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**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION 101/2024**

Precautionary Measure No. 1213-24  
**Gina Paola Mercado Núñez regarding Venezuela**  
December 16, 2024  
Original: Spanish

**I. INTRODUCTION**

1. On October 31, 2024, 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 *Espacio Público* (“the applicant”) urging the Commission to request that the Bolivarian Republic of Venezuela (the “State” or “Venezuela”) adopt the necessary measures to protect the rights of Gina Paola Mercado Núñez (“the proposed beneficiary”). According to the request, the proposed beneficiary was deprived of her liberty on July 29, 2024, after recording the protests that took place in the country’s post-electoral context. It is alleged that her current detention conditions put her at risk, particularly as she is not receiving adequate medical care.

2. Pursuant to Article 25(5) of the Rules of Procedure, the Commission requested information from the State on November 26, 2024. To date, the IACHR has not received a response from Venezuela and the granted deadline has expired.

3. Upon analyzing the submissions of fact and law furnished by the applicant, the Commission considers that the proposed beneficiary is in a serious and urgent situation, given that her rights to life, personal integrity, and health face a risk of irreparable harm. Consequently, based on Article 25 of its Rules of Procedure, the Commission requests that Venezuela: a) adopt the necessary measures to protect the beneficiary’s rights to life, personal integrity, and health, with a gender perspective, in accordance with the applicable international standards; b) implement the necessary measures to bring her detention conditions into line with applicable international standards. In particular, the following: make the corresponding medical diagnoses and define her medical treatment; allow her to receive sunlight on a regular basis; provide her with food fit for human consumption and compatible with her health issues; provide water and basic conditions for her hygiene; to ensure that she is not mistreated or physically assaulted; and facilitate contact with her trusted lawyer, giving them access to the criminal file that is being processed against the beneficiary; c) consult and agree upon the measures to be adopted with the beneficiary and her representatives; and d) report on the actions taken to investigate the alleged events that gave rise to this resolution, so as to prevent such events from reoccurring.

**II. SUMMARY OF FACTS AND ARGUMENTS**

**A. Information provided by the applicant**

4. On July 29, 2024, while the proposed beneficiary was walking down the street, she recorded the *cacerolazo* [a form of protest where people bang pots and pans to express discontent], and the surrounding protests in the Parroquia Catedral, Libertador Municipality, Capital District. At that time, officers of the Bolivarian National Guard (GNB) told her to stay with them and that they were “protecting” her from the collectives. Afterwards, a GNB officer asked her, “How much is María Corina paying you?” The proposed beneficiary replied that she was not participating in the protests. The officer insisted, “How much are they paying you?”, and pointed to her as “the leader of the protest.” At the time of her detention, they destroyed her

phone, hit her arm, and pulled her hair until she was motionless on the floor. The detention is described as arbitrary, alleging that there was no arrest warrant and no crime was committed.

5. The proposed beneficiary was reportedly transferred to various detention centers. On July 30, 2024, she was detained at the Detention and Safeguarding Center of the Bolivarian National Police (PNB), Sucre Municipality, state of Miranda. At this location, all inmates had to remain standing due to the limited space to lie down, and none of the detainees could bathe or clean themselves. Between July 30 and August 1, 2024, her trusted attorneys went to several detention centers to request information on the whereabouts and conditions of the proposed beneficiary. No response was obtained at that time.

6. The proposed beneficiary is charged with the crimes of terrorism, obstruction of public roads, and incitement to hatred before the Third Control Court with Jurisdiction in Terrorism in Caracas. On August 2, 2024, her trusted attorney learned that a public defender assumed her legal representation. The authorities did not allow the proposed beneficiary to call her relatives and report her detention. On August 3, 2024, she was transferred to the Women's Penitentiary Training Center "La Crisálida," annexed to the National Institute of Women's Guidance (*Instituto Nacional de Orientación*, INOF), state of Miranda. Women detained during the post-election context in Venezuela are reportedly being referred to this detention center. On August 4, 2024, her husband went to INOF headquarters to confirm if she was there. The first family visit was on August 12, 2024. Family members have been able to visit her on August 12, September 30, October 14, October 28, November 11, and November 25, 2024. During these visits, trusted lawyers have not been allowed access. State officers reportedly consider family visits an "exception."

