

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 63/2025**

Precautionary Measure No. 702-25

Mariano Javier Oteiza Hernández regarding Argentina¹

September 11, 2025

Original: Spanish

I. INTRODUCTION

1. On May 27, 2025, the Inter-American Commission on Human Rights (“the Inter-American Commission,” “the Commission” or “the IACHR”) received a request for precautionary measures filed by *Comisión Provincial por la Memoria* (“the applicants”) urging the Commission to request that the State of Argentina (the “State” or “Argentina”) adopt the necessary measures to protect the rights of Mariano Javier Oteiza Hernández (“the proposed beneficiary”). According to the request, the proposed beneficiary is deprived of his liberty and is at risk of having his left leg amputated, allegedly as a result of repeated lack of access to adequate and timely medical care.

2. The Commission requested additional information from the applicants on May 30, 2025, and received a response on June 9, 2025. Pursuant to Article 25(5) of its Rules of Procedure, the IACHR requested information from the State on June 13, 2025, and reiterated it on July 15, 2025. The IACHR granted a time extension requested by the State on July 16, 2025, as well as on July 25, 2025. The State provided its report on July 28, 2025. The Commission forwarded the applicants’ response on July 31, 2025. The applicants submitted their response on August 2, 2025.

3. Upon analyzing the submissions of fact and law furnished by the parties, the Commission recognizes that Mariano Javier Oteiza Hernández is in a serious and urgent situation, given that his rights to life, personal integrity, and health are at risk of irreparable harm. Consequently, pursuant to the provisions of Article 25 of its Rules of Procedure, the Commission requires that Argentina: a) adopt the necessary measures to protect the rights to life, personal integrity, and health of the beneficiary. In particular, provide the prescribed medical treatment in a timely and appropriate manner, as well as the effective management of the required medical appointments; b) consult and agree upon the measures to be adopted with the beneficiary and his representative; and c) report on the actions taken 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 requesting party

4. According to the request, the proposed beneficiary is 40 years old and is currently incarcerated at Penitentiary Unit No. 9 in La Plata, in the province of Buenos Aires. It was reported that in 2021 he was diagnosed with pseudoarthrosis in his left lower limb and chronic osteomyelitis, which carries a risk of leg amputation.²

5. As background information, the request stated that, in January 2021, the proposed beneficiary underwent three surgeries at the Sanguinetti Hospital in Pilar due to a fracture of the tibia and fibula in his left leg. It was reported that he was scheduled to undergo three additional surgeries, but he had to wait more than

¹ In accordance with Article 17(2)(a) of the IACHR Rules of Procedure, Commissioner Andrea Pochak, of Argentine nationality, did not participate in the debate and deliberation of this matter.

² The applicants provided several photographs of the leg, showing open wounds in the skin with yellowish pus.

two years for these procedures. The request added that a surgery was scheduled for September 2021 at the Sanguinetti Hospital in Pilar, but the proposed beneficiary was not transferred and the pre-surgical tests were not arranged. Consequently, the nails needed for osteosynthesis were returned to where they had been requested. On September 13, 2022, the proposed beneficiary had an appointment with the surgery department at Sanguinetti Hospital, but once again he was not transferred.

6. During that time, the applicants reported that the proposed beneficiary required treatment with antibiotics, painkillers, gastric protection, medical supplies, and care from healthcare personnel. However, this was reportedly not adequately guaranteed, and he had to resort to treating himself without the necessary supplies. It was stated that, during that time, his leg was only supported by an external fixator. Consequently, the condition of his left lower limb has reportedly evolved unfavorably as it presents recurrent infections, chronic osteomyelitis, and fistulas with visible bone tissue, through which a large amount of pus began to emerge. The request revealed that, as a result, the proposed beneficiary currently uses crutches to move around and, on occasions, must rely on the assistance of third parties. He reported that his wheelchair was lost in the prison.

7. On January 17, 2023, after two years of waiting, he was admitted to Sanguinetti Hospital and underwent nine surgical interventions. The request stated that, during his two-month hospitalization, his external fixators were removed, necrotic skin and bone tissue were debrided, pins and screws were inserted, and skin was harvested for grafts on his leg. The applicants mentioned that his progress during his hospital stay was favorable. In March 2023, he was discharged from the hospital with instructions to continue treatment with specific antibiotics, wound care, and medical check-ups. However, at Penitentiary Unit No. 46, where he was transferred, he was not guaranteed treatment, as specialized personnel failed to provide him with supplies, medication, and medical care. As a result, the proposed beneficiary's health continues to deteriorate and he has since developed two new fistulas in his left leg, and experiences recurring stomach problems.

