022.
3. Upon analyzing the submissions of fact and law furnished by the applicants, the Commission considers that the information presented shows *prima facie* that José Ernesto Lasorsa is in a serious and urgent situation, given that his rights to life, personal integrity, and health are at risk of irreparable harm. Consequently, the Commission requests that Venezuela: a) adopt the necessary measures to protect the rights to life, personal integrity, and health of José Ernesto Lasorsa. In particular, adopt immediate measures that allow access to adequate medical treatment, including the necessary medicines in accordance with corresponding health professionals’ prescriptions, as well as the diagnoses and examinations for a regular evaluation of his health status, according to the applicable international standards; b) consult and agree upon the measures to be adopted with the beneficiary and his representatives; and c) report on the actions undertaken in order to investigate the alleged facts that led to the adoption of this resolution so as to prevent such events from reoccurring.

II. SUMMARY OF FACTS AND ARGUMENTS

A. Information provided by the applicant

4. The proposed beneficiary is an advanced cancer patient and has been deprived of liberty since September 15, 2020. He is currently detained in the Fénix Lara Penitentiary, in the city of Barquisimeto, Venezuela. According to a 2020 medical report, he has had epidermoid carcinoma of the maxillary antrum and acute myeloid leukemia since 2016.¹ Between 2016 and 2018, his condition

¹ The applicant attached a clinical report of the Biopsy of the Anatomopathological Laboratory, dated July 15, 2020.

was reportedly controlled with treatment. According to the medical report of July 2020, the cancer allegedly reactivated and there is a reported risk of metastasis.² On August 24, 2020, the physician reportedly determined that Mr. Lasorsa continued concurrent treatment that consists of radiation therapy and chemotherapy. To date, it was identified that the proposed beneficiary reportedly has difficulty walking and gets nosebleeds.

5. On September 15, 2020, the proposed beneficiary was preventively detained in the Police Command of the Autonomous Institute of the Municipal Police of Valencia, for allegedly committing the crimes of falsification of documents, usurpation of functions, criminal association, and resistance to a person in authority. According to the request, the detention has been arbitrary and the proposed beneficiary was reportedly subjected to acts of violence and harassment at the time of his arrest.
6. On November 26, 2020, the proposed beneficiary was evaluated by a physician from the National Service of Medicine and Forensic Sciences (*Servicio Nacional de Medicina y Ciencias Forenses*), who issued a report addressed to the Judge of First Instance in Criminal Matters based on Control No. 5 (*Juez de Primera Instancia en lo Penal en función de Control n° 5*). In that report, it was indicated that the proposed beneficiary presented skin pallor and progressive weight loss. It was concluded that he deserved a suitable place in order for "his health not to degrade and to preserve his life."³ On December 30, 2020, the hematologist-oncologist of the Dr. Miguel Pérez Carreño Hospital issued a new report. At that date, the proposed beneficiary presented a picture of anemia, acute febrile state (39°- 40° C/102-104° F), moderate nasal hepatitis, myalgia, arthralgia, along an increase in the volume of hemicara R, evolutionarily associated with decay, loss of appetite, cutaneous pallor-intense mucosa and splenomegaly. In this regard, reference was made to emergency chemotherapy.⁴
7. The applicants warn that the treatment currently required by the proposed beneficiary is not guaranteed by any public health center, and therefore attempts to treat the proposed beneficiary are by their own means and in coordination with his relatives or friends. It was indicated that the proposed beneficiary had applied to the courts for authorization to perform chemotherapy and that the application had been denied.
8. In January 2021, the defense requested a review of the preventive detention measure before the Fifth Court of First Instance in control functions of the criminal district of the state of Carabobo. That body reportedly indicated that it only orders house arrest for persons affected by a terminal illness, duly verified. It also decided that the commanders of the Valencia municipal police should be ordered that the proposed beneficiary be transferred to the nearest health center as many times as necessary to guarantee his right to health.
9. On February 12, 2021, the proposed beneficiary could not appear at the preliminary hearing due to nasal bleeding, so he was allegedly transferred to the hospital city SENAMEFEC (National Service of Medicine and Forensic Sciences of the State). Following Mr. Lasorsa's arraignment hearing, it was reported that most of the charges against the proposed beneficiary were dismissed, pending the

² Medical report of July 16, 2020: "Histological sections reveal: malignant, slow-growing evidenced according to neoplasia Tis: Epidermoid Carcinoma In Situ (CIS), unique tumor with possibilities of extension to the ethmoidal sinus GTV (Macroscopic Tumor Volume)."

