
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 2/2024**

Precautionary Measure No. 4-24
Leyla Susana Lemus Arriaga regarding Guatemala¹
(Justice of the Constitutional Court of Guatemala)
January 13, 2024
Original: Spanish

I. INTRODUCTION

1. On December 30, 2023, the Inter-American Commission on Human Rights (“the Inter-American Commission”, “the Commission” or “the IACHR”) received a request for precautionary measures presented by the proposed beneficiary (“the applicant”) urging the Commission to require that the State of Guatemala (“the State” or “Guatemala”) adopt the necessary measures to protect the rights to life and personal integrity of Leyla Susana Lemus Arriaga. According to the request, the proposed beneficiary is at risk due to the arson that occurred in a patrol car, which was part of her protection detail in front of her home. She alleges the incident is related to her work as a justice of the Constitutional Court of Guatemala.

2. In the terms of Article 25 of its Rules of Procedure, the IACHR requested information from the parties on January 3, 2024. The State submitted information on January 10, 2024. The applicant submitted information on January 11, 2024.

3. Upon analyzing the submissions of fact and law furnished by the parties, the Commission considers that the information presented shows *prima facie* that Leyla Susana Lemus Arriaga is in a serious and urgent situation, given that her rights to life and personal integrity are at risk of irreparable harm. Therefore, the IACHR requests that Guatemala: a) adopt the necessary measures to protect the rights to life and personal integrity of Leyla Susana Lemus Arriaga; b) adopt the necessary measures to ensure that the beneficiary can carry out her duties as a justice in safe conditions; c) consult and agree upon the measures to be adopted with the beneficiary and her representatives; and d) report on the actions taken to investigate the alleged facts that led to the adoption of this precautionary measure, so as to prevent them from reoccurring.

II. SUMMARY OF FACTS AND ARGUMENTS

A. Information provided by the applicant

4. The proposed beneficiary is Leyla Susana Lemos Arriaga, sitting justice of the Constitutional Court of Guatemala for the period 2021-2026. According to the request, she is reportedly at risk after a serious event occurred in December 2023 as a result of her work as justice, which she considers affects her judicial independence. It was indicated that, in the context of the transition of governmental command for the 2024-2028 presidential term, acts of harassment towards the Constitutional Court, in general, and towards the proposed beneficiary, in particular, have arisen as a result of the jurisdictional actions that are part of the constitutional justice body that she is part of.

5. On October 18, 2021, calls were received at the Constitutional Court indicating intimidating actions towards the proposed beneficiary, and were answered by persons assisting the justice in her function.

¹ In accordance with Article 17(2)(a) of the Commission’s Rules of Procedure, Commissioner Edgar Stuardo Ralón Orellana, a Guatemalan national, did not participate in the debate or deliberation of this matter.

A person identified as M.T.L., who said they were the representative of a group of retired individuals of the Guatemalan Institute of Social Security (*Instituto Guatemalteco de Seguridad Social*, IGSS), requested that the person warn the justice that “we are not going to allow her to continue meddling in matters that don’t concern her” and stated that “justice here in Guatemala does not exist because of that.” In addition, this person reportedly indicated that they would call back in a few days, and that the proposed beneficiary should be advised that “if she does not comply, she will have to suffer the consequences.”

6. Due to the foregoing, the President of the Constitutional Court filed the corresponding criminal complaint with the Public Prosecutor’s Office on October 19, 2021, for crimes that threaten the independence of the Constitutional Court and its justices, and that may constitute crimes of coercion, threats, attacks, and contempt of authority. These facts were under investigation by the Prosecutor’s Office for Crimes against Justice Operators and Trade Unionists (*Fiscalía de Delitos contra Operadores de Justicia y Sindicalistas*).² Therefore, protection measures in favor of the proposed beneficiary were requested to the Protection of Persons and Security Division of the National Civil Police (PNC), considering that the security measures in favor of the Constitutional Court are reportedly insufficient. Upon carrying out a risk assessment, on March 7, 2022, the PNC notified the proposed beneficiary of the granting of a personalized security service in her favor, with a detail made up of two police officers who would be working on an eight-day shift work plan, for as long as she holds her position as justice.

7. In this sense, the proposed beneficiary reportedly has perimeter security detail provided by the PNC, which includes two agents and a patrol car in front of her residence, as well as a personal security detail of two agents working 24 hours a day, provided by the Constitutional Court and the PNC.