8. On July 19, 2023, it was reported that the proposed beneficiary had been transferred to Bocalandro Hospital, where he was warned that the infection had compromised his bone tissue which put his leg at risk of amputation. The physicians therefore recommended that he undergo a series of tests and administered specific antibiotics to prevent his condition from worsening. However, the applicants reported that the penitentiary did not carry out the required tests. The condition of his leg continued to deteriorate and he developed four fistulas with purulent secretions, stomach pain, and episodes of diarrhea, presumably due to a lack of proper diet and medication.

9. On October 3, 2023, the infectious disease specialist M.B. went to Penitentiary Unit No.46 to evaluate the proposed beneficiary. As stated, his report noted the loss of a large amount of muscle mass in the left leg with impaired mobility in the knee. In addition, he showed signs of chronic diarrhea and poor nutrition, reflecting his physical deterioration. Therefore, the infectious disease specialist recommended hospitalization, surgical lavage with removal of necrotic bone, multiple culture samplings, placement of a new external fixator, six months of antibiotic therapy, intensive physiotherapy to restore knee mobility and muscle mass, stool culture, parasitological examination of fecal matter, and appropriate pharmacological treatment. The infectious disease specialist warned that, "if this continues like this, amputation becomes a real possibility, as already suggested at Bocalandro."

10. In late 2023, the proposed beneficiary was transferred to Penitentiary Unit No. 9, where he is being held to present day. This transfer was allegedly made so that he could receive comprehensive medical care. However, it was revealed that he is housed in a ward without a bed and has to sleep on two shared benches with only two blankets. It was also stated that he must wait for his peers to vacate the benches in late hours of the night to be able to lay down. This reportedly led to osteoarticular and musculoskeletal problems, associated health complications, and a progressive deterioration of his general health. In addition, the applicants warned that this prison receives an insufficient amount of antibiotics as the only treatment he receives. On January 11, April 11, and April 30, 2024, the applicants visited the proposed beneficiary and noted the deterioration of his

health and the precarious detention conditions, as he allegedly was not even provided a bed. On April 5, 2024, the proposed beneficiary began a hunger strike due to the lack of adequate medical care and evaluation by healthcare personnel from an outside hospital.

11. On April 19, 2024, the applicants filed a *corrective writ of habeas corpus* with Court of Enforcement No. 3 of San Isidro, stating that the proposed beneficiary does not receive any medication for his leg and sleeps on the floor as he has not been provided a bed. As part of this appeal, an interview was conducted before the pertinent court, in which the proposed beneficiary added that the deputy warden nicknamed *El Colo* (“Redhead”) wanted to attack him. Another inmate also stole his sneakers while putting a knife “to his neck, stabbing him four times in the finger and injuring his right arm.” In this context, the representation requested his transfer to the San Martín Penitentiary Complex in order to receive medical attention.

12. On April 22, 2024, the Court of Enforcement No. 3 of San Isidro resolved: i) to grant the writ of *habeas corpus* in favor of the proposed beneficiary; ii) to issue an official communication to the Director of Sanitary Unit No. 9 of La Plata and to the Provincial Directorate of Prison Health, ordering them to take the necessary measures to ensure that the proposed beneficiary receives all medical care related to his diagnosis, and authorize his transfer to an outside hospital should the means not be available within the facility; iii) to issue an official communication to the Director of Unit No. 9 of La Plata, the Provincial Directorate of Prison Health, and the General Directorate of Assistance and Treatment, and order them to take the necessary measures to urgently transfer the proposed beneficiary to another correctional facility equipped with the infrastructure required to adequately treat his health issues, with preference to be given to a unit within the San Martín Complex; iv) to issue an official communication to the Public Prosecutor’s Office on duty regarding the possible commission of a public-action offense. However, the applicants reported that to date the order has not been complied with. In addition, the proposed beneficiary warned that he is exposed to constant threats from prison guards. For example, one of them allegedly stated: “Keep it up and you’ll see what will happen to you.”

