



INTER-AMERICAN COMMISSION ON HUMAN RIGHTS RESOLUTION 58/2024

Precautionary Measure No. 907-24
Ana Carolina Guaita Barreto regarding Venezuela
August 27, 2024
Original: Spanish

I. INTRODUCTION

- 1. On August 22, 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 *Coalición por los Derechos Humanos y la Democracia*¹ ("the applicants") urging the Commission to request that the State of Venezuela ("the State" or "Venezuela") adopt the necessary measures to protect the rights to life, personal integrity, and freedom of expression of Ana Carolina Guaita Barreto ("the proposed beneficiary"). According to the request, the proposed beneficiary is a journalist and correspondent of the digital newspaper "La Patilla" in Venezuela. She was reportedly arrested on August 20, 2024 and taken to the headquarters of the Directorate of Citizen Security at the Governor's Office of La Guaira (*Dirección de Seguridad Ciudadana de la Gobernación de la Guaira*). On August 22, members of the Bolivarian National Intelligence Service (SEBIN) allegedly transported her to an unknown location. The applicants characterized the situation as a "forced disappearance."
- 2. Pursuant to the provisions of Article 25 (5) of its Rules of Procedure and the Inter-American Convention on Forced Disappearance of Persons, the Commission requested information from the parties on August 23, 2024. The applicants submitted a response on August 25, 2024. To date, no response has been received from the State, and the granted period has expired.
- 3. Upon analyzing the submissions of fact and law furnished by the applicants, the Commission considers that the proposed beneficiary is in a serious and urgent situation, given that her current location is unknown to date. Therefore, pursuant to the provisions of Article 25 of its Rules of Procedure, the Commission requests that Venezuela: a) adopt the necessary measures to protect the rights to life and personal integrity of Ana Carolina Guaita Barreto. In particular, inform whether the beneficiary is in the custody of the State and her current circumstances, or provide information on the measures aimed at determining her whereabouts or fate. The Commission considers it necessary for the State to specify whether the beneficiary was brought before a court of competent jurisdiction to review her detention if she had been charged with a crime. Otherwise, provide a detailed explanation for the reasons why the individual has not yet been released; b) implement the necessary measures to ensure that the beneficiary can carry out her journalistic activities without facing threats, harassment, or acts of violence; and c) report on the actions taken to investigate the alleged events that led to the adoption of this precautionary measure, so as to prevent such events from reoccurring.

II. SUMMARY OF FACTS AND ARGUMENTS

A. Information provided by the applicants

4. The applicants stated that Ana Carolina Guaita Barreto is a journalist and correspondent of the digital newspaper "La Patilla" in Venezuela. According to the available information, on August 20, 2024, she was allegedly arbitrarily deprived of her liberty by security force agents. It was alleged that she was deprived of her liberty when she was leaving her home, in the parking lot area of her building. She was reportedly

 $^{^1}$ The applicants indicated that the proposed beneficiary's family members have given their consent to present the request for precautionary measures given that her whereabouts are unknown.





cornered by officials who did not identify themselves and who took her in alleged disregard of constitutional and conventional procedures. The applicants added that, according to information provided by the proposed beneficiary's family, she was transferred to the Directorate of Citizen Security at the Governor's Office of La Guaira where she was held in isolation until August 21, 2024. It was reported that the Director of Security for the State of La Guaira allegedly offered to release the proposed beneficiary's daughter if her mother agreed to turn herself in.

- 5. On the morning of August 22, 2024, the proposed beneficiary was reportedly transferred by members of the Bolivarian National Intelligence Service (SEBIN) to an unknown location. Since then, there has been no information on her whereabouts or place of detention. In this context, the applicants stated that, to date, the proposed beneficiary's parents have been in hiding for fear of being detained, due to their roles as union and political leaders linked to the labor organization *Coalición Sindical* and the opposition party COPEI. It was alleged that security agents have been searching for them for several days, possibly with the aim of depriving them of their liberty. As a result, search efforts have been conducted by close friends of the family, who have reportedly approached the headquarters of the Directorate of Citizen Security at the Governor's Office of La Guaira to seek news of the whereabouts of the proposed beneficiary. Despite efforts, the officers did not provide any information.
- 6. On August 24, 2024, an attempt was made to file a writ of *habeas corpus* in the form of forced disappearance before the Criminal Judicial Circuit of the State of Guaira. A copy of a WhatsApp message from the proposed beneficiary's father was attached. In the message, he reported that the beneficiary's uncle waited outside the courthouse for more than three hours but eventually left after the authorities refused to accept the petition on her behalf. As additional documentary support, copies of search campaigns carried out by various organizations through social networks were attached, with the purpose of seeking information on the whereabouts of the proposed beneficiary.

