
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 29/2023**

Precautionary Measure No. 286-23
Antonio Julio Scola Lugo regarding Venezuela
May 22, 2023
Original: Spanish

I. INTRODUCTION

1. On April 9, 2023, 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 Coalition for Human Rights and Democracy (“the requesting party”), urging the Commission to request that the Bolivarian Republic of Venezuela (“the State” or “Venezuela”) adopt the necessary measures to protect the rights to life and personal integrity of Antonio Julio Scola Lugo (“the proposed beneficiary”). According to the request, the proposed beneficiary, who is deprived of liberty in the National Center for Military Prosecutions (CENAPROMIL, known as “Ramo Verde”), allegedly has health-related consequences related to attacks that occurred during his detention, and which place him at risk.

2. Pursuant to Article 25(5) of its Rules of Procedure and the Inter-American Convention to Prevent and Punish Torture, the IACHR requested information from the State on April 17, 2023, and has not received a response to date. For their part, the requesting party submitted additional information on May 15, 2023.

3. Upon analyzing the submissions of fact and law furnished by the requesting party, the Commission considers that the information presented shows *prima facie* that the proposed beneficiary is in a serious and urgent situation, given that his rights to life, personal integrity, and health are at risk of irreparable harm. Accordingly, the Commission requests that Venezuela: a) take the necessary measures to protect the rights to life, personal integrity, and health of Antonio Julio Scola Lugo. In particular, ensure that he has access to medical treatment, as indicated by the relevant physicians, and order that the authorities make a medical report that corroborates the beneficiary’s current health; b) take the necessary measures to ensure that his detention conditions comply with applicable international standards; c) consult and agree upon the measures to be adopted with the beneficiary and his representatives; and d) 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 requesting party

4. The request indicates that the proposed beneficiary is a lieutenant of the Venezuelan Navy. He is identified as a “political prisoner.” He is currently being held at the National Center for Military Prosecutions (CENAPROMIL) in Ramo Verde. On March 17, 2018, officials of the General Directorate of Military Counterintelligence (DGCIM) allegedly arrested him in a reported arbitrary manner and under deception. At the time of the arrest, the proposed beneficiary was stationed at the Turiamo Bay Naval Base. The proposed beneficiary was charged with “treason, incitement to rebellion, and offense against military decorum.” Four days later, a hearing was held at the First Military Control Court in Caracas. On that occasion, the judge accepted the legal description of the facts provided by the Military Prosecutor’s Office (*Fiscalía Militar*), declared that pretrial detention take place and ordered to continue with the proceedings of ordinary procedure. In this regard, the requesting party alleged due process issues, in particular, the lack of independence and autonomy of the judges, as they are appointed by the President of the Republic, who is also the commander-in-chief of the National Armed Forces. It was indicated that senior State officials issued public statements pointing to the

proposed beneficiary as guilty. In addition, it is indicated that the proposed beneficiary could not choose his legal representative because a military public defender was imposed on him.

5. Initially, the proposed beneficiary was reportedly detained at the headquarters of the Directorate General of Military Counterintelligence for three months. During this period, the proposed beneficiary was reportedly tortured. The acts of torture consisted of the following: asphyxiation by means of a bag over his head; severe blows to sensitive areas, such as his head, abdomen, and testicles; and asphyxiation caused by tear gas.

6. The applicants reported that the aforementioned acts of torture had caused physical and psychological harm to the proposed beneficiary, as it seriously deteriorated his mental and physical health. He is currently suffering from post-traumatic stress disorder, insomnia, and suicidal thoughts as a result of the physical and psychological damage he has experienced. In this regard, the applicants indicated that on April 30, 2021, they requested the transfer of the proposed beneficiary for evaluation by an internist and a psychiatrist. On October 18, 2022, and January 25, 2023, the proposed beneficiary's defense purportedly made the said request to the Court of the case orally. To date, these health issues have not been adequately treated by a mental health professional, and his health has progressively deteriorated to the point where he requires urgent medical attention.