13. In May 2024, infectious disease specialist M.B. examined the proposed beneficiary and reportedly found a lack of medication, healing supplies, adequate diet, and attention from specialists. In this regard, a medical report dated May 23, 2024, prepared by the infectious disease specialist M.B., was attached and states:

[...] this very complicated state, which could have been resolved months ago, is not going to be resolved now by prescribing antibiotics blindly and without further surgery. As of today, May 2024, none of these measures have been carried out. The patient continues to take ciprofloxacin, clindamycin, and co-trimoxazole, to no avail. For a year. He continues with digestive disorders and hemorrhoids. And, even more serious, he still has an active infection in his leg. His skin was in very poor condition, and he had three fistulous openings that drained yellow-green purulent discharge. The fistulas close and open periodically. It is highly likely that the condition can no longer be solved locally and that the leg will have to be amputated above the knee. This is a possibility that the patient refuses. We must eventually prepare him to deal with anger and depression [...]

14. On June 3, 2024, as noted, the HoGam No. 22 traumatology service determined that the proposed beneficiary’s medical condition exceeded the complexity of the facility, given that it did not have the necessary equipment. They also recommended a series of specific tests to determine the severity of his current condition. However, the request stated that the tests were not carried out or managed by Penitentiary Unit No.9.

15. A medical report dated January 29, 2025, prepared by the Provincial Prison Health Directorate of Health Unit No. 9 and addressed to Court of Criminal Enforcement No. 3, states:

[...] He currently has a chronic regional fistula in the distal part of that leg. With indication of prolonged antibiotic treatments, with partial improvement of the infectious process. On December 18, 2024, he had an appointment at the Alejandro Korn Hospital in Romero, which he did NOT attend for reasons unrelated to this

health unit. On December 19 and 26, the appointment request was reiterated, with no response to date. It is requested again today. Moreover, hospitals near this unit have indicated that it is recommended to complete surgical treatment at the hospital where the patient was initially treated (Sanguinetti Hospital in Pilar). He is currently prescribed antibiotic treatment with clindamycin, trimethoprim/sulfamethoxazole, and ciprofloxacin (out of stock from the 1st of the month until today) [...]

16. Another report from May 24, 2025 issued by the infectious disease specialist states:

[...] The first report regarding this patient's case is dated October 4, 2023. 19 months ago. Since then, he has had two unresolved health issues for over a year. An infected pseudoarthrosis of the proximal part of the left tibia, proctorrhagia, and hemorrhoids. He continues to receive chronic and empirical treatment with cotrimoxazole, ciprofloxacin, and clindamycin. On December 18, 2024, he had an appointment at A. Korn Hospital for admission to undergo debriding and cultures. That appointment, in addition to the presurgical tests, were lost seven months ago. At present, the fistulas are closed, but a new fistulous opening is forming [...] Time is being wasted, which is unacceptable. He should be granted house arrest near the hospital where he underwent surgery more than three years ago. If remission is not granted, the patient should be transferred to a San Martín Unit. From there, it might be easier to contact the hospital [...]

17. The request detailed that since 2021, it has filed more than 60 legal proceedings, including the following:

- a. In April 2021, the applicants requested that the judicial authorities ensure that the proposed beneficiary receive adequate medical care and that appointments for pathological evaluation be arranged. The applicant also reported a lack of basic necessities such as supplies, medicines, food, and poor material detention conditions. However, it stated that the requests were not addressed.
- b. In July 2022, the applicants again reported to the judicial authorities the lack of adequate medical care, including the lack of medication, medical supplies, and hospital transfers for pre-surgical tests pending since 2021. Similarly, on September 1, 2022, the applicants filed a *writ of habeas corpus* reiterating this situation.
- c. During 2023, the applicants reported having filed 31 lawsuits requesting adequate medical care, delivery of medication, appointment reports, and exposing the serious conditions which the proposed beneficiary faces. However, it emphasized that in Penitentiary Unit No. 46, transfers to more than eight hospital appointments were not arranged, nor were the necessary treatments guaranteed. Furthermore, Court of Enforcement No. 3 of San Isidro did not notify the applicants of the resolutions or allow access to the court's digital platform to consult the file, despite the requests submitted.
- d. During 2024, the applicants reported having filed 20 new lawsuits. They warned of the deterioration of the proposed beneficiary's health and the obstruction of comprehensive medical care by the Buenos Aires Prison Service.
- e. On April 19, 2024, the applicants filed a *corrective writ of habeas corpus*. On April 22, 2024, Court of Enforcement No. 3 of San Isidro granted the appeal (see Paragraph 12 above). However, to date, the order has not been carried out. In this regard, the applicants have filed eight briefs reiterating its compliance, but have not obtained any concrete response from the Provincial Prison Service authorities.
- f. On May 24, 2024, the applicants submitted a presentation stating that the unit's healthcare personnel were not treating the proposed beneficiary or providing him with the supplies he needed, and that, since the medical recommendations were not being implemented, amputation was becoming a real possibility. In turn, they denounced that the proposed beneficiary did not have access to the special diet he requires.
- g. On August 15, 2024, the previous request was reiterated, and the fact that corresponding appointments were not being respected was also mentioned, as well as highlighting the importance of carrying out the transfer and ensuring treatment by healthcare personnel. They also added the request to communicate with his legal defense and representatives of the intervening court. This request was reiterated on November 24, 2024.

