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**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION 51/2023**

Precautionary Measure No. 308-23  
Jonatan Alberto Palacios Castillo regarding Venezuela  
September 17, 2023  
Original: Spanish

**I. INTRODUCTION**

1. On July 7, 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 organization Foro Penal (“the requesting party” or “the applicants”), urging the Commission to require that the Bolivarian Republic of Venezuela (“the State” or “Venezuela”) adopt the necessary measures to protect the rights of Jonatan Alberto Palacios Castillo (“the proposed beneficiary”). According to the requesting party, the proposed beneficiary is deprived of his liberty under pretrial detention, suffering from several diseases and without receiving the medical attention that he allegedly requires.

2. Pursuant to Article 25(5) of its Rules of Procedure, the IACHR requested information from the State on July 11, 2023, but has not received a response to date. For their part, the requesting party submitted additional information on August 13, 2023.

3. Upon analyzing the submissions of fact and law furnished by the applicant, 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. Therefore, the IACHR requests that Venezuela: a) adopt the necessary measures to protect the rights to life, personal integrity, and health of Jonatan Alberto Palacios Castillo. In particular, ensuring that he has access to timely medical treatment. This includes, *inter alia*, making the pertinent medical transfers for the corresponding medical evaluations and follow-ups; b) consult and agree upon the measures to be adopted with the beneficiary and his representatives; and c) report on the actions taken to investigate the alleged facts that gave rise 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 proposed beneficiary is a Colombian citizen who has been held in preventive detention since February 16, 2021 at the Western Penitentiary Center II, in the state of Táchira, Venezuela. According to reports, he was deprived of liberty by officials attached to the Municipal headquarters of the Criminal and Forensic Scientific Investigations Corps (CICPC), for the alleged crime of “incitement to hatred,” after having published photos and comments on social media regarding the Attorney General of the Nation<sup>1</sup>. At the time of his arrest, the proposed beneficiary was purportedly tortured. Additionally, FUNDABOLIVAR, the proposed beneficiary’s workplace, was raided. According to the applicants, the director of the foundation and his partner were arrested.

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<sup>1</sup> In this regard, it was mentioned that the proposed beneficiary was unhappy with the lack of investigation into a traffic accident that allegedly led to the deaths of co-workers and his 4-year-old stepdaughter. It is understood that the reason is said to be the fact that the vehicle used reportedly belongs to the Venezuelan State. Therefore, the proposed beneficiary allegedly published a photo of the Attorney General on social media next to a capuchin monkey, with a note that read: “What do you think?”. The post was classified by the Prosecutor’s Office as potential crimes established in the “Law against hate, Law against computer crimes, and Law against the security of the nation.”

5. Regarding his legal situation, the request indicated that, on February 17, 2023, the proposed beneficiary was charged with the crime of illicit introduction of a mobile device to the Western Penitentiary Center. In that same act, a new measure of pretrial detention was issued. Absence of evidence was alleged. On July 19, 2023, the dismissal of the case and the cessation of the measure of coercion were decreed. On April 18, 2023, the court requested the revocation of the pretrial measure of deprivation of liberty in relation to the first offense charged, for having served two years without a prior trial. As indicated, the said request is pending decision.

6. As reported, the proposed beneficiary allegedly suffers from “serious illnesses” and does not receive adequate medical and/or psychiatric care in the prison, despite the various judicial decisions granted. Between February 25, 2021, and July 27, 2023, the proposed beneficiary filed several requests with the corresponding judicial authorities, in order to obtain his transfer or receive the necessary treatment for his health situation. A picture of psychological affectations, dental problems that evolved to an infection, untreated inguinal hernias, and skin flare-ups with high fever were reported. It was alleged that the lack of timely treatment led to a gradual worsening of his clinical condition and complications in his physical and mental health.