7. The proposed beneficiary is said to share a cell with 11 people, some of whom are convicted. The cell contains a bunk bed with uncomfortable tubes, so the mattresses are reportedly on the floor. Her cell purportedly has a bathroom, in which she is said to also wash her food utensils. Her relatives allegedly send the products for personal hygiene. She is not allowed to leave the cell. Only once did she receive sunlight for the span of five minutes. However, the proposed beneficiary is unsure when this took place, as she has no sense of time. At various times, male officers at the center reportedly threaten to take the detainees to an isolation cell called "El Tigrito."

8. She allegedly has health issues that cause her to faint on a regular basis. She recently underwent gallbladder surgery and is reportedly not healing properly. She also has "tension" and asthma, for which she needs an inhaler. She is also said to have chronic headaches. Other prisoners allegedly tried to force her to smoke, despite being in poor health. She purportedly has constant menstrual bleeding that usually lasts more than a week. During visits with her husband, she has told him that she feels depressed, and they have not provided her with psychological support. There is no certainty about her health due to the lack of medical attention. When a person deprived of liberty presents with a complicated health picture, the officers believe that the inmates are inventing and exaggerating, so they allegedly only provide them with intravenous fluids and expired acetaminophen. During the proposed beneficiary's fainting spells, her cellmates allegedly help her, and then the custodians attend to her through the administration of a serum, provided by family members, through the intravenous route.

9. The food she receives is reportedly not balanced, decomposed, and contains insects (cockroaches). She purportedly decided not to eat and receives intravenous fluids as an alternative. Currently, she is allowed to receive food, water, and medicines is allowed, but the proposed beneficiary indicates that the food and drinking water sent by the relatives are not delivered to her, or that the drinking water is replaced by tap water.

10. On September 30, 2024, the new female director of the penitentiary center, akin to the United Socialist Party of Venezuela (PSUV), stated that she was allegedly appointed to "set the regime" and "tighten the screws," accusing those deprived of liberty as "guarimberas" [street blockers] and "terrorists." During her

family member's first visit, they learned that, as a form of reprisal, the director of the center threw cold water on the detainees in their cells at 1:00 a.m. because of a drawing made by one of them. The proposed beneficiary, having no change of clothes, remained in the same uniform until it dried. When pouring the cold water, the director allegedly hit the proposed beneficiary, which caused her a hematoma.

11. On October 17, 2024, members of the National Guard began conducting non-consensual body searches and taking detainees' belongings. The applicant described the situation as torture and ill-treatment. It was alleged that the guards put marijuana and cigarettes in the cell, so the proposed beneficiary was punished and taken to the "El Tigrito" cell. She remained there for three days, during which she was only provided with one liter of water. Her meals were passed through a small door. She pointed out that the cell did not have a bathroom, so she had to perform her bodily functions in that same space, which caused it to smell like urine and feces.

12. On August 1, 2024, a writ of *habeas corpus* was filed, which was declared inadmissible on August 26, 2024. Her private lawyers have not been able to take the oath before the courts to file the pertinent appeals, because officials have not allowed it. Only public defenders are being recognized in criminal cases. On August 13, 2024, requests for legal support were forwarded to the public defender. On the same day, the public defender requested that the proposed beneficiary's delicate health be accredited. On August 15, 2024, the husband, accompanied by attorneys, delivered the medical reports to the Public Defender's Office and requested information on the status of the file. However, the Ombudsperson only received the documents and noted that they were still within the deadline for the prosecutor to submit the final report, suggesting that it was simply a matter of waiting.