- h. In January 2025, the applicants allegedly filed 10 new legal actions before the Court of Enforcement No. 3, reiterating the lack of medical care.
- i. On February 4, 2025, the applicants requested that the proposed beneficiary be provided with all the antibiotics he requires, medical treatment, and appointment scheduling so that his health does not continue to deteriorate. This request was reiterated on February 14, 2025.
- j. On February 25, 2025, the applicants submitted another presentation due to the lack of ciprofloxacin tablets and the deterioration in his leg. This request reiterated the need to resume follow-up care by the traumatology department at Sanguinetti Hospital in Pilar. In addition, it was expressed that, through the commitment of his brother, the proposed beneficiary could be granted house arrest.
- k. On May 7 and 25, 2025, the applicants again submitted a report to Criminal Court of Enforcement No. 3 on the deterioration of the proposed beneficiary's health, along with a request to enforce the measures ordered by the court.

18. The applicants warned that the provision of medicines has had to depend on the various legal strategies it has pursued, rather than on the appropriate and responsible actions of the prison system. However, they warned that, despite the fact that the court involved had granted several requests for medical care and surgical procedures outside the prison, prison officials are not complying with these judgments. They emphasized that this is shown in the medical records and in the observations of the infectious disease specialist, which show a lack of adequate medical intervention.

19. In this regard, the representation argued that, on numerous occasions, officials from the Buenos Aires Prison System do not carry out transfers for extramural care in order to avoid the logistical complexities that this entails.³ They maintained that persons deprived of their liberty are forced to sign documents against their will expressing their refusal to receive medical care outside the prison or to undergo the recommended tests. Therefore, they stated that the existence of a statement by the proposed beneficiary expressing his refusal to attend a medical facility does not necessarily imply that it was signed of his own free will. The applicants considered it inconsistent to attribute responsibility for not receiving treatment to the proposed beneficiary, when he had been seeking medical care for years.

20. On July 31, 2025, during an interview between the applicants and the proposed beneficiary, he reported that approximately 25 days had elapsed without being given the prescribed antibiotic (*trimethoprim-sulfamethoxazole* 800/160 mg), which allegedly worsened the condition of his left lower limb, causing redness followed by distal edema, erythema, acute pain, the formation of small blisters on the inner aspect of the ankle, and purulent discharge. He also reportedly experiences acute pain when walking, even with the aid of crutches. Although he is occasionally provided with *ibuprofen* tablets to alleviate his discomfort, it was indicated that this does not relieve the pain and is not consistent with the prescribed treatment. In addition to the above, the request noted that the proposed beneficiary experiences episodes of hematochezia (presence of blood in the stool) on a daily basis, meaning that he is passing blood clots, as well as hemorrhoids. He also reported symptoms such as fatigue, muscle weakness, dizziness, "white spots" in his vision, and cramps in both lower limbs. He added that, to this day, he continues to manage his health issues on his own, without access to the necessary antibiotics, analgesics, medical supplies, an appropriate diet, or medical consultations. He warned that he still has not been given an appointment for the traumatology department, meaning that every delay increases the chances of his left leg being amputated and the damage becoming irreparable.