7. The proposed beneficiary is said to be subjected to verbal abuse and threats carried out by the military personnel of the prison against the members of the Bolivarian National Armed Forces who have expressed their dissatisfaction with the politicization of the military institution. Being identified as “a traitor to the homeland,” he considers that his deprivation of liberty is the product of a “persecution scheme” by state authorities. Regarding the conditions of detention, the applicants added that, as of September 2022, the new director of the prison has implemented new restrictions on the proposed beneficiary: i. restriction of contact with his relatives through the imposition of vexatious requirements (the wife and daughter of the proposed beneficiary, upon entering the prison, must remain in their underwear, affecting their right to privacy); ii. restriction of entry of drinking water and food (the review controls do not comply with the minimum hygiene conditions); iii. imposition of additional and extralegal requirements for the entry of the lawyer of the proposed beneficiary (example: authorization of the director of the penitentiary center).

8. Regarding internal complaints, the following were indicated: i. judicial complaint of the acts of torture, filed on August 2021; ii. judicial request for transfer to the military hospital, to be evaluated by a psychiatrist and internist, dated April 30, 2021; iii. extrajudicial complaint filed on July 28, 2021 before the Victim Care Unit of the Public Prosecutor's Office of the General Prosecutor's Office of the Republic, requesting that an investigation be initiated for the alleged acts of torture; iv. amparo action filed for the violation of the constitutional right to personal freedom filed on March 21, 2022; see request addressed to the First Military Control Court of the Military Criminal Judicial Circuit based in Caracas, in which the notification of the Ombudsperson's Office is required regarding the crime of torture committed against the proposed beneficiary.

B. Information provided by the State

9. In this matter, the IACHR requested information from the State on April 17, 2023. However, no information has been submitted to date.

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

10. 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, based on Article 41(b) of the American Convention on Human Rights and Article 18(b) of the IACHR Statute. In the same way, 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.

11. 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.¹ Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.² To do this, the IACHR shall assess the problem raised, the effectiveness of state actions to address the situation described, and the vulnerability to which the persons proposed as beneficiaries would be exposed if the measures are not adopted.³ Regarding their precautionary nature, these measures have the purpose of preserving legal situations while under the consideration of the IACHR. They aim to safeguard the rights at risk until the request pending before the inter-American system is resolved. Their object and purpose are to ensure the integrity and effectiveness of an eventual decision on the merits and, thus, avoid any further infringement of the rights at issue, a situation that may adversely affect the useful effect (*effet utile*) of the final decision. In this regard, precautionary or provisional measures enable the State concerned to comply with the final decision and, if necessary, to implement the ordered reparations.⁴ In the process of reaching a decision, according to Article 25(2) of its Rules of Procedure, the Commission considers that:

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

12. 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 review⁵ to determine whether a serious and urgent situation exists. Similarly, the Commission recalls that, by its own mandate, it is not called upon to make any determination on any

¹ See in this regard: I/A Court H.R. Matter of the Yare I and Yare II Capital Region Penitentiary Center. Request for Provisional Measures submitted by the IACHR regarding the Bolivarian Republic of Venezuela. Order of the Inter-American Court of Human Rights of March 30, 2006, considerandum 5; I/A Court H.R. Case of Carpio Nicolle et al. v. Guatemala. Provisional Measures. Order of July 6, 2009, considerandum 16.

² See in this regard: I/A Court H.R. Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center. Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, considerandum 8; I/A Court H.R. Bámaca Velásquez Case. Provisional Measures regarding Guatemala. Order of the Court of January 27, 2009, considerandum 45; I/A Court H.R. Matter of Fernández Ortega et al. Provisional Measures regarding Mexico. Order of the Court of April 30, 2009, considerandum 5; I/A Court H.R. Matter of Milagro Sala. Request for Provisional Measures regarding Argentina. Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5 [only in Spanish].

³ See in this regard: I/A Court H.R. Matter of Milagro Sala. Request for Provisional Measures regarding Argentina. Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5 [only in Spanish]; I/A Court H.R. Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center. Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, considerandum 9; I/A Court H.R. Matter of the Criminal Institute of Plácido de Sá Carvalho. Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of February 13, 2017, considerandum 6 [only in Spanish].

⁴ See in this regard: I/A Court H.R. Matter of Milagro Sala. Request for Provisional Measures regarding Argentina. Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5 [only in Spanish]; I/A Court H.R. Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center. Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, considerandum 9; I/A Court H.R. Matter of the Criminal Institute of Plácido de Sá Carvalho. Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of February 13, 2017, considerandum 6 [only in Spanish].