7. The reported events are as follows:

- On February 25, 2021, the second criminal control judge of San Antonio was asked for the psychological evaluation of the proposed beneficiary. A judicial decision of March 26, 2021, issued by the criminal control court of San Antonio was attached, determining the performance of a general medical examination on the proposed beneficiary. A medical report dated March 30, 2021, was attached, which suggests an assessment by psychiatric service. It was reported that this assessment was not carried out.
- On August 21, 2021, the proposed beneficiary began a hunger strike that resulted in health problems such as dehydration, hypoglycemia, and low blood pressure. The proposed beneficiary was transferred to the Samuel Darío Maldonado Municipal Hospital to treat his dehydration. The request attached an official letter dated August 23, 2021, signed by the head of the Municipal Delegation of San Antonio and addressed to the second judge of first instance in charge of control of San Antonio, which indicates that the psychological evaluation of the proposed beneficiary was not carried out due to the lack of a specialist. However, it was reported that the proposed beneficiary was evaluated by a psychiatrist and a forensic dentist.
- On October 11, 2021, the proposed beneficiary presented with severe toothaches. A petition addressed to the judge of first instance in charge of control of San Antonio was attached, in order to request the transfer of the proposed beneficiary to the dentistry service of the Central Hospital of San Cristóbal. The transfer was authorized by a judicial decision issued on October 20, 2021. However, this transfer was not executed.
- On August 18, 2022, the proposed beneficiary informed the prisoner that he was experiencing “intense pain due to infections of teeth that were not effectively treated.” Similarly, it was indicated that the proposed beneficiary presented episodes of depression, sleep disturbances, emotional instability, self-aggressive behaviors, chronic anxiety, and two exposed inguinal hernias in the lower part of his abdomen. It was alleged that hernias generate intense pain and that they can only be treated by surgery.
- On August 23, 2022, the Second Court of First Instance of the Criminal Judicial Circuit of the State of Táchira authorized the transfer of the proposed beneficiary within 15 days to be evaluated by dentistry, psychology, and general surgery service at the Central Hospital of San Cristóbal. It was reported that the transfer was not carried out. The request indicated that he had requested his transfer to a private medical unit where the costs would be covered by the family, which was allegedly denied without justification by the prison system.

- In September 2022, the proposed beneficiary presented outbreaks on the body with abscesses and high fever, for which the intervention of the Ombudsperson’s Office was requested. The transfer was denied due to lack of transportation from the Western II Correctional Facility. As a result, the proposed beneficiary started another hunger strike and the intervention of the Ombudsperson’s Office was requested again.
  - On September 27, 2022, the Superior Prosecutor’s Office (*Fiscalía Superior*) of the Public Ministry was informed of the decompensation of the beneficiary, who was finally urgently transferred to the Central Hospital of San Cristóbal, “where they did a physical examination through the method of observation, being returned to the penitentiary once his medical condition was stabilized.” As informed, while in the hospital, the proposed beneficiary reported a death threat received from the deputy director of the Western Penitentiary Center due to his hunger strike and constant complaints. The facts were denounced to the competent authorities, but no investigation was purportedly opened in this regard.
  - On March 14, 2023, the beneficiary was transferred to court in a state of mental disorder, with an acute depressive disorder. A copy of the decision of the Criminal Court of Trial of San Antonio del Táchira of that same day was attached, determining that the proposed beneficiary be evaluated by internal medicine, in order to receive assistance, accurate diagnosis, laboratory tests, and medical treatment to protect his health and life. Despite reporting the situation to the Ombudsperson’s Office, no response was received.
  - On March 28, 2023, the proposed beneficiary went to the court of the case, which presented a severe psychological crisis. He alleged that the abscesses cause him severe headaches and feverish pictures, that he could no longer stand his state of health and that he was convinced that his jailers wanted him to hurt himself. At that time, the judge in the case again ordered the medical transfer that was not carried out.
  - On April 13, 2023, the Criminal Court of Trial of San Antonio del Táchira determined the transfer of the proposed beneficiary to the “Pablo Puky Medical Center,” to be clinically evaluated.
  - On April 27, 2023, the defense of the proposed beneficiary entered an action for constitutional protection against the director of the prison, due to non-compliance with the judicial transfer orders. The existence of 10 pending medical transfer orders was alleged.
8. On April 28, 2023, the proposed beneficiary was transferred to the Pablo Puky Hospital, an opportunity which was evaluated by an internist. According to information in the file, the internist observed the following:
- “On physical examination, neurologically conscious is observed, oriented in its three planes, presenting a depressive, afebrile, hydrated, eupneic picture, breathing ambient air, soft depressible flat abdomen painful to palpation at the umbilical level for presenting a hernia, there is evidence of a vertical midline scar of the abdomen after surgery, normal genitals configured according to age and sex, he refers pain in both testicles and groin, so he is referred by the specialty of surgery. He refers constant headaches after a tooth extraction (refers the PL), so he is referred by the specialty of dentistry. They indicate laboratory tests where a sample is taken to carry out the same, pending the results to be claimed.”
9. The internist referred him to a general surgery specialist and a dentist. According to the request, the general surgery specialist identified: “one umbilical hernia, two bilateral inguinal hernias and bilateral varicocele,” and therefore surgical intervention and preoperative assessment (pulmonology, cardiology, and laboratory tests) was suggested. Additionally, the dentist observed an upper mandibular inflammation due to joint remains after extraction of teeth, therefore she decided to perform a complex extraction. After the medical review, the treating physicians indicated that the proposed beneficiary should have control and follow-up in the areas of internal medicine, urology, psychology, and dentistry.