B. Response from the State

7. The IACHR requested information from the State on August 23, 2024. To date, and with the granted period having expired, no response has been received.

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

- 8. The mechanism of precautionary measures 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 IACHR Statute. 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 an irreparable harm to persons.
- 9. The Inter-American Commission and the Inter-American Court of Human Rights ("the Inter-American Court" or "I/A Court H.R.") have repeatedly stated that precautionary and provisional measures have a dual nature, one protective and the other precautionary. Regarding the protective nature, these measures seek to avoid irreparable harm and preserve the exercise of human rights. To do this, the IACHR shall assess

² I/A Court H.R., <u>Matter of the Yare I and Yare II Capital Region Penitentiary Center</u>, 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).

³ I/A Court H.R., <u>Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center</u>, Provisional Measures regarding Venezuela, Order of February 8, 2008, considerandum 8; <u>Case of Bámaca Velásquez</u>, Provisional measures regarding Guatemala, Order of January 27, 2009, considerandum 45; <u>Matter of Fernández Ortega et al.</u>, Provisional measures regarding Mexico, Order of April 30, 2009,





the problem raised, the effectiveness of state actions to address the situation described, and how vulnerable the persons proposed as beneficiaries would be left in case the measures are not adopted.⁴ Regarding their precautionary nature, these measures have the purpose of preserving legal situations while under the study of the IACHR. They aim to safeguard the rights at risk until the petition pending before the inter-American system is resolved. Their object and purpose are to ensure the integrity and effectiveness of an eventual decision on the merits and, in this way, 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 allow the State concerned to comply with the final decision and, if necessary, implement the ordered reparations.⁵ 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.
- 10. 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.⁶ 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.⁷ 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 entering into determinations on the merits.⁸
- 11. In this sense, in understanding the facts alleged by the applicants, the Commission observes that the Inter-American Convention on Forced Disappearance of Persons, to which the State of Venezuela has been annexed since its ratification on July 6, 1998, considers forced disappearance as the act "[...] perpetrated

considerandum 5; <u>Matter of Milagro Sala</u>, Provisional measures regarding Argentina, Order of November 23, 2017, considerandum 5. (Available only in Spanish)

⁴ I/A Court H.R., <u>Matter of Milagro Sala</u>, Provisional Measures regarding Argentina, Order of November 23, 2017, considerandum 5 (Available only in Spanish); <u>Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center</u>, Provisional Measures regarding Venezuela, Order of February 8, 2008, considerandum 9; <u>Matter of the Criminal Institute of Plácido de Sá Carvalho</u>, Provisional Measures regarding Brazil, Order of February 13, 2017, considerandum 6 (Available only in Spanish).

⁵ I/A Court H.R., <u>Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center</u>, Provisional Measures regarding Venezuela, Order of February 8, 2008, considerandum 7; <u>Matter of "El Nacional" and "Así es la Noticia" newspapers</u>, Provisional Measures regarding Venezuela, Order of November 25, 2008, considerandum 23; <u>Matter of Luis Uzcátegui</u>, Provisional Measures regarding Venezuela, Order of January 27, 2009, considerandum 19 (Available only in Spanish).

⁶ I/A Court H.R., <u>Matter of Members of the Miskitu Indigenous Peoples of the North Caribbean Coast regarding Nicaragua</u>, Extension of Provisional Measures, Order of August 23, 2018, considerandum 13 (Available only in Spanish); <u>Matter of children and adolescents deprived of liberty in the "Complexo do Tatuapé" of the Fundação CASA</u>, Provisional Measures regarding Brazil, Order of July 4, 2006, considerandum 23.