8. In the context of the general elections in Guatemala during 2023, a group of unidentified individuals allegedly used fake profiles on social networks (Facebook, TikTok, and X) to publish posts in which they exposed some judges of the Constitutional Court’s personal telephone numbers and home addresses. As a result, on May 22, 2023, via official communication No. 707-2023,³ the PNC ordered that perimeter security be provided to the beneficiary’s residence in Guatemala City. It indicated that “a radio patrol with its respective crew must be appointed every 24 hours, and the position must be changed and the commanders of each police headquarters must provide written instructions to appoint such service and carry out the corresponding supervision.” From this date, the perimeter security measures at her home were complied with.

9. On December 11, 2023, at 12:00 a.m., through service ticket No. 690 of the Substation 11-5-1 Historic Center of the PNC, signed by officer W.G.S.V., two PNC agents (C.E.B.L. and N.G.B.C.), in the patrol car identified as GUA11066, were appointed to provide security at the proposed beneficiary’s residence, in compliance with the perimeter security measures ordered by the PNC. However, in the same service ticket, it was stated that “by order of officer W.G.S.V., Chief of Substation 11-5-1, this service shall not be fulfilled,” considering that police officers C.E.B.L. and N.G.B.C. were allegedly assigned to other duties.⁴ Therefore, the patrol car identified as GUA11066 was abandoned in front of the proposed beneficiary’s residence and no other PNC personnel was appointed to be left in charge of perimeter security. Furthermore, the proposed beneficiary had not been notified of the untimely change of the security detail in her favor.

10. On December 11, 2023, at approximately 4:45 a.m., unidentified persons allegedly opened the patrol car identified as GUA11066 which was still located in front of the proposed beneficiary’s residence, in which personnel in charge of its perimeter security were supposed to be present. These people allegedly

² File No. MP001/2021/45147, linked to file MP0001-2021-45886.

³ The request indicates that official letter No.707-2023 of the PNC determines the perimeter security measures for Leyda Gómez, but the correct name of the proposed beneficiary is Leyla Susana Lemus Arriaga. However, this official letter indicates the correct address of the proposed beneficiary’s residence.

⁴ According to service ticket No. 690 of the PNC Substation 11-5-1 *Centro Histórico*, on December 11, 2023, agent C.E.B.L. was the driver of the patrol car identified as GUA11142 from 12:00 a.m. to 8:00 a.m., and agent N.G.B.C. was at the Constitutional Court from 5:00 a.m. onwards.

entered the vehicle without any mechanical effort, which allegedly reflects that they had the keys to the vehicle, according to the applicant. Subsequently, these individuals allegedly set fire to the patrol car and fled the scene. A few minutes later, municipal firefighters arrived at the scene to verify the incident. Furthermore, after hearing explosions coming from the proposed beneficiary's residence, her personal security personnel assigned by the Constitutional Court, who reside in her home, coordinated the deployment of police authorities to verify the situation.

11. The complaint in relation to the facts was initiated ex officio on December 11, 2023 by the Prosecutor's Office against Organized Crime of the Public Prosecutor's Office under File no. MP009-2023-358, in which the proposed beneficiary is listed as the victim. On the same day, proceedings were carried out on the premises by the competent authorities. According to the PNC report, at around 4:50 a.m., PNC patrol cars identified as numbers 11105 and 11160 received information via radio frequency to visit the site of the incident. The Organized Crime Prosecutor's Office was present at 1:50 p.m. to carry out the on-site inspection and collect evidence. According to the investigative file, agents from the PNC Weapons and Explosives Investigation and Disposal Division (*División de Investigación y Desactivación de Armas y Explosivos, DIDAE*) located surveillance video cameras, which could help clarify the facts. These cameras identified male persons who are suspected of the crime. According to DIDAE, the fire was not caused by explosive devices. As part of the investigation, in December, the National Institute of Forensic Sciences was ordered to designate an expert to analyze the evidence found. In addition, the municipal fire department was instructed to assign a fire technician to inspect a vehicle in order to determine the possible causes of the fire. In addition, the Prosecutor's Office requested information from the General Directorate and the Inspector General's Office of the PNC regarding the events that took place on December 11, 2023.