B. Response from the State

21. The State submitted a report prepared by Court of Criminal Enforcement No. 3 of the Judicial Department of San Isidro in the Province of Buenos Aires (hereinafter "Criminal Enforcement Court No. 3"), which has been responsible for enforcing the proposed beneficiary's judgment since April 25, 2023. In this

³ *Comisión Provincial por la Memoria* (Provincial Commission for Memory), [2024 Annual Report](#) (Available only in Spanish).

regard, they explained that on February 24, 2023, the First Chamber of the Criminal Cassation Court of the Province of Buenos Aires issued a final judgment sentencing the proposed beneficiary to seven years in prison, meaning that his detention is set to end on November 15, 2027, at 12:00 p.m.

22. The Court of Criminal Enforcement No. 3 attached extensive documentary evidence showing the following: i) the resolutions issued within the framework of the writ of *habeas corpus* and submissions made by the Provincial Memory Commission, particularly requesting medical attention in favor of the proposed beneficiary; ii) reports regarding transfers to external hospitals; and iii) medical reports documenting the proposed beneficiary's condition, prognosis, and treatment under the supervision of medical departments such as traumatology and infectious diseases. In this context, the state report mentioned that permanent accompaniment and care have been provided by Court of Criminal Enforcement No.3, the Provincial Prison Health Directorate of the Province of Buenos Aires, and Health Unit No.9.

23. The report from the court involved stated that the proposed beneficiary has refused to be transferred to hospitals outside the prison to receive medical care or undergo the tests prescribed by professionals. In this regard, a document prepared on September 28, 2023 by the Buenos Aires Prison Service was attached, which states: "(...) the inmate, who had an appointment with the Traumatology Department at Sanguinetti Hospital on September 22, refuses to go to that hospital (...)". In addition, a document dated August 28, 2023 prepared by the Office of the Attorney General of the Supreme Court of Justice, was attached and reports that it interviewed the proposed beneficiary, who stated: "(...) I would like to request to the judge that I be taken to the Sanguinetti Municipal Hospital on September 22, 2023 at 9:30 a.m., as I have an appointment with the orthopedist (...) and that the health department give me the medication they prescribed."

24. On November 28, 2023, the official medical examiner sent a report to Court of Criminal Enforcement No.3 which states:

"OTEIZA (HERNANDEZ), Mariano Javier, experiences the aftereffects of the condition (open fracture of the tibia and fibula of the left leg), for which he underwent surgery in January of this year; he is currently undergoing treatment for a microbial infection (...) This treatment is not considered complete, even if the delivery of the medication by nursing assistants is recorded. His health issue is being monitored by an outside physician, but as of the date of this report, the results are not available. It should be noted that the defendant is under the medical care of the Prison Health Service, which must update his medical records to indicate that he is undergoing rehabilitation for a health issue with complications (infectious), and that there is insufficient documentation to determine his prognosis and/or other treatments (...).

25. Reports dated October 18, October 30, and December 19, 2024, issued by the External Security Guard Section of Unit No. 9 of La Plata, also record that the proposed beneficiary was not transferred on any of those occasions to the previously scheduled traumatology service due to 'overlapping movements.' For example, the report dated December 19, 2024 states the following:

"(...) On December 18 of this year, OTEIZA was to be transferred to the Traumatology Department (appointment/consultation) at the Alejandro Korn Hospital in Romero at 1:00 p.m. as requested by the healthcare department of this establishment. In this regard, it is reported that the transfer of the named individual could not be carried out due to overlapping movements. This is because previously scheduled transfers have taken longer than expected, making it difficult to provide medical care to the detainee in question. For all these reasons, and in order to avoid violating OTEIZA's rights and to guarantee that he receives the correct medical care in a timely manner, the health department of this agency was asked to coordinate a new appointment at the hospital (...).

26. Along these lines, records from various dates issued by Court of Criminal Enforcement No. 3 addressed to Unit No. 9 in La Plata were attached, ordering medical care for the proposed beneficiary and requesting medical reports. For example, the minutes of June 10, 2025 mention:

‘(...) The Head of the Health Unit of the correctional facility housing Oteiza Mariano Javier is hereby informed once again that, as of today, the corresponding medical care must be provided by a qualified physician in the relevant department, and a comprehensive and detailed medical report must be submitted to this Office, specifying all actions taken in this regard, the diagnosis, the treatment provided, and/or any treatment deemed appropriate (...)’.

