

---

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION 49/2023**

Precautionary Measure No. 509-23  
Lovely Lamour regarding Haiti  
August 29, 2023  
Original: Spanish

**I. INTRODUCTION**

1. On June 28, 2023, the Inter-American Commission on Human Rights (“the Inter-American Commission,” “the Commission” or “the IACHR”) received a request for precautionary measures from Lovely Jean-Louis and Collective of Lawyers Specializing in Strategic Human Rights Litigation (“the requesting party” or “the applicants”), urging the Commission to require that the State of Haiti (“the State” or “Haiti”) adopt the necessary measures to protect the rights of Lovely Lamour (“the proposed beneficiary”). According to the request, the proposed beneficiary is an 18-year-old postpartum woman who is deprived of her liberty at the Port-au-Prince Police Station, without receiving medical care appropriate to her vulnerable condition.

2. Pursuant to Article 25(5) of its Rules of Procedure, the IACHR requested information from the State on July 11 and reiterated the request on July 20, 2023, without having received a response to date. The requesting party submitted additional information on July 28, 2023.

3. Upon analyzing the submissions of fact and law furnished by the applicants, the Commission considers that the information presented *prima facie* shows that the proposed beneficiary 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 Haiti: a) adopt the necessary measures to protect the rights to life, personal integrity, and health of Lovely Lamour, with a gender perspective, in accordance with applicable international standards and obligations. In particular, ensuring that she has access to medical treatment, as indicated by the corresponding physicians, and that the authorities prepare a medical report that corroborates the current health situation of the beneficiary; b) adopt the necessary measures to bring her conditions of detention into line with applicable international standards; 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 gave rise to the adoption of these precautionary measures, so as to prevent such events from reoccurring.

**II. SUMMARY OF FACTS AND ARGUMENTS**

**A. Information provided by the applicants**

4. The request indicated that Lovely Lamour was remanded in custody at the Port-au-Prince Police Station on September 9, 2022. At the time of her arrest, she was 17 years old and 4 months pregnant. On December 20, 2022, the proposed beneficiary was sentenced to a custodial sentence of 1 year and 3 months by the Port-au-Prince Court of First Instance for the crime of grievous bodily harm. It was alleged that the decision violated internal regulations regarding the suspension of the execution of the sentence in the case of women who are 7 months or more pregnant.

5. The request indicated that the proposed beneficiary was detained with adults and men in a police station that does not have spaces adapted to her specific needs. In addition, the proposed beneficiary did not receive adequate health care for her condition. In January 2023, the proposed beneficiary reportedly informed the police station that she was in pain and that a whitish liquid was dripping from her vagina. It was indicated that the custodial facility did not transfer her to the hospital for necessary medical treatment. Following

a visit to the detention facility, the women's organization KRIFA issued a public note dated February 3, 2023, denouncing the situation of the proposed beneficiary. It was indicated that her health condition was deteriorating.

6. On February 6, 2023, the Collective of Lawyers Specializing in Strategic Human Rights Litigation (CALSDH) linked to the Public Prosecutor's Office filed a complaint with the Court of First Instance of Port-au-Prince. On the same day, an order was issued by the Deputy Magistrate Commissioner of the Government Norgaisse, for the medical evaluation of the proposed beneficiary. Officials reportedly brought the proposed beneficiary to the hospital on February 9, 2023. The request mentioned that the proposed beneficiary gave birth to her baby on February 9, 2023, a few hours after her admission to La Paz Hospital in Port-au-Prince. After her birth, the proposed beneficiary was separated from her baby and returned to the police station where she remained without receiving medical and psychological care appropriate to her special condition of vulnerability. It was indicated that the child presented a respiratory insufficiency condition. According to the request, the separation between the mother and her newborn had created serious psychological problems for the beneficiary, who claimed to have trouble sleeping.

7. The request indicated that CALSDH and the Citizen Protection Office with the Government Commissioner conducted numerous follow-ups to transfer the proposed beneficiary to a women's detention center for the purpose of breastfeeding her baby and accessing postnatal care. However, this transfer was not carried out. The newborn died approximately one month after spending 15 days in the hospital with oxygen, separated from his mother. To date, the proposed beneficiary continues to be held in the police station without any medical or psychological care. The only intervention was an emergency transfer to the hospital on June 18, 2023, after severe pain caused by an infected catheter.