12. PNC agents C.E.B.L., N.G.B.C., and W.G.S.V. presented a statement before the Prosecutor's Office against Organized Crime of the Public Prosecutor's Office of Guatemala regarding the facts of December 11, 2023, in the framework of file MP008-2023-358. According to the statements issued by agent C.E.B.L., the patrol car identified as GUA11066 "was not in circulation, as it had mechanical problems at the time and was only used on duty to protect agents from inclement weather during the duty post." In addition, he stated that, after being reassigned by order of his supervisor at 11:45 p.m. on December 10, 2023, he left the patrol keys at Police Substation 11-5-1 *Centro Histórico* of the PNC in the early hours of December 11, 2023. According to the statement issued by agent N.G.B.C., he was at the perimeter security post in front of the proposed beneficiary's home from 8:00 a.m. to 4:00 p.m. on December 10, 2023. He indicated that he returned to that position at 12:00 a.m. on December 11, 2023 to fulfill his duties. However, after receiving a call with orders from his immediate head of the PNC, he left his service position to fulfill duties related to another emergency service. When he arrived at the PNC Substation 11-5-1 *Centro Histórico* to hand over the keys to the vehicle, he was told that he had to be present to cover perimeter security at the Constitutional Court at 5:00 a.m. In addition, he indicated that the patrol car identified as GUA11066 "did not work, (...) but it stationed there in that area to show police presence." According to the statement of PNC officer W.G.S.V., due to the need for PNC agents in other services, he gave the order for agents C.E.B.L. and N.G.B.C. to leave the perimeter security post in front of the home of the proposed beneficiary and provide support where needed. At 4:50 a.m. on December 11, 2023, he received a report of an incident with the patrol car identified as GUA11066 "that, due to unknown situations, was set on fire and the designated police elements and/or agents were not at the location." The officer went to the scene at 5:10 a.m. and discovered that the patrol car had been set on fire. Preliminary investigation coordination has been initiated in order to establish the causes of the fire. Officer W.G.S.V. indicated that "it was concluded that there are many homeless people in the vicinity of the Central Park who could have committed the act of setting fire to the radio patrol car in dissatisfaction with the safety services provided to the sector." The burning of the patrol car was allegedly considered an act of vandalism.

13. The request stated that the beneficiary's residence is in the so-called Presidential Security Circle 1, given that it is in the vicinity of the National Government Palace and the Presidential House. For this reason, there are constant State security agents in the area. This aggravates the concern of the proposed beneficiary. The applicant alleged that the authorities did not provide a "coherent" explanation of those

responsible for the incident. In addition, it was indicated that the Minister of the Interior issued public statements that have “denied and distorted” the facts, taking into account that they reportedly presented contradictory information to the statements of the PNC agents before the Public Prosecutor’s Office.⁵

14. Additionally, the applicant added a series of press reports regarding the events of December 11, 2023.⁶ These news reports indicated that the explosion is “highly suspicious,” and that the justice “denounced the fact and the silence of the authorities.”⁷ In addition, the news reportedly revealed that the event “occurred three days before the Constitutional Court ordered, in a definitive manner, to guarantee the change of command on January 14, 2024.” According to press reports, the Minister of the Interior stated that the police officers who were supposed to be in the patrol car at the time of the incident were not on the premises because they were called “to attend to an alleged emergency due to a possible robbery.”⁸

15. In this regard, the request for precautionary measures alleged that on December 11, 2023, the PNC ordered the deliberate abandonment of the perimeter security securing the residence of the proposed beneficiary. A few hours later, in the early hours of the same day, the abandoned patrol car in front of the residence was set on fire. The applicant indicated that, to date, the proposed beneficiary has not been provided with any information to establish the causes of the attack that occurred in front of her residence on December 11, 2023. Lastly, the applicant referred to the public pronouncement made by the General Secretariat of the Organization of American States at the Assembly of the Permanent Council on December 20, 2023.⁹

B. Response from the State

16. The State alleged that the request for precautionary measures does not meet the requirements of Article 25 of the IACHR Rules of Procedure. It was noted that only two events have occurred: the intimidating call to the proposed beneficiary in 2021 and a police car being set fire in front of her residence in 2023. Regarding the incident of December 11, 2023, it was argued that the proposed beneficiary does not mention the reasons as to why she believes that the incident in relation to the vehicle outside her residence constitutes an act of retaliation or intimidation against her. In addition, the State affirmed that the proceedings of the Public Prosecutor’s Office have confirmed that there is no indication that this was a deliberate act with the purpose of causing an affectation to her life and integrity. During the incident, the proposed beneficiary had her personal security team that reportedly attended to her protection needs and provided a prompt response to the incident in question. The State also reported that the protection measures assigned by the Constitutional Court and the PNC in favor of the proposed beneficiary constitute an effective mechanism to guarantee her life, personal integrity, and judicial independence.