13. On September 5, 2024, her husband returned to the Ombudsperson's Office to deliver a transfer request so that Gina could be seen by a trusted physician. The Ombudsperson indicated that they would introduce the request before the Court to be sent to the National Service of Medicine and Forensic Sciences (SENAMECF) of the Scientific, Penal, and Criminal Investigation Corps (CICPC), in charge of approving the medical review. Lastly, the Ombudsperson asked him to return to follow up on the request. On November 9, 2024, the trusted lawyers filed an appeal for protection of constitutional rights (*amparo*) for her health and conditions in the detention center.

## **B. Response from the State**

14. The IACHR requested information from the State on November 26, 2024. However, despite the expiration of the given deadline, the State has not submitted its response to date.

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

15. 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 provided for in Article 41(b) of the American Convention on Human Rights, as well as in Article 18(b) of the Statute of the IACHR. The mechanism of precautionary measures is set forth 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 irreparable harm to persons.

16. 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.<sup>1</sup> Regarding the protective nature, these measures seek to avoid irreparable harm and to protect the exercise of human rights.<sup>2</sup> To do this, the IACHR shall assess the problem raised, the effectiveness of State actions to address the situation, and how vulnerable the proposed beneficiaries would be left in case the measures are not adopted.<sup>3</sup> As for their precautionary nature, these measures have the purpose of preserving legal situations while under the study of the IACHR. Their precautionary nature aims at safeguarding 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.<sup>4</sup> In the process of reaching a decision, and according to Article 25(2) of the Rules of Procedure, the Commission considers that:

- a. “serious situation” refers to a grave impact that an action or omission can have on a protected right or on the eventual effect of a pending decision in a case or petition before the organs of the inter-American system;
- b. “urgent situation” refers to risk or threat that is imminent and can materialize, thus requiring immediate preventive or protective action; and
- c. “irreparable harm” refers to injury to rights which, due to their nature, would not be susceptible to reparation, restoration or adequate compensation.

17. In analyzing those requirements, the Commission reiterates that the facts supporting a request for precautionary measures need not be proven beyond doubt; rather, the information provided should be assessed from a *prima facie* standard of review to determine whether a serious and urgent situation exists.<sup>5</sup> Similarly, the Commission recalls that, by its own mandate, it is not called upon to determine any individual liabilities for the facts alleged. Moreover, in this proceeding, it is not appropriate to rule on violations of rights enshrined in the American Convention or other applicable instruments.<sup>6</sup> This is better suited to be addressed by the Petition and Case system. The following analysis refers exclusively to the requirements of Article 25 of its Rules of Procedure, which can be resolved without making any determinations on the merits.<sup>7</sup>

<sup>1</sup> I/A Court H.R., [Matter of the Yare I and Yare II Capital Region Penitentiary Center](#), Provisional Measures regarding the Bolivarian Republic of Venezuela, Order of March 30, 2006, considerandum 5; Case of Carpio Nicolle et al. v. Guatemala, Provisional Measures, Order of July 6, 2009, considerandum 16 (Available only in Spanish).

<sup>2</sup> I/A Court H.R., [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#), Provisional Measures regarding Venezuela, Order of February 8, 2008, considerandum 8; [Case of Bámaca Velásquez](#), Provisional measures regarding Guatemala, Order of January 27, 2009, considerandum 45; [Matter of Fernández Ortega et al.](#), Provisional measures regarding Mexico, Order of April 30, 2009, considerandum 5; [Matter of Milagro Sala](#), Provisional measures regarding Argentina, Order of November 23, 2017, considerandum 5. (Available only in Spanish)

<sup>3</sup> I/A Court H.R., [Matter of Milagro Sala](#), Provisional Measures regarding Argentina, Order of November 23, 2017, considerandum 5 (Available only in Spanish); [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#), Provisional Measures regarding Venezuela, Order of February 8, 2008, considerandum 9; [Matter of the Criminal Institute of Plácido de Sá Carvalho](#), Provisional Measures regarding Brazil, Order of February 13, 2017, considerandum 6 (Available only in Spanish).