⁷ IACHR, <u>Resolution 2/2015</u>, Precautionary Measure No. 455-13, Matter of Nestora Salgado regarding Mexico, January 28, 2015, para. 14; <u>Resolution 37/2021</u>, Precautionary Measure No. 96-21, Gustavo Adolfo Mendoza Beteta and family regarding Nicaragua, April 30, 2021, para. 33.

⁸ 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).

⁹ Inter-American Convention on Forced Disappearance of Persons, Belém do Pará, Brazil, June 9, 1994, <u>Signatories and current status of ratifications of the Inter-American Convention on Forced Disappearance of Persons.</u>





by agents of the state or by persons or groups of persons acting with the authorization, support, or acquiescence of the state, followed by an absence of information or a refusal to acknowledge that deprivation of freedom or to give information on the whereabouts of that person, thereby impeding his or her recourse to the applicable legal remedies and procedural guarantees."¹⁰ In addition, the Inter-American Commission also highlights what was established by the United Nations Working Group on Enforced or Involuntary Disappearances, in the sense that "there is no time limit, no matter how short, for an enforced disappearance to occur."¹¹

- 12. In this *context*, the Commission recalls that the situation regarding the rule of law and human rights has been monitored, as the country has been included in Chapter IV. B of its Annual Report since 2005. The Commission has also created a special mechanism for monitoring the country situation, called MESEVE, and has issued press releases and country reports. In its 2021 Annual Report, the Commission noted that temporary forced disappearances have been systematically practiced in Venezuela, mainly against persons perceived as opponents. These occur mostly due to the deliberate reluctance of the authorities to report the whereabouts of detained persons, as well as not bringing persons before the courts within the legal 48-hour period after detention. In various testimonies collected by the IACHR, there is the suggestion that temporary forced disappearances are a tool of political repression in Venezuela.
- 13. In its 2023 Annual Report, the Commission 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 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. The Commission has recently condemned the practices of institutional violence in the context of the electoral process in Venezuela, including violent repression, arbitrary detentions, and political persecution. In addition, the Commission has noted the arbitrary detentions and forced disappearances that occurred between July 28 and August 13, 2024. 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. Similarly, the Office of the Special Rapporteur for Freedom of Expression of the IACHR emphasizes that in Venezuela the right to freedom of expression continues to be severely limited. This is the result of a context of intimidation, harassment, repression, and stigmatization of journalists, human rights defenders, and other critical voices by the government.
- 14. On August 15, 2024, the IACHR and its Office of the Special Rapporteur for Freedom of Expression condemned practices of State terrorism in Venezuela, including violent repression, arbitrary detentions, and political persecution.²¹ It was stated that the current regime is using fear as a tool to silence citizens and maintain its authoritarian rule, and that Venezuela must immediately stop violating human rights and restore democratic order and the rule of law.²² In this context, the Commission has received reports of

¹⁵ IACHR, 2021 Annual Report, Ch. IV.B. Venezuela, OEA/Ser.L/V/II, approved on May 26, 2022, para. 84.

¹⁰ Inter-American Convention on Enforced Disappearance of Persons, Belém do Pará, Brazil, June 9, 1994.

¹¹ IACHR, <u>2021 Annual Report, Ch. IV.B. Venezuela, OEA/Ser.L/V/II,</u> approved on May 26, 2022, para. 85; United Nations Human Rights Council, Report of the Working Group on Enforced or Involuntary Disappearances, August 10, 2015, A/HRC/30/38, para. 102.

¹² IACHR, <u>2023 Annual Report, Ch. IV.B. Venezuela</u>, OEA/Ser.L/V/II. Doc. 386 rev. 1, approved on December 31, 2023, para. 1.

¹³ IACHR, 2021 Annual Report, Ch. IV.B. Venezuela, OEA/Ser.L/V/II, approved on May 26, 2022, para. 82.

¹⁴ Ibidem, para. 82

¹⁶ IACHR, <u>2023 Annual Report, Ch. IV.B. Venezuela</u>, OEA/Ser.L/V/II. Doc. 386 rev. 1, approved on December 31, 2023, Recommendation 8.

¹⁷ IACHR, Press Release 184/24, <u>IACHR and SRFOE condemn State terrorism practices in Venezuela</u>, August 15, 2024.