17. The State indicated that the proposed beneficiary was appointed by the President of the Republic as a regular justice of the Constitutional Court for the period 2021-2026. The Constitutional Court stated that justice Leyla Susana Lemus Arriaga currently retains five people as her personal security assistants. Three of them are drivers, one for each vehicle, and they are divided into two groups on 8/8-hour shifts, who are responsible for protecting her 24 hours a day. When required, it coordinates with public security forces personnel for the justice to travel to different parts of the country. In the same way, as material inputs for her

⁵ See in this regard: <https://lahora.gt/nacionales/la-hora/2023/12/23/proteccion-leyla-lemus-alguien-de-la-policia-movio-a-los-agentes-por-un-posible-asalto/>

⁶ See in this regard: <https://lahora.gt/nacionales/diego/2023/12/20/terrorismo-de-estado-video-muestra-explosion-de-patrulla-frente-a-casa-de-magistrada-leyla-lemus/>; <https://lahora.gt/editorial/la-hora/2023/12/21/no-se-andan-con-cuentos/>; <https://lahora.gt/nacionales/la-hora/2023/12/22/viceministro-franco-no-responde-por-autopatrulla-incendiada-frente-a-vivienda-de-magistrada-leyla-lemus/>; <https://lahora.gt/nacionales/la-hora/2023/12/23/proteccion-leyla-lemus-alguien-de-la-policia-movio-a-los-agentes-por-un-posible-asalto/>; <https://lahora.gt/opinion/pmarroquinlahora-com-gt/2023/12/26/un-hecho-que-apunta-a-casa-presidencial/>.

⁷ See in this regard: <https://lahora.gt/editorial/la-hora/2023/12/21/no-se-andan-con-cuentos/>.

⁸ See in this regard: <https://lahora.gt/nacionales/la-hora/2023/12/23/proteccion-leyla-lemus-alguien-de-la-policia-movio-a-los-agentes-por-un-posible-asalto/>

⁹ See in this regard: <https://lahora.gt/nacionales/diego/2023/12/20/segun-almagro-la-magistrada-leyla-lemus-sufrio-un-atentado-frente-a-su-casa/>; <https://www.youtube.com/watch?v=A8x6SFjnIU>.

security detail, there are three 4x4 agricultural pickup trucks at her disposal for transportation. Two of these trucks are bulletproof. This security detail has been available to the proposed beneficiary since she took on her role as a justice of the Constitutional Court in 2021. As complementary measures, the facilities of the Constitutional Court have on-site security personnel, security cameras in strategic locations, and access protocols for persons who are not part of the Court.

18. The State added that, following intimidating calls at the Constitutional Court against the proposed beneficiary on October 18, 2021, as part of the Public Prosecutor's Office's investigative proceedings, the PNC Protection of Persons and Security Division conducted a risk assessment in her favor on February 24, 2022. Thus, it was established that the proposed beneficiary was at a high risk level, and it was determined that it was necessary to implement personal security measures. Two police officers were to complement the security plan provided by the Constitutional Court. This security detail came into force on March 3, 2022, and will reportedly be kept in force during the time the proposed beneficiary serves as a justice of the Constitutional Court. In addition, PNC Station 11-5 *Centro Histórico Comisaría 11* indicated that it provides security in favor of the proposed beneficiary, considering that she has been assigned patrol car GUA 11160 with two police officers on board. These agents reportedly maintain a permanent post 24 hours a day, with a change of position every eight hours, in front of the proposed beneficiary's residence in Guatemala City. This security detail has been in force since May 2023, and has not been modified to date.