10. On May 26, 2023, the Court of the case decided ex officio to reject the amparo action on the grounds that the alleged constitutional injury has ceased. However, it was alleged that the proposed beneficiary remains without medical accompaniment. In this regard, the request indicated that they had asked for his medical transfer in order to monitor and control the treatment of health conditions in the areas of psychology, urology, and dentistry, and internal medicine. It was indicated that the proposed beneficiary had fever. The request was reportedly agreed to by the court on May 19, 2023. This request was reiterated on May 25, June 1 and 28, and July 27, 2023, at a hearing before the competent Court. It was alleged that the director of the prison did not implement what was decided by the court and that the proposed beneficiary continues without control and monitoring of any of the disorders he suffers from.
11. The request stated that the proposed beneficiary's representation has requested the Court to officiate at the Western II Penitentiary Center in order to inform the reasons why the transfer was not carried out. In that sense, it was indicated that the director responded that the transfer was not executed due to "mechanical failures of the unit for transfers." Due to this, the request mentioned that the proposed beneficiary was forced to declare himself in absentia so that his trial could continue without his presence, in order to avoid further delays.

### **B. Information provided by the State**

12. In the instant matter, the IACHR requested information from the State on June 11, 2023, but has received no response to date.

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

13. 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.

14. The Inter-American Commission and the Inter-American Court of Human Rights ("the Inter-American Court" or "I/A Court H.R.") have repeatedly established that precautionary and provisional measures have a dual nature, both protective and precautionary.<sup>2</sup> Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.<sup>3</sup> To do this, the IACHR shall assess 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.<sup>4</sup> Regarding their precautionary nature, these measures have the purpose of preserving legal situations while under consideration by 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

<sup>2</sup> 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 [only in Spanish].

<sup>3</sup> See in this regard: I/A Court H.R. Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center. Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, considerandum 8; I/A Court H.R. Case of Bámaca Velásquez. Provisional Measures regarding Guatemala. Order of the Court of January 27, 2009, considerandum 45; I/A Court H.R. Matter of Fernández Ortega et al. Provisional Measures regarding Mexico. Order of the Court of April 30, 2009, considerandum 5; I/A Court H.R. Matter of Milagro Sala. Request for Provisional Measures regarding Argentina. Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5 [only in Spanish].

<sup>4</sup> 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].

of an eventual decision on the merits and, thus, avoid any further infringement of the rights at issue, a situation that may adversely affect the useful effect (*effet utile*) of the final decision. In this regard, precautionary or provisional measures enable the State concerned to comply with the final decision and, if necessary, to implement the ordered reparations.<sup>5</sup> 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.

15. 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.<sup>6</sup> Similarly, the Commission recalls that, by its own mandate, it is not called upon to make any determination on any individual criminal liabilities for the facts alleged. Moreover, in this proceeding, it is not appropriate to rule on violations of rights enshrined in the American Convention or other applicable instruments.<sup>7</sup> 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.<sup>8</sup>

16. 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.<sup>9</sup>

17. 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.<sup>10</sup> 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

<sup>5</sup> 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].

<sup>6</sup> 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.

<sup>7</sup> 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.

<sup>8</sup> 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].

<sup>9</sup> IACHR, Case 14.143. Alfredo José Chirinos Salamanca *et al.*, Venezuela. Note 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](https://www.oas.org/es/cidh/decisiones/corte/2022/VE_14.143_NdeREs.PDF)

<sup>10</sup> I/A Court H.R. Case of the Barrios Family v. Venezuela. Judgment of November 24, 2021. Merits, Reparations and Costs. Series C No. 237, para. 52.

attention to a person deprived of liberty and under the custody of the State could be considered a violation of this prohibition.<sup>11</sup>

18. Upon assessing this request, the Commission notes 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.<sup>12</sup> 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, where prisoners are prevented from satisfying on their own a series of basic needs that are essential for the development of a dignified life.<sup>13</sup>