27. A letter dated April 30, 2024, from the Provincial Directorate of Prison Health addressed to the Court of Criminal Enforcement No. 3 was also recorded, stating that the proposed beneficiary’s condition must be treated in a high-complexity external hospital, and emphasized: ‘Within the SPB [Buenos Aires Prison Service], we do not have a unit with the necessary infrastructure to properly treat this condition.’ Similarly, the letter dated June 3, 2024, prepared by the same institution states: “(...) because this Unit does not have the capacity to perform the suggested treatment, the referral to an outside hospital is reiterated on this date.”

28. The State attached several medical reports issued between 2023 and 2025 detailing the medical assessments carried out and the repeated requests for appointments for infectious disease and traumatology services, including the following:

- a. April 15, 2024 – Report prepared by the Provincial Prison Health Directorate, Health Unit No. 9, states: “(...) presents a chronic fistula in the distal region of the leg. He was treated with antibiotics on several occasions, with partial improvement of the infectious process (chronic osteomyelitis – pseudoarthrosis). He requires treatment at a high-complexity medical center. Appointments have been requested at hospitals outside the prison (on numerous occasions, although these have been difficult to obtain). Furthermore, Gutiérrez Hospital reports that, as it does not have an infectious diseases department, it refers patients to other hospitals. To date, it is to Rossi Hospital.”
- b. January 2, 2025 – Report prepared by the Provincial Prison Health Directorate – Health Unit No. 9, states: “(...) currently presents chronic fistula in the distal region of the leg. Indication for prolonged antibiotic treatment, with partial improvement of the infectious process, as he presents chronic osteomyelitis – pseudoarthrosis, which requires surgical treatment in a high-complexity hospital. On December 18, 24, he had an appointment at 1:30 p.m. at Alejandro Korn Hospital in Romero, which he did NOT attend for reasons unrelated to this health unit. The appointment request was reiterated. Moreover, hospitals near this unit have indicated that it is recommended to complete surgical treatment at the hospital where the patient was initially treated (Sanguinetti Hospital in Pilar). He is currently on antibiotic treatment with clindamycin, trimethoprim/sulfamethoxazole, and cyprofoxazine (the latter two are missing in this health unit, they have been requested from the Department of Management of the DSPS).”
- c. May 12, 2025 – Report prepared by the Provincial Prison Health Directorate, Health Unit No. 9, states: “(...) patient with a pathological history of pseudoarthrosis and chronic osteomyelitis of the left tibia for more than three years, which required multiple surgeries and prolonged antibiotic treatments. Currently, improvement of the infectious process is observed, with no active fistulas at the time of examination. The patient is currently receiving treatment with Ciprofloxacin, TMP-SMX, Clindamycin, and Omeprazole, with the last medication administration on May 6, 2025. No traumatic lesions of recent origin were observed on the surface of his body.”
- d. July 21, 2025 – Report submitted by the Provincial Prison Health Directorate – Health Unit No. 9, states: “(...) currently no obvious infection, small chronic fistula in the upper region of the leg, with little discharge. With indication of prolonged antibiotic treatments, with partial improvement of the infectious process. On June 9, he was evaluated by the infectious disease specialist of this unit, who instructed him to continue with trimethoprim-sulfamethoxazole (TMS), with a follow-up in two months. The injury he has is a complex sequela of an open fracture, which is difficult to treat. Appointment request at Alejandro Korn Hospital in Romero is repeated.”

29. Regarding the proposed beneficiary’s medical condition, the State’s response highlighted that there has been an improvement in the infection and that the proposed beneficiary is able to walk with crutches.

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

30. 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.

31. 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.⁴ Regarding the protective nature, these measures seek to avoid irreparable harm and to protect the exercise of human rights.⁵ 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.⁶ 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.⁷ 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 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.⁸

⁴ Inter-American Court of Human Rights (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

⁵ 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).

⁶ 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).

⁷ 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).