19. Regarding the events that took place on December 11, 2023, the Public Prosecutor's Office has stated that at 4:40 a.m. on that day, a PNC pickup type patrol car identified with the number GUA 11066, assigned to the Personnel Section of the 11th Precinct of the PNC, was set on fire and completely damaged. The alleged perpetrators are three male individuals who have not yet been identified, but have been observed in the recordings of public and private security cameras. One of them was carrying an object in his hand (possibly a plastic can for transporting liquids), another person was in charge of setting the car on fire, and the third individual simply watched. The PNC reported that it was established, through service ticket No. 690, dated December 11, 2023, ordered by the Chief of Substation 11-5-1 *Centro Histórico*, that the police officers covering security service in patrol car GUA11066 on this date were assigned to cover another service in a different location. This was corroborated by the testimonies of the two police officers before the Public Prosecutor's Office. Therefore, the GUA 11066 patrol car was unmanned at the time of the incident.

20. Due to the above, on December 30, 2023, the Risk Assessment Department of the PNC Protection of Persons and Security Division conducted an interview to evaluate the risk that the proposed beneficiary faces, with the purpose of adapting the security measures to prevent any event against her life and physical integrity. Currently, the results of the risk assessment report are still pending. To date, the vehicle identified as GUA 11160 was assigned to continue providing security at a fixed position to the proposed beneficiary's residence.

21. Regarding the investigations into the reported facts, the State reported the following:

i. Criminal investigation of ministerial folder MP001-2021-45147, connected to File MP 001-2021-45886: on October 19, 2021, the Public Prosecutor's Office received a complaint filed by the President of the Constitutional Court, for the possible commission of a criminal act, due to telephone calls that indicated intimidating actions against justice Leyla Susana Lemus Arriaga. During the investigations, on October 21, 2021, the Public Prosecutor's Office requested that the proposed beneficiary report on the facts. However, no response was submitted. The Prosecutor's Office for Crimes against Justice Operators and Union Members and the Specialized Criminal Investigation Division (*División Especializada en Investigación Criminal*, DEIC) of the PNC carried out investigative procedures, including witness interviews, documentation of proceedings and information on eight people who identified themselves with the name of the suspected person. On January 13, 2022, the PNC informed that an interview was conducted with the proposed beneficiary, who stated that "I have not received

any threat since the call was not received by me but by my assistant, after that call they did not call again.” Therefore, the Prosecutor’s Office for Crimes against Justice Operators and Trade Unionists decided to dismiss the investigation at the prosecutor’s office. However, the PNC of March 9, 2021, recommended the implementation of security measures in her favor, following a risk assessment that determined that she was at a high risk level.

ii. Criminal investigation of ministerial folder MP0009-2023-358: following the incident of December 11, 2023, related to the fire of the GUA 11066 patrol car in front of the proposed beneficiary’s residence, the Prosecutor’s Office against Organized Crime is in charge of the corresponding investigation. The State observes that this ministerial folder is still in the investigation stage, so the current information reflects preliminary data. The Public Prosecutor’s Office has a preliminary identification of the three individuals responsible for the events, based on evidence obtained on video cameras on the premises. From the proceedings carried out, the Prosecutor’s Office presumes that the acts may fall within the crime of terrorism, in accordance with the Guatemalan Penal Code.¹⁰ The Public Prosecutor’s Office stated that the use of explosive material has been ruled out and it is presumed that the incident was caused by a flammable liquid with direct fire activated by a match or lighter. A series of procedures carried out were mentioned, such as inspection of the place and the burned car, testimonial statements, preliminary investigation reports by police authorities, expert analysis of evidence found at the crime scene, and analysis of recordings and stills from public and private security surveillance cameras.

22. The State alleged that it responded promptly to the facts reported, shared the concern about the incident dated December 11, 2023, and committed to continue providing due diligence in the pending investigation MP009-2023-358. In addition to the foregoing, the State indicated that, from the applicant’s account of the facts, it is not possible to identify whether some of “her statements are based on her personal perceptions,” such as the allegations that the persons did not make any mechanical effort to enter the patrol car, which she believes shows that they had the keys to the vehicle.

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

23. The precautionary measures mechanism is part of the Commission’s function of overseeing compliance with the human rights obligations set forth in Article 106 of the Charter of the Organization of American States. These general functions are set forth in Article 41(b) of the American Convention on Human Rights, as well as in Article 18(b) of the Statute of the IACHR. Moreover, the precautionary measures mechanism is enshrined 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.

24. 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.¹¹ Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.¹² To do this, it is necessary to assess the

¹⁰ Guatemalan Penal Code. Article 391. “A person who, for the purpose of undermining the constitutional order or disrupting public order, carries out acts intended to cause a fire or destruction or to bring about rail, sea, river, or air disasters shall be sentenced to 5 to 15 years imprisonment. If highly explosive materials are used to commit this offense or if the death or serious injury of one or several persons result therefrom, the offender shall be sentenced to 10 to 30 years imprisonment.”