19. More specifically, and in light of the facts described by the requesting party, the Commission recalls that, based on the principle of non-discrimination, the Inter-American Court has indicated that this duty implies the obligation of the State to guarantee their physical and mental health, specifically through the provision of a regular medical check-up and, when required, adequate, timely and, where appropriate, specialized medical treatment according to the special care needs required by the detained persons in question. In the same way, the Inter-American Court has indicated that the States must create conditions of real equality with regard to groups that are at greater risk of being discriminated.<sup>14</sup> Additionally, with regard to the right to health, the jurisprudence of the Court has recognized that health is a fundamental and indispensable human right for the proper exercise of other human rights, and that every human being has the right to the enjoyment of the highest possible level of health that allows living with dignity.<sup>15</sup>

20. When analyzing the situation, the Commission considers it relevant to understand the alleged facts in the context in which they occur. As the Commission has been monitoring, Venezuela is experiencing a deepening of the country's political and social crisis and widespread repression, which has led to the absence of the rule of law.<sup>16</sup>

21. In its 2021 Annual Report, the IACHR noted that the situation of persons deprived of liberty in Venezuela constitutes one of the worst in the region in terms of detention conditions.<sup>17</sup> In the 2022 Annual Report, the Commission identified that detention conditions in Venezuela continue to be critical, presenting risks to the life and integrity of persons deprived of liberty. In addition, these conditions are mainly characterized by negligent medical care and difficulties in accessing food and drinking water and medicines, which must be provided by family members.<sup>18</sup>

22. Taking into account the above assessments and the applicable context, the Commission will proceed to analyze the procedural requirements regarding Jonatan Alberto Palacios Castillo.

23. In relation to the requirement of seriousness, the Commission considers that it has been met. The Commission notes that the proposed beneficiary is at risk due to the lack of timely and adequate medical care during his detention, despite repeated judicial decisions in his favor ordering his transfer to medical facilities for the corresponding attention, as well as requests to the prison authority with a view to implementing such decisions.

<sup>11</sup> I/A Court H.R. Case of Chinchila Sandoval v. Guatemala. Judgment of February 29, 2016. Preliminary objection, merits, reparations, and costs. Series C. No. 132, para. 173.

<sup>12</sup> 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.

<sup>13</sup>IACHR, Report on the Human Rights of Persons Deprived of Liberty in the Americas, December 31, 2011, para. 49 et seq.

<sup>14</sup> I/A Court H.R. Case of Cuscul Pivaral et al. v. Guatemala. Preliminary objection, merits, reparations, and costs. Judgment of August 23, 2018, para. 105.

<sup>15</sup> I/A Court H.R. Case of Poblete Vilches v. Chile. Merits, Reparations and Costs. Judgement of March 8, 2018, para. 118.

<sup>16</sup> IACHR, Annual Report 2019, Chapter IV. B. Venezuela, para. 1

<sup>17</sup> IACHR. 2021 Annual Report, Ch. IV.b: Venezuela, para. 90

<sup>18</sup> IACHR. 2022 Annual Report, Ch. IV.b: Venezuela, para. 131.

24. As reported, Mr. Jonatan Alberto Palacios Castillo has been deprived of liberty since February 16, 2021, in the Western Penitentiary Center II, state of Táchira. Since his arrest, the proposed beneficiary has faced a series of variations in his physical and mental health that have not been treated in a timely manner, leading to a gradual worsening of his clinical condition.

25. According to the request, since his arrest in February 2021, the proposed beneficiary has been requesting health care in the framework of various specialties, such as surgery, psychology, psychiatry, dentistry, etc. The Commission notes, from the applicants' information, that the proposed beneficiary has been transferred to a hospital between 2021 and 2023. For example, in 2021, he was evaluated by a psychiatrist and a forensic dentist; in 2022, he was urgently transferred to a hospital, after a situation of decompensation; and in 2023, he was transferred to a hospital for medical evaluation. However, the Commission notes that, despite such transfers, the proposed beneficiary did not receive the required medical care, or, if he did, there is no information on a timely follow-up to his medical situation.

26. The foregoing is especially worrisome insofar as the applicants have alleged, throughout their detention, that they have suffered psychological disorders, dental problems that led to an infection, untreated inguinal hernias and skin outbreaks, accompanied by high fever. The Commission notes that, although these allegations have been recurrent over time, the information available does not show that there is any medical treatment prescribed to treat these medical conditions.