³ The forensic medical physical examination shows skin pallor, progressive weight loss, chronic, serious illness, which is a conclusion that deserves a suitable site in order for his health not to deteriorate and to preserve his life."

⁴ The report recommended the 8-cycle schedule of four concurrent sessions with Vincristine liposome, daunomycin, and cytarabine.

crime against the public faith for alleged usurpation of functions, as well as that of resistance to a person in authority.

10. The medical report from February 25, 2021, issued by a hematologist-oncologist, indicated that the tumor reportedly perforated the ethmoid bone and penetrated the cranial fossa. Furthermore, it was recommended that the proposed beneficiary immediately initiate concurrent chemotherapy and radiation therapy treatment due to the imminent danger of brain infiltration.
11. The request specified that, on March 10, 2021, the proposed beneficiary was allegedly transferred to the detention center of the CICPC (Scientific, Criminal, and Criminalistic Investigations Service Corps), of Plaza de Toros, Valencia. According to information provided by the relatives, the proposed beneficiary was burned on his hands with a “spark maker” when he reported that he and his companions could not move because of their health conditions. They also reported that he is beaten with sticks on his legs or head to shove him and get him to move around inside the detention center. They added that there is psychological violence against the proposed beneficiary, since the guards have told him that “he will die in the station”. This situation adds to the lack of treatment or the non-delivery of medicines⁵ or food that are sent by his relatives, which has caused severe weight loss.
12. Regarding the proposed beneficiary’s medical care, it was highlighted that it is limited. They reportedly lack complete medical history, and only have the information of the check-ups that he had received. The request indicates that, occasionally, some medications for Mr. José Lasorsa were allowed entry, such as analgesic, antidiarrheal, and multivitamin pills. In addition, they added that there are reports of at least four deaths due to lack of medical attention in the CICPC detention center in Plaza de Toros, in Valencia.
13. On April 6, 2021, the request indicated that the defense filed a new request for review of the measure, which had not yet been decided. In addition, it is indicated that an action for protection of constitutional rights was filed urgently due to health reasons, but that it had not been answered.
14. According to the request, the proposed beneficiary has never been transferred to begin his emergency treatment for his tumors. As a coercive measure, the proposed beneficiary began a hunger strike on June 9, 2021. On June 14, 2021, the proposed beneficiary reportedly chose to suture his mouth shut in the absence of a response from the authorities. This worsened his health and was unstitched on June 16, 2021. As a result of his protests, it was reported that CICPC had agreed to send an official letter to the court to complain that they did not have the means to address his health situation. However, there has been no news of this official letter actually being sent. Additionally, Mr. Lasorsa was reportedly removed from the detention center to be treated as an emergency in the “La Isabelica” Insalud module on June 18 and 20, 2021. The treatment he received consisted exclusively of receiving an IV to prevent dehydration. The hunger strike temporarily ceased on June 21, 2021, following information that he would reportedly receive the decision on his request for review in the coming days. At the time, it was highlighted that the proposed beneficiary’s health continues to worsen, which included the loss of mobility of the lower limbs. It was also noted that, as of that date, eight people had died in the prison due to health-related causes.
15. The applicant informed that a new hearing was allegedly held to address their claims. On that occasion, the judge allegedly charged the proposed beneficiary with new crimes of a sexual nature. He then reportedly refused to comment on his request for review of the case, which would allegedly be carried out subsequently in a separate act. It was reported that the proposed beneficiary had received information that his request had been denied. He began a new hunger strike on June 28, 2021, which

⁵ Reference was made to the fact that he was not allowed to enter oxycodone or diclofenac potassium.

included re-suturing his mouth. In retaliation, the police guards reportedly placed him in solitary confinement, as they handcuffed in a separate staircase in a corridor away from the rest of the cells. So far, there has been no response or attention to his case.