⁸ 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](#)

Similarly, the Commission recalls that, by its own mandate, it is not within its purview 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.⁹ 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 carried out without making any determination on the merits.¹⁰

33. When assessing the *seriousness* requirement, the Commission considers that it is met, given that, according to extensive documentary evidence, in 2021 the proposed beneficiary was diagnosed with pseudoarthrosis in the left lower limb and chronic osteomyelitis. Since 2023, episodes of proctorrhagia and hemorrhoids have been added, and he has not received comprehensive treatment or timely medical care to date. Furthermore, his condition is allegedly aggravated by: i) the repeated lack of access to specialized medical care, essential tests, and medical procedures, even when prescribed by treating professionals; ii) the irregular provision of medications, basic supplies, and an appropriate diet necessary for his recovery; iii) the finding by prison medical authorities that the in-prison infrastructure is insufficient to meet the high-complexity medical needs of the proposed beneficiary, even acknowledging that his condition requires transfer to an external hospital, which has not yet been carried out; and iv) the failure to implement judicial resolutions ordering medical care measures. These circumstances suggest that there's a serious situation of risk given the proposed beneficiary's diagnoses and that there are still barriers that prevent him from getting timely and effective access to medical care.

34. According to the information provided, the lack of timely medical care since 2021 has caused physical deterioration in the proposed beneficiary, which has already resulted in reduced mobility, which include the need to use crutches to get around, a circumstance that has not been disputed by the parties. According to the certificate issued by the infectious disease specialist and the statements made at Bocalandro Hospital, if the lack of medical evaluation and care persists, there would be a real and imminent risk that this situation could lead to the amputation of the affected leg, thereby causing irreparable damage to his health and personal integrity.

35. Despite the above and the domestic remedies sought by the applicants the proposed beneficiary is allegedly still denied the evaluations and medical care necessary for his health issue. In particular, both parties stated that the proposed beneficiary had scheduled appointments with the traumatology service in October and December 2024 for the purpose of undergoing debridement, culture tests, and presurgical tests. However, he was not transferred on any of these occasions due to the 'overlapping movements' documented by the External Security Guard Section of Unit No. 9 in La Plata. Since then, nearly eight months have passed without a new appointment being scheduled or any record of him having received care from the required specialist.

36. The Commission takes note of the State's response to the proposed beneficiary's alleged refusal to be transferred to hospitals outside the prison to receive medical care or undergo the tests prescribed on occasion. However, it is important to note that there are multiple documents and communications that reflect explicit requests from the proposed beneficiary to access medical appointments and specialized treatments. In addition, the available information indicates that, at least the appointments scheduled in October and December 2024 for care in the traumatology service were not carried out due to "overlapping movements,"

[adolescents deprived of liberty in the "Complexo do Tatuapé" of the Fundação CASA](#), Provisional Measures regarding Brazil, Order of July 4, 2006, considerandum 23.

⁹ 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.

¹⁰ 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, 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).

according to reports from the staff in charge. Added to this is the applicants' allegation that, on numerous occasions, officials from the Buenos Aires Prison System prevented transfers outside the prison and forced prisoners to sign documents stating their refusal to receive medical care or undergo the prescribed examinations, against their will.

37. The Commission also finds that the State reported that an improvement in the infectious process has been observed. However, the information provided reveals a complex health condition that requires medical attention beyond infectious disease treatment. In this regard, the report submitted by the Provincial Prison Health Directorate dated July 21, 2025, determines that "the injury that the beneficiary presents is a complex sequela of an open fracture, which is difficult to treat." In addition, it indicated that he has a small chronic fistula in the upper region of the affected leg, indicating the need for prolonged antibiotic treatment. As a result, the physician reportedly requested another appointment at the Alejandro Korn Hospital in Romero, but has been unable to obtain one since December 2024. Therefore, the IACHR warns that the proposed beneficiary's health situation is worsening, as it is noted that each delay in treatment could increase the chances of having to amputate his left leg.

38. In addition to the above, on July 31, 2025, the proposed beneficiary stated that he continues to experience issues resulting from a lack of adequate medical care. In particular, it was reported that he went nearly 25 days without receiving the prescribed antibiotic. This aggravated the condition of his left lower limb which resulted in redness, distal edema, erythema, acute pain, small blisters on the inner side of the ankle, and pus discharge. In addition, the request states that, to this day, he continues to treat his health issues on his own, without access to the necessary antibiotics, analgesics, medical supplies, an appropriate diet, or medical consultations. According to the infectious disease specialist, since at least 2023, the proposed beneficiary has had proctorrhagia and hemorrhoids, a condition that persists to this day. This situation suggests that the proposed beneficiary's condition has persisted for nearly two years, and that the reports submitted by the State referring to any medical diagnosis, evaluation, or treatment prescribed to address these issues.