⁵ See in this regard: I/A Court H.R. Matter of Members of the Miskitu Indigenous Peoples of the North Caribbean Coast regarding Nicaragua. Extension of Provisional Measures. Order of the Inter-American Court of Human Rights of August 23, 2018, considerandum 13 [only in Spanish]; I/A Court H.R. Matter of the children and adolescents deprived of their liberty in the “Complexo do Tatuapé” of the Fundação CASA. Request for extension of provisional measures. Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of July 4, 2006, considerandum 23.

individual criminal liabilities for the facts alleged. Moreover, in this proceeding, it is not appropriate to rule on violations of rights enshrined in the American Convention or other applicable instruments.⁶ The following analysis relates exclusively to the requirements set forth in Article 25 of the Rules of Procedure, which can be resolved without making any determinations on the merits.⁷

13. The Commission reaffirms its jurisdiction over the State of Venezuela, in the terms formulated in the Cases it has been submitting to the Inter-American Court in the framework of the Petition and Case System, such as the Case of Alfredo José Chirinos Salamanca et al. of the Bolivarian Republic of Venezuela submitted to the Inter-American Court on February 16, 2022.⁸

14. Furthermore, and in view of the nature of the facts described by the applicants, the Commission recalls the Inter-American Convention to Prevent and Punish Torture, to which the State of Venezuela is a party since its ratification on August 26, 1991. In this regard, the Inter-American Court has indicated that an infringement of the protection of the right to integrity encompasses various connotations of degree, such as those ranging from torture to other types of cruel, inhuman, or degrading treatment or humiliation.⁹ In this line, there is also the prohibition of torture, cruel, inhuman, and degrading treatment and the impossibility of suspending it under any circumstances. The Inter-American Court has indicated that the lack of medical attention to a person deprived of liberty and under the custody of the State could be considered a violation of this prohibition.¹⁰

15. Upon assessing this request, the Commission recalls that, in relation to persons deprived of liberty in general, the State is in a special position of guarantor, inasmuch as the prison authorities exercise a strong control or command over the persons subject to their custody.¹¹ This is due to the unique relationship and interaction of subordination between the person deprived of liberty and the State. This is characterized by the particular intensity with which the State can regulate their rights and obligations, and by the very circumstances of imprisonment. In these circumstances, prisoners are prevented from satisfying on their own a series of basic needs that are essential for the development of a dignified life.¹²

16. Additionally, when assessing the facts alleged in the context in which they are inserted, the Commission recalls that, in its 2021 Annual Report, it considered that torture and other cruel treatment have been systematically practiced in Venezuela against civilians and military personnel deprived of their liberty.¹³ The testimonies collected by the Commission, up to that moment, suggested that there is a particular savagery and cruelty against military personnel accused of being deserters or traitors.¹⁴ In its 2022 Annual Report, the Commission considered that serious human rights violations persisted, such as torture and acts of persecution against persons who made public their dissent with the government. The Commission also found that

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

⁷ In this regard, the Court has indicated that “[it] cannot, in a provisional measure, consider the merits of any arguments pertaining to issues other than those which relate strictly to the extreme gravity and urgency and the necessity to avoid irreparable damage to persons.” See in this regard: I/A Court H.R. Matter of James et al. regarding Trinidad and Tobago. Provisional Measures. Order of the Inter-American Court of Human Rights of August 29, 1998, considerandum 6; I/A Court H.R. Case of Barrios Family v. Venezuela. Provisional Measures. Order of the Inter-American Court of Human Rights of April 22, 2021, considerandum 2 [only in Spanish].

⁸ IACHR, Case 14.143. Alfredo José Chirinos Salamanca et al., Venezuela. Letter of Referral to the Inter-American Court. Available [in Spanish] at https://www.oas.org/es/cidh/decisiones/corte/2022/VE_14.143_NdeREs.PDF

⁹ I/A Court H.R. Case Barrios Family v. Venezuela. Judgment of November 24, 2021. Merits, Reparations, and Costs. Series C No. 237, para. 52.

¹⁰ I/A Court H.R. Case Chinchila Sandoval v. Guatemala. Judgment of February 29, 2016. Preliminary objection, merits, reparations, and costs. Series C. No. 132, para. 173.

¹¹ I/A Court H.R. Case of Mendoza et al. v. Argentina. Preliminary Objections, Merits, and Reparations. Judgment of May 14, 2013. Series C No. 260, para. 188. Also, see: IACHR, Report on the Human Rights of Persons Deprived of Liberty in the Americas, December 31, 2011, para. 49.