16. Towards the end of March 2022, the proposed beneficiary was allegedly sentenced to 20 years' imprisonment. Therefore, he was reportedly transferred to the facilities of the Penitentiary Fénix Lara, in the city of Barquisimeto, Venezuela. It was indicated that, due to his family living far away and the lack of cooperation of the judges presiding the case, his precarious health condition has deteriorated. In February 2022, it was highlighted that the proposed beneficiary's health had worsened to the point of not being able to move one of his arms, in addition to the similar affectation that his legs already had experienced. A psychological clinical picture of anxiousness, exhaustion, and concern was highlighted. In addition, he allegedly has trouble speaking because of the neurological impairments he has.
17. On May 22, 2022, the Public Defender of the State of Carabobo, Valencia headquarters, allegedly made a request for humanitarian aid and conditional release in favor of the proposed beneficiary. A medical report was attached in February 2022. It indicated that the tumor is in the metastatic stage and in the terminal phase. It was reported that, as of the date, no decision had been taken on that request and that the delay in obtaining access to medical and health treatment had led him to consider a new hunger strike.
18. On June 20, 2022, the proposed beneficiary sent a communication to the applicant, stating the following: i) that his health condition has worsened; ii) that he began to feel intense headache; iii) that he experienced abundant bleeding; iv) that his right arm is paralyzed; v) that he has no feeling in the left part of his body; vi) that he was transferred to the prison infirmary; vii) that the doctors indicated that his situation is serious and that he is not taken to the hospital due to the absence of a transfer ticket from the court of execution; viii) that the court has not yet analyzed the request for humanitarian aid for health reasons filed by the Public Defender's Office; ix) that despite the fact that the court was aware that he had stage III cancer, he was not authorized to start the treatment of radiotherapy and chemotherapy; x) that, due to the lack of care, his cancer advanced to stage IX in phase metastatic; and xi) that he is condemned to death.
19. On August 31, 2022, the enforcement judge issued formalities as a matter of urgency to the following bodies: i) Director of the Prison Community, requiring the transfer of Mr. Lasorsa with extreme urgency to the Luis Gómez López Central Hospital, so that he may be evaluated with an oncologist and hospitalized if necessary. It is also requested that, once he is reviewed by the specialist doctor, he be transferred to the National Service of Medicine and Forensic Sciences (SENAMECF), in order to receive forensic medicine; ii) Director of the Luis Gómez López del Edo hospital. Lara, to be urgently evaluated by an oncology specialist of the medical center with the purpose of restoring his health and be hospitalized if necessary; iii) Director of the SENAMECF of the State of Lara, with the purpose of providing their collaboration to urgently guarantee the evaluation of a forensic doctor.
20. According to information received by the proposed beneficiary's aunt, the proposed beneficiary had a forensic medical report carried out in early December 2022. However, SENAMECF-Lara has not indicated the result to the court and the request for humanitarian assistance is allegedly still pending. It also reiterated the poor detention conditions, in particular regarding access to adequate food and medical care. It was indicated that the proposed beneficiary had COVID-19 and had to pay other inmates' relatives to obtain medication for his treatment.
21. In this regard, they state that the Venezuelan State unjustifiably does not comply with its duty to provide the proposed beneficiary, who is deprived of liberty, with chemotherapy and radiotherapy treatment for his health condition as an oncology patient. In addition, they also alleged the delay of

the judicial authorities in assessing the requests for medical care issued by the proposed beneficiary's representatives. This has caused the proposed beneficiary's health condition to worsen which, in turns, affects his overall health. Therefore, the applicant requests that the State adopt measures to protect the life, personal integrity, and health of the proposed beneficiary, taking into consideration that he is deprived of liberty and his health, as he is an advanced stage cancer patient.

B. Information provided by the State

22. The IACHR requested information from the State on July 2, 2021. To date, the State has not provided specific information on the proposed beneficiary's situation.

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

23. 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 18(b) of the Statute of the IACHR, and the precautionary measures mechanism is described in Article 25 of the Commission's Rules of Procedure. 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.

24. The Inter-American Commission and the Inter-American Court of Human Rights ("the Inter-American Court" or "I/A Court H.R.") have established repeatedly that precautionary and provisional measures have a dual nature, both protective and precautionary.⁶ Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.⁷ 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.⁸ 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 request 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

6 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. (Available only in Spanish)

7 See in this regard: I/A Court H.R. [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#). Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, considerandum 8; I/A Court H.R. [Case of Bámaca Velásquez](#). Provisional Measures regarding Guatemala. Order of the Court of January 27, 2009, considerandum 45; I/A Court H.R. [Matter of Fernández Ortega et al.](#) Provisional Measures regarding Mexico. Order of the Court of April 30, 2009, considerandum 5; I/A Court H.R. [Matter of Milagro Sala](#). Request for Provisional Measures regarding Argentina. Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5 [only in Spanish].