<sup>4</sup> I/A Court H.R., [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#), Provisional Measures regarding Venezuela, Order of February 8, 2008, considerandum 7; [Matter of “El Nacional” and “Así es la Noticia” newspapers](#), Provisional Measures regarding Venezuela, Order of November 25, 2008, considerandum 23; [Matter of Luis Uzcátegui](#), Provisional Measures regarding Venezuela, Order of January 27, 2009, considerandum 19 (Available only in Spanish).

<sup>5</sup> 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 August 23, 2018, considerandum 13 (Available only in Spanish); [Matter of children and adolescents deprived of liberty in the “Complexo do Tatuapé” of the Fundação CASA](#), Provisional Measures regarding Brazil, Order of July 4, 2006, considerandum 23.

<sup>6</sup> IACHR, [Resolution 2/2015](#), Precautionary Measure No. 455-13, Matter of Nestora Salgado regarding Mexico, January 28, 2015, para. 14; [Resolution 37/2021](#), Precautionary Measure No. 96-21, Gustavo Adolfo Mendoza Beteta and family regarding Nicaragua, April 30, 2021, para. 33.

<sup>7</sup> In this regard, the Court has stated 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.” I/A Court H.R., [Matter of James et al. regarding Trinidad and Tobago](#), Provisional Measures, Order of August 29, 1998,

18. Regarding the *context*, the Commission has been monitoring the rule of law and human rights situation in Venezuela since 2005,<sup>8</sup> and has included the country in Chapter IV.B of its Annual Report. The Commission has also issued press releases and country reports, and established the special follow-up mechanism for the country, known as MESEVE.

19. In its 2023 Annual Report, the Commission also observed the persistence of a coordinated repression policy, and recommended that the State of Venezuela refrain from carrying out illegal or arbitrary detentions. In cases where a person is deprived of their liberty, the State should ensure that all due process guarantees are upheld, including prompt presentation before an independent judicial authority, in order to prevent enforced disappearances, torture, and other cruel and inhumane treatment.<sup>9</sup> The Commission has recently condemned the practices of institutional violence in the context of the electoral process in Venezuela, such as violent repression, arbitrary detentions, and political persecution.<sup>10</sup> The strategy of detention and criminalization appears to be specifically targeted at individuals perceived as opponents of the regime, including journalists, opposition leaders, human rights defenders, and others.<sup>11</sup>

20. In particular, in the statement of August 15, 2024, the IACHR and its Office of the Special Rapporteur for Freedom of Expression (SRFOE) stated that the regime in power is sowing terror as a tool to silence the citizenry and perpetuate the ruling authoritarian regime in power, and that Venezuela must cease practices immediately that violate human rights and reestablish democratic order and the rule of law.<sup>12</sup> It was found that detainees were subjected to criminal proceedings for crimes defined in ambiguous and broad terms, without the opportunity to be represented by a defense counsel of their choice, as public defenders were imposed on them. The IACHR stressed that “[t]he practices of state terrorism perpetrated by the current regime and observed by the Commission are not only aimed at the persecution of specific sectors, but also generate a climate of fear and intimidation among the Venezuelan population” which “amount also to a denial of the right to political participation.”<sup>13</sup>

21. In the framework of its 191st Period of Sessions between November 4 and 15, 2024, the IACHR held a hearing and a press conference where it addressed the generalized situation of human rights violations in Venezuela in the post-electoral context.<sup>14</sup> The IACHR emphatically called on the current regime to put an end to the repression and release those identified as political prisoners.<sup>15</sup>

22. The Commission identifies that the proposed beneficiary was detained in the aforementioned context. According to the available information, her current detention situation is consistent with the pattern of detentions that has been known after the July 2024 presidential elections in Venezuela.