¹² IACHR, Report on the Human Rights of Persons Deprived of Liberty in the Americas, December 31, 2011, para. 49 et seq.

¹³ IACHR Annual Report 2021. Chapter IV. Venezuela. Para. 88

¹⁴ <https://www.oas.org/es/cidh/docs/annual/2021/capitulos/IA2021cap4B.Venezuela-es.pdf>

¹⁴ Ibidem

detention conditions continue to be critical for persons deprived of their liberty. These conditions are mainly characterized by negligent medical care and difficulties in accessing food and drinking water and medicines.¹⁵ The Commission notes that, in a similar vein, the United Nations Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela has issued a statement.¹⁶

17. Considering that the proposed beneficiary is in “Ramo Verde,” the Commission recalls that it has previously had the opportunity to obtain information about the specific situation that allegedly placed several detainees at risk, having heard allegations similar and consistent with what is alleged in this matter. In the *Matter of Leopoldo López and Daniel Ceballos of 2015*¹⁷, the Commission found that the detainees had been subjected to prolonged isolation measures and repeatedly, as a form of disciplinary punishment, in cells measuring two by two meters.¹⁸ In 2015, the UN Special Rapporteur against Torture even stated that the State violated the prohibition of torture while the beneficiaries were in Ramo Verde.¹⁹ Furthermore, the authorities reportedly acted under a climate of animosity and hostility expressed, for example, during the cell searches or when hindering the possibility for the inmates to receive medical attention.²⁰ In the *Matter of Luis Alejandro Mogollón Velásquez of 2019*²¹ and the *Matter of Williams Alberto Aguado Sequera et al. of 2020*²², the Commission addressed the situation of detained military personnel, among others, and assessed the delicate state of health of the beneficiaries – some as a result of injuries caused by alleged ill-treatment – and the lack of access to adequate medical²³ treatment. It was reported that in “Ramo Verde” there are allegedly not sufficient means or equipment.²⁴ Additionally, in the *Matter of Luis Alejandro Mogollón Velásquez of 2019*, the applicants alleged the commission of ill-treatment within the framework of the deprivation of liberty.²⁵

18. The Commission considers that the contextual elements of the country, and background information on situations of concrete risk of persons detained in “Ramo Verde,” allow this Commission to make a comprehensive assessment of the alleged situation. It also makes it possible to identify the seriousness and consistency of the specific allegations in light of the context being monitored in Venezuela.

19. In relation to the requirement of seriousness, the Commission considers that the proposed beneficiary is allegedly exposed to a multiplicity of sources of risk that could seriously affect his rights to life, personal integrity, and health. Without prejudice to the fact that the reported detention conditions are concerning, mainly considering the context of threats and verbal abuse to which the proposed beneficiary is allegedly subjected to by his custodians, after being identified as a “traitor to the homeland” in Venezuela. The foregoing becomes even more aggravating in the proposed beneficiary’s case given that his health is already reportedly be impaired as a result of the ill-treatment he suffered, and which has not been treated since 2018. The applicants have indicated that, after his detention in 2018, electric shocks, strong blows to different parts of his body, objects to inflict pain, as well as suffocation methods were used against him. In addition to the aforementioned, the proposed beneficiary’s situation is reportedly not only confirmed by the nature of these acts of violence and injuries, but also by the consequential effects. In this regard, the applicants indicated that he has post-traumatic stress disorder, insomnia, and suicidal thoughts due to the psychological mistreatment.

¹⁵ IACHR Annual Report 2022, Chapter IV.b. Venezuela. Paras. 3 and 131.

¹⁶ International Independent Fact-Finding Mission on the Bolivarian Republic of Venezuela, October 12, 2022, paras. 42 and 44.

¹⁷ IACHR, Leopoldo López and Daniel Ceballos regarding Venezuela (PM-335-14), Resolution 12/2015 of April 20. Available [in Spanish] at <https://www.oas.org/es/cidh/decisiones/pdf/2015/mc335-14-es.pdf>

¹⁸ IACHR, Leopoldo López and Daniel Ceballos regarding Venezuela, para. 16.

¹⁹ IACHR, Leopoldo López and Daniel Ceballos regarding Venezuela, para. 18.

²⁰ IACHR, Leopoldo López and Daniel Ceballos regarding Venezuela, para. 17.