¹⁸ Ibidem

¹⁹ Ibidem

²⁰ IACHR<u>. 2023 Annual Report, Volume II, Report of the Office of the Special Rapporteur for Freedom of Expression.</u> OEA/Ser.L/V/II, Doc. 386, approved on December 6, 2023, para. 1620.

²¹ IACHR, Press Release 184/24, <u>IACHR and SRFOE condemn State terrorism practices in Venezuela</u>, August 15, 2024.

²²Ibidem.





arbitrary detentions and short-term forced disappearances, during which acts of sexual violence against women and other actions potentially amounting to torture were allegedly committed. These reports indicate selective deprivation of liberty targeting electoral volunteers and those perceived as opponents of the regime, including journalists, opposition leaders, human rights defenders, and university students.²³ Additionally, 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 "the 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." ²⁴

- 15. In addition, on August 23, 2024, the Office of the Special Rapporteur for Freedom of Expression (SRFOE, or RELE for its acronym in Spanish) has published a press release alerting the international community to the arbitrary detention of journalists and the criminalization of dissent in Venezuela. Regarding detentions, the Rapporteur highlighted that reports have been received detailing the challenges faced by the families of detainees, including difficulties in locating them, excessive requirements for visits, and extortion by officials. ²⁶
- 16. The Commission considers that the circumstances that preceded the proposed beneficiary's detention, in addition to the contextual monitoring of Venezuela carried out by the IACHR, are of particular importance. The foregoing, to the extent that they are consistent with the information provided by the applicants regarding the circumstances of the arrest and the subsequent lack of information about the proposed beneficiary.
- 17. In analyzing the requirement of *seriousness*, the Commission takes into consideration, in addition to the aforementioned context, that since August 22, 2024, when SEBIN personnel transferred the proposed beneficiary from the Directorate of Citizen Security at the Governor's Office of La Guaira, her whereabouts have remained unknown. In addition, to date there is no official information regarding her fate or possible place of detention. The Commission notes that the proposed beneficiary is a journalist and correspondent for the digital newspaper "La Patilla" in Venezuela and that her family members are union and political leaders linked to the trade union organization *Coalición Sindical* and the opposition COPEI Party. In addition, the available information indicates that these family members have been subjected to persecution and threats. In this regard, the Commission received information that the Director of Security of the State of Guaira had allegedly told the proposed beneficiary's mother they might release her daughter in exchange for her own surrender.
- 18. Given the proposed beneficiary's situation, the Commission recalls that, according to inter-American standards, the State is obligated to maintain an updated record of detentions, promptly provide information about the person's whereabouts and health, and, if the person is in State custody, present them before a competent judicial authority within legal timeframes while fully respecting judicial guarantees at all times.²⁷ The IACHR also highlights that every detained person has the right to maintain personal and direct contact, through periodic visits, with family members, legal representatives, and other persons.²⁸
- 19. Upon requesting information from the State, the Commission regrets its lack of response. Although the foregoing is not enough per se to justify the granting of a precautionary measure, it does prevent

²³Ibidem.

²⁴Ibidem.

²⁵ IACHR, Press Release R190/24. <u>The SRFOE Alerts the International Community about Arbitrary Detention of Journalists and Criminalization of Dissent in Venezuela</u>. August 23, 2024

²⁶ Ibidem

²⁷ IACHR, 2021 Annual Report, Ch. IV.B. Venezuela, OEA/Ser.L/V/II, approved on May 26, 2022, para. 86.

²⁸ IACHR, <u>Principles and Good Practices on the Protection of Persons Deprived of Liberty in the Americas</u>, adopted by the Commission during the 131st regular Period of Sessions, held from March 3 to 14, 2008, Principle XVIII.





the Commission from being aware of the observations or measures taken by the State to address the alleged situation of risk that the proposed beneficiary faces. Therefore, the Commission does not have information that would allow it to dispute the facts alleged by the applicants, nor to assess whether the situation of risk that the proposed beneficiary faces has been addressed or mitigated. In this regard, the Commission expresses its particular concern given that State agents, who hold a special responsibility as guarantors, have been identified as being responsible for the detention of the proposed beneficiary's human rights. The Commission reiterates its statements on the current post-electoral context in Venezuela, as well as the lack of response from the State, which prevents the Commission from having information that would allow it to contrast the allegations made by the applicants. For example, it has not been reported whether the proposed beneficiary can receive visits from family members or trusted lawyers.