27. The most recent information refers to medical assessments that make new referrals for medical care. In this regard, the documentary support available is consistent with the allegations presented by the applicants throughout the time that the proposed beneficiary has been deprived of liberty. In this regard, the medical assessment of April 2023 gives an account of an existing "depressive condition." Similarly, he was assessed by a specialist in surgery and a dentist, and the following was reportedly identified "one umbilical hernia, two bilateral inguinal hernias, and bilateral varicocele." This led to the recommendation of surgical intervention, preoperative assessment, and follow-up by internal medicine, urology, psychology, and dentistry. Following the request for information from the State, the Commission has no evidence that such new medical evaluations have been carried out and that medical treatment has been defined in his favor.

28. The Commission observes that, throughout his period of detention, various judicial decisions of the competent judicial authorities have not been executed, despite the proposed beneficiary's health condition, which reflects a lack of timely medical attention. This situation has continued as long as the proposed beneficiary has been deprived of liberty. For example, more recently, the last court decision of 2023 ordering his transfer for medical assessment, has reportedly not been enforced either. According to the request, after several reiterations, the director of the prison did not implement what was decided by the court and the proposed beneficiary reportedly remains without control and monitoring of any of the disorders that he suffers from. Although the director of the prison reported that it was not executed due to "mechanical failures of the transfer unit," the Commission notes that this response reflects the lack of monitoring of the proposed beneficiary's health situation, as well as the absence of alternatives for medical care when his transfer has not been possible. In addition, the request mentioned that since September 2022 the proposed beneficiary has presented skin outbreaks that generate abscesses and high fever. Additionally, the request mentioned that the proposed beneficiary suffers from pain derived from inguinal hernias that would require surgical treatment, which is still pending.

29. In this regard, the Commission notes that, between 2021 and 2023, approximately two years have elapsed without information regarding effective and timely medical care for the proposed beneficiary, including the necessary medical accompaniment. Having requested information from the State under Article 25 of the Rules of Procedure, the Commission regrets the lack of response to the request for information. Although the foregoing is not sufficient *per se* to justify the granting of precautionary measures, the lack of

response from the State prevents the Commission from knowing the measures that have been reportedly implemented to address the situation that places the proposed beneficiaries at risk and to disprove the facts alleged by the applicants.

30. Therefore, the Commission does not have information to assess whether the situation that places the proposed beneficiary at risk has been mitigated. This is especially worrying given that, in addition, according to the information available, the State is reportedly aware of the health situation of the proposed beneficiary through multiple requests and complaints made to the different domestic instances. The Commission also notes that the proposed beneficiary has been subjected to death threats by the deputy director of the penitentiary where he is being held. This is particularly serious given that the proposed beneficiary is in his custody and that this person is in charge of ensuring the execution of court orders for transfer for medical attention. In the Commission's opinion, such conditions place the proposed beneficiary in an additional situation of vulnerability.

31. 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 presenting a serious risk to the rights to life, personal integrity, and health of Mr. Jonatan Alberto Palacios Castillo is sufficiently established.

32. 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 two years, the proposed beneficiary has not received timely medical attention, despite the existence of judicial decisions in his favor. Thus, in view of the imminent materialization of the risk, it is necessary to immediately adopt measures to safeguard the proposed beneficiary's rights to life, personal integrity, and health.

33. Regarding the requirement of irreparable harm, the Commission upholds 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**

34. The Commission declares Jonatan Alberto Palacios Castillo beneficiary of the precautionary measures, who is duly identified in this proceeding.

#### **V. DECISION**

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

- a) adopt the necessary measures to protect the rights to life, personal integrity, and health of Jonatan Alberto Palacios Castillo. In particular, ensuring that he has access to timely medical treatment. This includes, *inter alia*, making the pertinent medical transfers for the corresponding medical evaluations and follow-ups;
- b) consult and agree upon the measures to be adopted with the beneficiary and his representatives; and
- c) report on the actions taken to investigate the alleged facts that gave rise to the adoption of this precautionary measure, so as to prevent such events from reoccurring.



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36. 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.

37. 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.

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

39. Approved on September 17, 2023, by Margarete May Macaulay, President; Esmeralda Arosemena de Troitiño, First Vice-President; Roberta Clarke, Second Vice-President; Julissa Mantilla Falcón; Carlos Bernal Pulido; and José Luis Caballero Ochoa, members of the IACHR.

Tania Reneaum Panszi  
Executive Secretary