8 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].

and, if necessary, to implement the ordered reparations.⁹ 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.
25. In analyzing those requirements, the Commission reiterates that the facts supporting a request for precautionary measures need not be proven beyond doubt. The information provided should be assessed from a *prima facie* standard of review to determine whether a serious and urgent situation exists.¹⁰ 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 other applicable instruments. This¹¹ is better suited to be addressed by the Petition and Case system. The following analysis relates exclusively to the requirements set forth in Article 25 of the Rules of Procedure, which can be resolved without making any determinations on the merits.¹²
26. As a preliminary matter, and in view of the nature of the facts described by the applicant, the Commission recalls that the Inter-American Convention to Prevent and Punish Torture, to which the State of Venezuela is a party since its ratification on August 26, 1991, includes the definition of torture as “[...] any act intentionally performed whereby physical or mental pain or suffering is inflicted on a person for purposes of criminal investigation, as a means of intimidation, as personal punishment, as a preventive measure, as a penalty, or for any other purpose,” as well as “[...] the use of methods upon a person intended to obliterate the personality of the victim or to diminish his physical or mental capacities, even if they do not cause physical pain or mental anguish.”¹³
27. In this regard, the Inter-American Court has indicated that a violation of the protection of the right to integrity encompasses various connotations of degree, such as those ranging from torture to

⁹ See in this regard: I/A Court H.R. [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#). Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, considerandum 7; I/A Court H.R. [Matter of “El Nacional” and “Así es la Noticia” newspapers](#). Provisional Measures regarding Venezuela. Order of the Court of November 25, 2008, considerandum 23; I/A Court H.R. [Matter of Luis Uzcátegui](#). Provisional Measures regarding Venezuela. Order of the Court of January 27, 2009, considerandum 19.

¹⁰ 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.

¹¹ IACHR. Resolution 2/2015. Precautionary Measure No. 455-13. [Matter of Nestora Salgado regarding Mexico](#). January 28, 2015, para. 14; IACHR. Resolution 37/2021. Precautionary Measure No. 96-21. [Gustavo Adolfo Mendoza Beteta and family regarding Nicaragua](#). April 30, 2021, para. 33.

¹² In this regard, the Court has indicated that “[it] cannot, in a provisional measure, consider the merits of any arguments pertaining to issues other than those which relate strictly to the extreme gravity and urgency and the necessity to avoid irreparable damage to persons.” See in this regard: I/A Court H.R. [Matter of James et al. regarding Trinidad and Tobago](#). Provisional Measures. Order of the Inter-American Court of Human Rights of August 29, 1998, considerandum 6; I/A Court H.R. [Case of Barrios Family v. Venezuela](#). Provisional Measures. Order of the Inter-American Court of Human Rights of April 22, 2021, considerandum 2 [only in Spanish].

¹³ [Inter-American Convention to Prevent and Punish Torture](#), Article 2.

other types of cruel, inhuman, or degrading treatment, or humiliation.¹⁴ In this line, there is also the prohibition of torture, cruel, inhuman, and degrading treatment and the impossibility of suspending it under any circumstances. The Inter-American Court has indicated that the lack of medical attention to a person deprived of liberty and under the custody of the State may be considered a violation of this prohibition.¹⁵

28. In view of the above, it should be noted that, in accordance with Articles 1 and 6 of this instrument, the member States are obliged to prevent and punish torture and cruel, inhuman or degrading treatment, or punishment within their jurisdiction. In turn, Article 17 establishes a commitment to “inform the Inter-American Commission on Human Rights of the legislative, judicial, administrative or other measures they adopted in application of this Convention”.¹⁶ Accordingly, the Commission reiterates as part of its powers over the States, those provided for in Article 18 (b) of its Statute, consisting of “to make recommendations to the governments of the states on the adoption of progressive measures in favor of human rights in the framework of their legislation, constitutional provisions and international commitments, as well as appropriate measures to further observance of those rights.”¹⁷ Therefore, the mechanism of precautionary measures has had a progressive development to become a protection mechanism of the inter-American system, in compliance with its conventional and procedural obligations and deriving from the aforementioned function of the IACHR to ensure compliance with the international commitments assumed by the member States.
29. In addition, the Commission recalls that, in relation to persons deprived of liberty in general, the State is in a special position of guarantor that implies the duty to respect their life, health, and personal integrity, in addition to other human rights, inasmuch as prison authorities exercise a strong control or command over the persons in their custody.¹⁸ This is due to the unique relationship and interaction of subordination between the person deprived of liberty and the State. This is characterized by the particular intensity with which the State can regulate their rights and obligations, and by the very circumstances of imprisonment. In these circumstances, prisoners are prevented from satisfying on their own a series of basic needs that are essential for the development of a dignified life.¹⁹
30. More specifically, and in light of the facts described by the applicant, the Commission recalls that, based on the principle of non-discrimination, the Inter-American Court has indicated that this duty implies the obligation of the State to guarantee their physical and mental health, specifically through the provision of a regular medical check-up and, when required, adequate, timely and, where appropriate, specialized medical treatment according to the special care needs required by the detained persons in question. In the same way, the Inter-American Court has indicated that the States must create conditions of real equality with regard to groups that are at greater risk of being discriminated.²⁰