23. In analyzing the requirement of *seriousness*, the Commission warns that it has been met. At the time of assessing the factual allegations, it is noted that the State did not submit a response, and the granted deadline has expired. **Considering** the arguments offered by the applicant, and given that these are not

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considerandum 6 (Available only in Spanish); [Case of the Barrios Family v. Venezuela](#), Provisional Measures, Order of April 22, 2021, considerandum 2 (Available only in Spanish).

<sup>8</sup> IACHR, [2023 Annual Report, Ch. IV.B. Venezuela](#), OEA/Ser.L/V/II. Doc. 386 rev. 1, approved on December 31, 2023, para. 1.

<sup>9</sup> IACHR, [2023 Annual Report, Ch. IV.B. Venezuela](#), OEA/Ser.L/V/II. Doc. 386 rev. 1, approved on December 31, 2023, Recommendation 8

<sup>10</sup> IACHR, Press Release 184/24, [IACHR and SRFOE condemn State terrorism practices in Venezuela](#), August 15, 2024.

<sup>11</sup> IACHR, Press Release 184/24, previously cited.

<sup>12</sup> IACHR, Press Release 184/24, previously cited.

<sup>13</sup> IACHR, Press Release 184/24, previously cited.

<sup>14</sup> IACHR, Press Release 290/2024, [IACHR Concludes its 191st Period of Sessions with 35 Public Hearings on Human Rights in The Americas](#), November 21, 2024.

<sup>15</sup> IACHR, Press Release 290/2024, previously cited.



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disproved by the State, the Commission understands that the proposed beneficiary is exposed to the following elements:

- She is in the custody of Venezuelan security agents who allegedly assaulted her, both at the time of her detention on July 29, 2024, and later, at the Women’s Penitentiary Training Center “La Crisálida.”
- During the first days of her detention, the State refused to provide information on her legal situation (criminal proceedings, arrest warrant, competent court, etc.) and her place of detention, despite the various actions and searches carried out by the family. It was also alleged that she was being threatened by male guards, and had already been taken to a punishment cell where she was held in solitary confinement in an unsanitary space.
- It is known that she is being prosecuted for terrorism offenses. However, the family and trusted lawyers do not have access to information that allows them to initiate the corresponding actions for her defense. These individuals depend on a public defender who has been imposed by the State.
- During her detention, the proposed beneficiary has reportedly not received the specialized medical care required for her health issues. In this regard, her family members highlighted that they do not have any medical report on her physical or psychological health situation, despite having requested it from the public defender who represents her.
- The imposed public defense lawyer does not share information with her family members, and reportedly does not take actions for the protection of the proposed beneficiary’s health, despite knowing her situation.
- The proposed beneficiary’s detention conditions are purportedly not adequate: she is allegedly sharing a cell with women criminally convicted; the food she receives reportedly contains insects; She is reportedly unable to eat, so she is receiving intravenous fluids; the food supplies sent by her family members are not being fully delivered to her; she is not receiving sunlight, which has allegedly led her to lose track of time; the bed in which she sleeps is not adequate for her medical condition; family visits are purportedly considered an “exception”; and she is not able to contact her trusted lawyer.

24. The Commission notes that the situation that the proposed beneficiary faces has been maintained since her detention in July 2024. None of the domestic resources activated by relatives and trusted lawyers have allowed her to receive the specialized medical care that would correspond. The Commission expresses its particular concern that State agents, who hold a special position as guarantors of human rights given that she is in their custody, are not taking action to protect her; and that, on the contrary, they are identified as being responsible for her current situation. Based on the above elements, and considering the allegations as a whole, the Commission considers that the proposed beneficiary is in a state of complete lack of protection in relation to the situations she may be facing at present.