- 20. The Commission also notes that there are no domestic avenues available to seek protection in favor of the proposed beneficiary. Family members do not have minimal official information about her legal situation, such as an arrest or search warrant, which would allow them to challenge the actions possibly taken by state agents before the competent judicial authority. In addition, the writ of *habeas corpus* was not accepted by the competent authorities. As long as this situation persists and the State fails to provide information, the Commission deems that the proposed beneficiary is in a state of complete vulnerability, given the lack of knowledge about her current whereabouts and the possible conditions she may be facing. In addition to the foregoing, the actions of the State have sought to restrict the possibilities of taking action in favor of the proposed beneficiary by persecuting and threatening her family members. In this regard, according to the available information, third parties have undertaken search efforts by visiting the Directorate of Citizen Security at the Governor's Office of La Guaira to seek information about the proposed beneficiary's whereabouts. Despite efforts, officials did not provide any information.
- 21. The Commission stresses its concern that the situation that places the proposed beneficiary at risk described above could be intended to intimidate and thereby silence the proposed beneficiary. This would hinder her ability to carry out her work, including her journalistic activities. This directly impacts her right to freedom of expression, which could, in turn, have a discouraging effect on other journalists' and other persons' ability to express themselves freely in the current post-electoral context in Venezuela. In particular, the Commission highlights the situation of family members who, as union and political leaders, have already limited their participation in matters of public interest in the country.
- 22. In summary, the Commission concludes that, based on the applicable *prima facie* standard, it is sufficiently established that the proposed beneficiary's rights to life and personal integrity are at serious risk. This is due to the ongoing uncertainty regarding her whereabouts, location, or fate since her transfer from the Directorate of Citizen Security at the Governor's Office of La Guaira on August 22, 2024.
- 23. With regard to the requirement of *urgency*, the Commission also notes that it has been fulfilled, given that the proposed beneficiary's current whereabouts are unknown, and given that the facts described suggest that the risk is likely to continue and to be exacerbated over time. In addition to the above, the Commission highlights family members' inability to initiate internal measures to locate the proposed beneficiary. Therefore, the Commission considers it necessary to adopt measures to protect the proposed beneficiary's rights.
- 24. Regarding the requirement of *irreparable harm,* the Commission maintains that it has been met since the potential impact on the rights to life and personal integrity constitutes the maximum situation of irreparability.

IV. BENEFICIARY





25. The Commission declares Ana Carolina Guaita Barreto as the beneficiary of the precautionary measures, who is duly identified in this proceeding.

V. DECISION

- 26. 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 rights to life and personal integrity of Ana Carolina Guaita Barreto. In particular, inform whether the beneficiary is in the custody of the State and her current circumstances, or provide information on the measures aimed at determining her whereabouts or fate. The Commission considers it necessary for the State to specify whether the beneficiary was brought before a court of competent jurisdiction to review her detention if she had been charged with a crime. Otherwise, provide a detailed explanation for the reasons why the individual has not yet been released;
 - b) implement the necessary measures to ensure that the beneficiary can carry out her journalistic activities without facing threats, harassment, or acts of violence; and c) report on the actions taken to investigate the alleged events that led to the adoption of this precautionary measure, so as to prevent such events from reoccurring.
 - c) report on the actions taken to investigate the alleged events that led to the adoption of this precautionary measure, so as to prevent such events from reoccurring.
- 27. 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.
- 28. 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 of any violation of the rights protected in the American Convention and other applicable instruments.
- 29. The Commission instructs its Executive Secretariat to notify this resolution to the State of Venezuela and the applicants.
 - 30. Approved on August 27, 2024, by Roberta Clarke, President; Carlos Bernal Pulido, First Vice President; José Luis Caballero Ochoa, Second Vice President; Arif Bulkan; Andrea Pochak; Gloria Monique de Mees; and Edgar Stuardo Ralón Orellana, members of the IACHR.

Jorge Meza Flores Deputy Executive Secretary