²¹ IACHR, Luis Alejandro Mogollón Velásquez regarding Venezuela (PM-102-19), Resolution 10/2019 of March 7. Available [in Spanish] at <https://www.oas.org/es/cidh/decisiones/pdf/2019/10-19mc102-19-ve.pdf>

²² IACHR, Williams Alberto Aguado Sequera et al. regarding Venezuela (PM-751-19), Resolution 5/2020 of February 5. Available [in Spanish] at <https://www.oas.org/es/cidh/decisiones/pdf/2020/5-20mc751-19-ve.pdf>

²³ IACHR, Luis Alejandro Mogollón Velásquez, para. 24.

²⁴ IACHR, Williams Alberto Aguado Sequera et al, para. 9.

²⁵ IACHR, Luis Alejandro Mogollón Velásquez, para. 4 and 6.

20. In this regard, the Commission also notes that, according to the information available, the State allegedly knows about the proposed beneficiary's health upon lodging requests and complaints with the various domestic authorities. The information available indicates that, in April 2021, a request was made for a transfer to a military hospital for evaluation by internal medicine and psychiatry. Nor is there any information on whether the psychiatric evaluation was carried out. Reportedly, it was requested that the proposed beneficiary be transferred to the military hospital again, which was also requested orally to the competent Court in 2022 and 2023, but no response was received. The Commission has no details as to whether such a transfer was actually made.

21. Considering the information available, the Commission observes that, despite the internal actions taken between 2021 and 2023, the proposed beneficiary's situation has not been addressed by the competent authorities, nor has his transfer to a medical center for evaluation been approved. In this regard, the Commission understands that, between 2018 and 2023, approximately five years have elapsed without any information that shows that the proposed beneficiary is effectively receiving the medical care he allegedly requires.

22. Considering the situation described above, the Commission notes with concern that the State has not responded to the request for information to provide its observations on the request for precautionary measures. Taking into account that the proposed beneficiary is in State custody, and taking into account the lack of response from the national authorities on his current status, it is not possible to know in greater detail whether actions are being implemented to protect the rights of the proposed beneficiary and therefore to assess whether or not the alleged situation of risk has been disproved.

23. In view of the above, and taking into account the assessments made, from the *prima facie* standard, the Commission concludes that the existence of a situation of serious risk to the rights to life, personal integrity, and health of Mr. Antonio Julio Scola Lugo is sufficiently established.

24. Regarding the requirement of urgency, the Commission considers that it has been met, as long as the proposed beneficiary remains deprived of liberty in the conditions previously described, and is not being allowed access to adequate and timely medical treatment. The Commission is concerned that after approximately five years, the proposed beneficiary has not received the medical attention he requires. In addition, it is also noted that none of the requests to competent authorities have been answered. Thus, in light of the information available, the evolution of his health condition is likely to cause him even greater harm, and therefore immediate measures should be taken.

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

IV. BENEFICIARY

26. The Commission declares beneficiary Antonio Julio Scola Lugo, who is duly identified in this procedure.

V. DECISION

27. The Inter-American Commission considers that this matter meets, *prima facie*, the requirements of seriousness, urgency, and irreparable harm set forth in Article 25 of its Rules of Procedure. Consequently, it requests that Venezuela:

-
- a) take the necessary measures to protect the rights to life, personal integrity, and health of Antonio Julio Scola Lugo. In particular, ensure that he has access to medical treatment, as indicated by the relevant physicians, and order that the authorities make a medical report that corroborates the beneficiary's current health;
 - b) take the necessary measures to ensure that his detention conditions comply with applicable international standards;
 - c) consult and agree upon the measures to be adopted with the beneficiary and his representatives; and
 - d) 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.
28. The Commission requests the State of Venezuela report, within 15 days from the day following notification of this resolution, on the adoption of the precautionary measures requested and to update this information on a regular basis.
 29. The Commission emphasizes that, in accordance with Article 25(8) of its Rules of Procedure, the granting of this precautionary measure and its adoption by the State do not constitute a prejudgment on any violation of the rights protected under the applicable instruments.
 30. The Commission instructs its Executive Secretariat to notify this resolution to the State of Venezuela and the applicants.
 31. Approved on May 22, 2023, by Margarete May Macaulay, President; Esmeralda Arosemena de Troitiño, First Vice-President; Roberta Clarke, Second Vice-President; Joel Hernández García; Edgar Stuardo Ralón Orellana; and Carlos Bernal Pulido, members of the IACHR.

Tania Reneaum Panszi
Executive Secretary