25. In this context of lack of protection, the Commission considers it important to emphasize that the proposed beneficiary has been facing physical violence that impacts her differently because of her gender. She was assaulted at the time of her arrest on July 29, 2024 by State security officials who pulled her hair and left her motionless on the ground. She was then transferred to various detention centers. During her detention, she was allegedly subjected to body searches without consent; and male guards threatened to take her to solitary confinement, which eventually happened. In addition, her health issues have not been addressed, and she has constant menstrual bleeding that has not been evaluated to know its implications for her wellbeing. In addition, when faced with these health issues, she is said to be exaggerating, or making them up. She therefore

does not receive timely attention, and depends on cellmates for help. This has generated a series of impacts on the proposed beneficiary's mental health, who feels depressed due to the psychological violence generated by the environment she faces.

26. The Commission emphasizes that the above events occurred within the framework of a series of state actions aimed at keeping women in detention under control after considering them "guarimberas" and "terrorists" for their participation in protests during the post-electoral context in Venezuela. The above seeks to stigmatize them and give a message of punishment to any woman who seeks to question the current government and who dares to publicly express it in Venezuela.

27. In summary, the Commission concludes that, according to the applicable *prima facie* standard, it is sufficiently proven that the rights to life, personal integrity, and health of the proposed beneficiary face a serious risk within the framework of the detention conditions she faces.

28. In relation to the requirement of *urgency*, the Commission finds that it has been met, to the extent that the proposed beneficiary is in custody of the State, and that she is not being provided with medical care. In addition to the above, her relatives and trusted lawyers reportedly depend on the public defender, who has been imposed by the State, as they have not been given the possibility of appointing a trusted defense lawyer. This public defender reportedly does not take actions to protect the proposed beneficiary, despite all the health information that the family has provided. Consequently, the Commission considers that, over time, there is an increasing likelihood of the materialization of the effects on her rights and, in particular, the deterioration of her physical and psychological health under the conditions alleged. Therefore, the Commission considers it necessary to adopt immediate measures to protect the proposed beneficiary's rights.

29. As it pertains to the requirement of *irreparable harm*, the Commission considers that it is met, to the extent that the possible impact on the rights to life, personal integrity, and health, by its very nature, constitutes a maximum situation of irreparability.

#### **IV. BENEFICIARY**

30. The Commission declares Gina Paola Mercado Núñez, who is duly identified in this proceeding, as the beneficiary of these precautionary measures.

#### **V. DECISION**

31. The Commission understands 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, the Commission requests that Venezuela:

- a) adopt the necessary measures to protect the beneficiary's rights to life, personal integrity, and health, with a gender perspective, in accordance with the applicable international standards;
- b) implement the necessary measures to bring her detention conditions into line with applicable international standards. In particular, the following: make the corresponding medical diagnoses and define her medical treatment; allow her to receive sunlight on a regular basis; provide her with food fit for human consumption and compatible with her health issues; provide water and basic conditions for her hygiene; to ensure that she is not mistreated or physically assaulted; and facilitate contact with her trusted lawyer, giving them access to the criminal file that is being processed against the beneficiary;

c) consult and agree upon the measures to be adopted with the beneficiary and her representatives; and

d) report on the actions taken to investigate the alleged events that gave rise to this resolution, so as to prevent such events from reoccurring.

32. The Commission requests that Venezuela report, within 15 days from the date of notification of this resolution, on the adoption of the requested precautionary measures and update that information periodically.

33. The Commission emphasizes that, pursuant to Article 25(8) of its Rules of Procedure, the granting of precautionary measures and their adoption by the State do not constitute a prejudgment regarding the possible violation of the rights protected in the American Convention and other applicable instruments.

34. The Commission instructs its Executive Secretariat to notify this resolution to the State of Venezuela and the applicant.

35. Approved on December 16, 2024 by Roberta Clarke, Chair; Carlos Bernal Pulido, First Vice-Chair; José Luis Caballero Ochoa, Second Vice-Chair, Edgar Stuardo Ralón Orellana; Arif Bulkan; and Andrea Pochak; members of the IACHR.

Maria Claudia Pulido  
Deputy Executive Secretary