¹¹ 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.

¹² 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.

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.¹³ Regarding their precautionary nature, these measures have the purpose of preserving legal situations while under the consideration of the IACHR. The purpose of precautionary measures is to preserve the rights at risk until the petition pending before the inter-American system is resolved. Their object and purpose are to ensure the integrity and effectiveness of an eventual decision on the merits and, thus, avoid any further infringement of the rights at issue, a situation that may adversely affect the useful effect (*effet utile*) of the final decision. In this regard, precautionary or provisional measures enable the State concerned to comply with the final decision and, if necessary, to implement the ordered reparations.¹⁴ 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.

25. 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.¹⁵ Similarly, the Commission recalls that, by its own mandate, it is not called upon to make a 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.¹⁶ This is better suited to be addressed by the Petition and Case system. The analysis performed herein is exclusively related to the requirements set forth in Article 25 of the Rules of Procedure, which can be resolved without making any determinations on the merits.¹⁷

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 [in Spanish].

¹³ 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; 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 [in Spanish].

¹⁴ 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 7; I/A Court H.R. [Matter of “El Nacional” and “Así es la Noticia” Newspapers](#). Provisional Measures regarding Venezuela. Order of the Court of November 25, 2008, considerandum 23; I/A Court H.R. [Matter of Luis Uzcátegui](#). Provisional Measures regarding Venezuela. Order of the Court of January 27, 2009, considerandum 19.

¹⁵ 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 Children Deprived of 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.

¹⁶ 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.

¹⁷ 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

26. In view of the allegations presented by the proposed beneficiary, the Commission observes that the current situation of the proposed beneficiary is related to the current context of governmental transition in the country and the decisions that the Constitutional Court of Guatemala is issuing. In this regard, the Commission issued Resolution 3/2023 of December 10, 2023,¹⁸ by which, among other issues called for the independent exercise of the Public Powers in order to guarantee the presidential transition and alerted the OAS Member States and the international community about an imminent rupture of the constitutional order due to the abuse of power and the instrumentalization of the constitutional function of investigation of crimes by the Public Prosecutor's Office with the purpose of invalidating the integrity and the results of the electoral process and prevent the inauguration of the elected authorities in accordance with the popular will expressed in the general elections.

27. With respect to the requirement of *seriousness*, the Commission considers that it has been met. The Commission emphasizes that the proposed beneficiary is currently a sitting justice of the Constitutional Court for the period 2021-2026. With regard to her safety, the Commission notes, from the available information provided by both parties, the following:

- According to the most recent risk assessment of 2022, the proposed beneficiary is rated with a "high" level of risk, and the implementation of security measures in her favor is necessary.
- This security detail was implemented by the State after intimidating calls to which she was subjected in 2021. In this regard, the Commission understands that the intimidation was so serious that it required the implementation of a plan by the Police, and, in a complementary manner, by the Constitutional Court. According to the proposed beneficiary, the intimidating caller indicated that if she did not comply with certain conduct she would have to "suffer the consequences."
- It is undisputed between the parties that on December 11, 2023, the PNC patrol car, located in front of the home of the proposed beneficiary, was set on fire by third parties. According to investigations, the incident was allegedly caused "by a flammable liquid in direct fire activated by a match or lighter."
- According to the status of the investigations, the Prosecutor's Office allegedly believes that the acts may fall under the crime of terrorism, according to Guatemalan domestic law.
- The fire occurred in the early hours of the morning at a temporary moment when PNC agents were reassigned and were no longer fulfilling duties related to the protection of the proposed beneficiary. The information available shows that the PNC agents were requested to cover another service qualified as "emergency."
- The Commission understands that the PNC agents should have been providing protection in favor of the proposed beneficiary, according to the protection detail determined by the State itself. However, the information available shows that the agents stopped providing protection at the orders of their own institution.
- The Commission observes that after the reassignment of PNC agents, the State did not designate replacement agents to continue with the implementation of the protection plan.

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].

¹⁸ IACHR. Resolution 3/2023. Human Rights, the instrumentalization of the Justice System and the serious risks to the Rule of Law in Guatemala, December 10, 2023.