¹⁴ I/A Court H.R. Case of Barrios Family v. Venezuela. Judgment of November 24, 2021. Merits, Reparations, and Costs. Series C No. 237, para. 52.

¹⁵ I/A Court H.R. Chinchila Sandoval v. Guatemala. Judgment of February 29, 2016. Preliminary objection, merits, reparations, and costs. Series C No. 132, para. 54. 173.

¹⁶ Inter-American Convention to Prevent and Punish Torture. Articles 1,6, and 17.

¹⁷ Inter-American Convention to Prevent and Punish Torture. Article 18 (b).

¹⁸ 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. OAS/Ser.L/V/II. Doc 64, December 31, 2011, para. 49.

¹⁹ IACHR. Report on the Human Rights of Persons Deprived of Liberty in the Americas. OAS/Ser.L/V/II. Doc. 64, December 31, 2011, paras. 49-50.

²⁰ I/A Court H.R. Case of Cuscul Pivaral et al. V. Guatemala. Preliminary objection, merits, reparations, and costs. Judgment of August 23, 2018, para. 105.

31. Taking into account the above assessments and the applicable context, the Commission will proceed to analyze the regulatory requirements regarding the proposed beneficiary José Ernesto Lasorsa.
32. When analyzing the requirement of *seriousness*, the Commission considers that it has been met. The Commission notes that the proposed beneficiary faces a risk situation due to the lack of health care since he was arrested on September 15, 2020. For over two years, he allegedly did not receive the necessary treatment for the carcinoma he has. This situation led to a gradual deterioration in his health and quality of life, as evidenced by various medical reports attached to the file. In fact, since 2020, the initiation of chemotherapy and radiotherapy treatment has been indicated, repeatedly and as a matter of urgency, in favor the proposed beneficiary. This takes into account the risks of metastasis, brain infiltration, and death evidenced by different oncology-haematology doctors.
33. According to the information available, the State is reportedly aware of Mr. Lasorsa's health situation at least since January 2021, when the Fifth Court of First Instance in control of the criminal district of the state of Carabobo determined that the proposed beneficiary be transferred to the nearest health center as many times as necessary to guarantee his right to health. However, the Commission observes that the proposed beneficiary has not initiated adequate medical treatment to guarantee his right to health for over two years. The Commission also notes with concern the delay of the judicial bodies in deciding on the requests for medical care required by the proposed beneficiary. According to the request, most of them remain outstanding to date. Thus, although the State is aware of the proposed beneficiary's circumstances, the situation that places him at risk continues.
34. The Commission observes that in December 2022, the SENAMECF-Lara allegedly carried out a forensic medical report of the proposed beneficiary. However, there is information stating that his forensic report has not yet been submitted to the competent Court that has been monitoring his health. The Commission is also unaware of the findings of the forensic medical report. The available information states that, despite the urgent requests made by the enforcement judge in August 2022, it has not yet been possible to analyze the request for humanitarian aid and conditional release made by the Public Defender's Office on May 22, 2022. This is particularly concerning considering that the proposed beneficiary is in a situation of greater vulnerability, to the extent that he is deprived of liberty and has no other possibility of accessing the medical treatment he needs in the face of a medical condition that has worsened over time.
35. In line with the above, the proposed beneficiary is allegedly in delicate health. He experiences headaches, nosebleeds, and progressive weight loss and mobility. Furthermore, among other aspects, neurological effects, and paralysis in the left arm were identified. The deterioration of his health has been evidenced in medical reports, which indicate that the tumor has already pierced the ethmoid bone and penetrated the cranial fossa. Since the proposed beneficiary has not yet started his chemotherapy treatment, after almost two years, nor has he assessed the nature of the development of his disease and its possible consequences for health, the Commission evaluates that the proposed beneficiary's health is of particular seriousness.
36. The Commission also takes note of the applicant's allegations about the poor detention conditions, due to the lack of access to adequate food, accounts of isolation, and the constant acts of violence and harassment that he has reported receiving within the prison. The IACHR recalls that it is not called upon to question the domestic criminal process against the proposed beneficiary, or the legal classification of his alleged crime. Without prejudice to this, the Commission considers, as part of the analysis of the seriousness of the situation that the proposed beneficiary faces, that the

State agents in charge of his custody were identified as responsible for events that put the proposed beneficiary at risk. In this regard, the requesting organization even indicated that these agents, at one time, told the proposed beneficiary that he would die in the location where he was deprived of his liberty.