39. In view of the foregoing, the Commission stresses that the position of special guarantor in which the State finds itself in relation to persons deprived of their liberty. The above, due to the unique 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 being deprived of one's liberty, where prisoners are prevented from satisfying on their own a series of basic needs that are essential for the development of a dignified life in such terms as may be possible under the circumstances.¹¹

40. Therefore, the Commission recalls that the protection of the right to life of persons deprived of liberty includes the duty of the State to provide adequate and timely medical treatment.¹² In this regard, the Commission observes that since 2024, the Provincial Prison Health Directorate itself has acknowledged the impossibility of providing the required treatment within the prison system. In this sense, it noted that the Buenos Aires Prison Service does not have a unit with the necessary infrastructure to treat the proposed beneficiary's issues, and therefore suggested that he should be treated in a high-complexity hospital outside the prison. In this regard, the IACHR recalls that:

"In this sense, there are various ailments which, while not requiring the patient to stay in a hospital, make it necessary for them to remain in a place where they can be assisted with their daily activities, with special care that cannot be assured in prison, for example, in cases of chronic, neurodegenerative, terminal diseases or, in general, those requiring a level of attention that can only be provided by a specialized carer."¹³

¹¹ I /A Court H.R. [Case of Chinchilla Sandoval et al. v. Guatemala](#). Preliminary objection, merits, reparations and costs. Judgment of February 29, 2016. Series C No. 312, para. 168.

¹² I/A Court H.R. Case of Chinchilla Sandoval et al. v. Guatemala, previously cited, para. 171.

¹³ I/A Court H.R. Case of Chinchilla Sandoval et al. v. Guatemala, previously cited, para. 245.

41. The Commission recognizes the judicial decisions at the internal level, which have prompted measures to ensure medical care in favor of the proposed beneficiary, as reflected in the writ of *habeas corpus* issued in April 2024 by the Court of Enforcement No. 3 of San Isidro. Through this decision, the competent authorities were instructed to take all necessary measures to ensure that the proposed beneficiary receives medical care appropriate to his diagnosis; is urgently transferred to another correctional facility equipped with the infrastructure required to adequately treat his health issues; and that an official communication be sent to the Public Prosecutor's Office regarding a possible public-action offense. However, despite repeated requests, this resolution has not been implemented, which prolongs the health risk that the proposed beneficiary faces.

42. Considering the information presented by the parties, in the Commission's opinion, the risk that the proposed beneficiary faces requires prompt and expeditious action on the part of the State, given the complexity of his health issues and the fact that he is in its custody. Thus, in light of the medical recommendations, the lack of adequate medical care and the current medical situation the proposed beneficiary faces, under the *prima facie assessment* standard of the precautionary measures mechanism, the IACHR considers that his rights to life, personal integrity, and health are at serious risk.

43. With regard to the requirement of *urgency*, the Commission considers that this has been met, given that the passage of time without adequate and timely health care for the proposed beneficiary could lead to a worsening of his health, including the risk of amputation of the affected leg. In this regard, the Commission warns that, considering the information available in the context of deprivation of liberty in which he is placed, the risks faced by the proposed beneficiary have not been mitigated to date and require immediate action by the State authorities.

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

IV. BENEFICIARY

45. The Commission declares Mariano Javier Oteiza Hernández as the beneficiary of the precautionary measures, who is duly identified in this proceeding.

V. DECISION

46. 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, it requests that that Argentina:

- a) adopt the necessary measures to protect the rights to life, personal integrity, and health of the beneficiary. In particular, provide the prescribed medical treatment in a timely and appropriate manner, as well as the effective management of the required medical appointments;
- b) consult and agree upon the measures to be adopted with the beneficiary and his representative;
- c) report on the actions taken to investigate the alleged facts that led to the adoption of this resolution, so as to prevent such events from reoccurring.

47. The Commission requests that Argentina 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.

48. 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.

49. The Commission instructs its Executive Secretariat to notify this resolution to the State of Argentina and the applicants.

50. Approved on September 11, 2025, by José Luis Caballero Ochoa, President; Arif Bulkan, Second Vice-President; Edgar Stuardo Ralón Orellana; Roberta Clarke; and Carlos Bernal Pulido, members of the IACHR.

Tania Reneaum Panszi
Executive Secretary