It also notes that the proposed beneficiary indicated that she had not been informed of the decision to reassign her security agents during the early hours of the morning. Consequently, the Commission understands that the change in the security plan was not coordinated with the proposed beneficiary, and was carried out without her knowledge.

- In addition to the above, the Commission expresses concern that, according to the proposed beneficiary, her residence is allegedly located in Presidential Security Circle 1, as it is in the vicinity of the National Government Palace and the Presidential House. It is therefore reportedly an area that security agents frequently visit.

28. While the Commission acknowledges that there were other agents designated for her personal protection were at her residence at the time of the events who acted to coordinate the necessary measures and that steps were taken to investigate the facts, the Commission considers that the assessments reflect that the protection plan determined by the State itself was not fully implemented, given the uninformed absence of PNC agents at a temporary moment when the fire occurred in the patrol car located in front of the residence. The Commission believes that the foregoing shows that the protection measures implemented were not suitable to address the proposed beneficiary's situation.

29. The Commission observes that, following the reported incident, the PNC carried out a risk assessment of the proposed beneficiary on December 30, 2023, in order to adapt the security measures. To date, the results of this assessment are still pending. In this sense, the Commission understands that the protection plan in favor of the proposed beneficiary has not yet been re-evaluated and adjustments have not been determined, which is especially relevant given the incident. In this regard, the Commission also notes that, between December 15 and 16, 2023, the President of the Permanent Council and the Secretary General of the OAS visited the country and, on December 20, 2023, presented a report to the Council with its main conclusions, reporting on this situation.¹⁹

30. Lastly, the Commission notes that the Office of the Prosecutor against Organized Crime is conducting an investigation into the incident of December 11, 2023, in order to establish the causes and perpetrators of the incident, in which several steps have been taken. However, according to the information available, to date, those responsible have not been identified. In this regard, the Commission encourages the authorities to continue investigating these events with due diligence, with a view to avoiding their repetition.

31. Considering the above assessments and the risk that the proposed beneficiary faces, the Commission believes that justice Leyla Susana Lemus Arriaga is *prima facie* at risk to her rights to life and personal integrity, under the terms of Article 25 of the IACHR Rules of Procedure.

32. With regard to the requirement of *urgency*, the Commission notes that a recent event has materialized that demonstrates failures in the protection plan of the proposed beneficiary. This is concerning, taking into account that, despite the protection measures adopted in her favor, these measures were reportedly not effective. In addition, the Commission points out that the proposed beneficiary allegedly continues to have the same protection plan, with no further adjustments, despite the incident that occurred in December 2023. By virtue of the foregoing, the Commission understands that the analyzed situation that places the proposed beneficiary at risk is likely to persist and worsen over time, as long as the proposed beneficiary continues with her functions as a justice. It is therefore urgent to adopt adequate measures to safeguard her life and personal integrity.

¹⁹ Report by Sir Ronald Sanders, Ambassador of Antigua and Barbuda, acting as Chairman of the Permanent Council of the OAS, on his visit to Guatemala on December 15 and 16, 2023, along with the Secretary General of the OAS, Luis Almagro. CP/doc.5953/23. December 20, 2023. Original: English.

33. 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, by their very nature, constitutes the maximum situation of irreparability.

IV. BENEFICIARY

34. The Commission declares Leyla Susana Lemus Arriaga a 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 Guatemala:

- a) adopt the necessary measures to protect the rights to life and personal integrity of Leyla Susana Lemus Arriaga;
- b) adopt the necessary measures to ensure that the beneficiary can carry out her duties as a justice in safe conditions;
- c) consult and agree upon the measures to be adopted with the beneficiary and her representatives; and
- d) report on the actions taken to investigate the alleged facts that led to the adoption of this precautionary measure, so as to prevent them from reoccurring.

36. The Commission also requests that the State of Guatemala report, within 15 days as from the day after this resolution, on the adoption of the required precautionary measures and to update that information periodically.

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 requests that the Secretariat of the IACHR notify the State of Guatemala and the applicants of this Resolution.

39. Approved on January 13, 2024, by Roberta Clarke, President; Carlos Bernal Pulido, Second Vice-President; José Luis Caballero Ochoa; Arif Bulkan; Andrea Pochak; and Gloria Monique de Mees, members of the IACHR.

Tania Reneaum Panszi
Executive Secretary