37. The Commission notes with particular concern that the proposed beneficiary adopted protest measures, particularly “hunger strikes” in 2021, even having sutured his mouth. In this regard, although these measures impact the health and personal integrity of the proposed beneficiary, in the terms indicated by the Inter-American Court, “it cannot be imputed to the State” given the characteristics and purposes of these.²¹ However, it is possible to infer from the facts is that the proposed beneficiary was in a situation of despair in the face of the alleged lack of medical attention, and the lack of response from the institutional channels to address his situation, which was the subject of analysis in the previous sections.
38. Having requested information from the State under Article 25 of the Rules of Procedure, the Commission regrets the lack of concrete and updated response to the request for information. Although the foregoing is not sufficient *per se* to justify the granting of a precautionary measure, the lack of information from the State prevents the Commission from knowing the measures that would have been reportedly implemented to address the situation that places the proposed beneficiary at risk and dispute the alleged facts. Therefore, the Commission does not have information to assess whether the alleged risk situation was distorted or not. The foregoing is particularly relevant, considering that the proposed beneficiary is deprived of his liberty and, therefore, in State custody.
39. Due to the foregoing, the Commission concludes that from the information provided and the context previously indicated, that it is sufficiently established, from the *prima facie standard*, the existence of a situation of risk to the rights to life, personal integrity, and health of José Ernesto Lasorsa.
40. Regarding the *urgency* requirement, the Commission also considers that it is met, inasmuch as while the proposed beneficiary is kept without the medical care that he requires, the evolution of his health condition is likely to cause even greater effects on his rights. According to the medical support available in the file, the Commission understands that the lack of chemotherapy and radiotherapy treatment could lead to tumor progression, with imminent danger of brain infiltration, resulting in the proposed beneficiary’s death. Moreover, despite the existence of a judicial decision since 2021 which determined his transfer for medical treatment, the prison authorities have not complied with the decision to date. It was also not possible to identify measures to address the alleged situation. The Commission also notes that the situation has continued despite the fact that, in May 2022, the Public Defender’s Office submitted several requests to address the situation of the proposed beneficiary, alerting that the tumor is in a metastatic and terminal stage. In this sense, the immediate issuance of these precautionary measures is necessary.
41. As it pertains to the *requirement* of irreparable harm, the Commission finds that it is met, since the possible impact on the rights to life and personal integrity constitutes the maximum situation of irreparability.

²¹ I/A Court H.R. Matter of Norín Cotrimán et al. v. Chile. Merits, Reparations, and Costs. Judgment of May 29, 2014, para. 394.

IV. BENEFICIARY

42. The Commission declares José Ernesto Lasorsa as the beneficiary of the precautionary measure, who is duly identified in these proceedings.

V. DECISION

43. 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 Venezuela:
- a) adopt the necessary measures to protect the rights to life, personal integrity, and health of José Ernesto Lasorsa. In particular, adopt immediate measures that allow access to adequate medical treatment, including the necessary medicines in accordance with corresponding health professionals' prescriptions, as well as the diagnoses and examinations for a regular evaluation of his health status, according to the applicable international standards;
 - b) consult and agree upon the measures to be adopted with the beneficiary and his representatives; and
 - c) report on the actions undertaken in order to investigate the alleged facts that led to the adoption of this resolution so as to prevent such events from reoccurring.
44. The Commission also requests that the State of Venezuela 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.
45. 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.
46. The Commission instructs the Executive Secretariat of the IACHR to notify this resolution to the State of Venezuela and the applicants.
47. Approved on December 26, 2022, by Julissa Mantilla Falcón, President; Margarete May Macaulay, Second Vice-President; Esmeralda Arosemena de Troitiño; Joel Hernández García; Roberta Clarke; and Carlos Bernal Pulido, members of the IACHR.

Jorge Meza Flores
Assistant Executive Secretary