8. According to a press release from the National Network for the Defense of Human Rights (RNDDH) dated May 23, 2023, the Port-au-Prince police station holds 92 detainees, including 38 women and 54 men. The detainees are reportedly kept in only two small cells with a maximum capacity of 10 persons. It was also mentioned that the cells are cramped, dirty and smelly. It was indicated that the cells were not built or equipped with a view to holding people for a long period of time. They are not ventilated, illuminated or sunny. The request indicated that these conditions are critical to the health of the proposed beneficiary. It was added that the detainees have difficulty accessing water and that the proposed beneficiary does not receive adequate food for her postpartum condition.

9. It was added that the proposed beneficiary is still in a situation of neglect. Despite the pain she has been in since she gave birth, the necessary medical examinations have not been performed. In this regard, the request attached a medical prescription for a urinary ultrasound dated June 12, 2023. On July 11, 2023, the requesting party indicated having visited the proposed beneficiary. It was reported that she presents insomnia and appetite problems, and that she has lost weight. It was stressed that the proposed beneficiary developed mental affectations since she suffered the loss of her baby and that she did not receive any type of psychological care. It was also indicated that she still has an untreated infection, that she continues to leak fluid from her vagina when making abrupt movements and that she has not received adequate treatment after the removal of the infected catheter from her vagina. It was added that the proposed beneficiary suffers from palpitations and that her asthma worsened. They consider that the proposed beneficiary should undergo a medical check-up as soon as possible to avoid a worsening of her health condition.

10. A petition addressed to the Court of First Instance of Port-au-Prince, dated July 24, 2023, was attached, requesting the evaluation of the health condition of the proposed beneficiary, particularly in relation to the pain she feels in her uterus when she moves. Finally, as documentary support, the request attached the following: a. press release dated June 1, 2023, issued by the National Network for the Defense of Human Rights, regarding the situation of the proposed beneficiary; b. letter dated February 23, 2023, issued by the Ministry of Justice and Public Security of Haiti and addressed to the administrative manager of the "Doctors Without

Borders” hospital, requesting medical evaluation of the proposed beneficiary; c. request for authorization for medical care made by the Collective of Lawyers specializing in Human Rights Strategic Litigation (CALSDH) to the Public Prosecutor’s Office, dated February 6, 2023; d. press release from the KRIFA Organization dated February 3, 2023; e. request for authorization for medical care made by the KRIFA Organization dated February 3, 2023; request for authorization for medical care made by the Collective of Lawyers specializing in Strategic Human Rights Litigation (CALSDH) to the Court of First Instance of Port-au-Prince, dated July 24, 2023; f. medical prescriptions dated June 12, 2023 (medication and ultrasound examination of the urinary tract).

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

11. In the matter at hand, the IACHR requested information from the State on July 11 and 20, 2023, without having received a response to date.

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

12. 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 IACHR Rules of Procedure. In accordance with this Article, the IACHR grants precautionary measures in urgent and serious situations in which these measures are necessary to avoid irreparable harm.

13. 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.<sup>1</sup> Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.<sup>2</sup> 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.<sup>3</sup> 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

<sup>1</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.

<sup>2</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>3</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].

decision and, if necessary, to implement the ordered reparations.<sup>4</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.

14. As a preliminary matter, the Commission clarifies that, in accordance with Article 25(8) of its Rules of Procedure, through the mechanism of precautionary measures, it is not appropriate to determine whether the State of Haiti is internationally responsible in relation to the alleged facts, nor to determine violations of the human rights of the proposed beneficiary.

15. Given the nature of the instant proceeding, the Commission recalls that it is not appropriate in this proceeding to make merits assessments on the detention of the proposed beneficiary in light of the American Convention and applicable standards. The analysis of such allegations may be carried out in the framework of an eventual petition or case.

16. In the analysis of the requirements established in Article 25 of the Rules of Procedure, the Commission is only called upon to determine whether there is a serious and urgent situation posing a risk of irreparable harm to the human rights of the proposed beneficiary. In the analysis of the aforementioned requirements, the Commission reiterates that the facts that motivate a request for precautionary measures do not need to be fully proven. The information provided, in order to identify a serious and urgent situation, must be assessed from a *prima facie* standard of review.<sup>5</sup>

17. In analyzing the situation presented, the Commission deems it relevant to understand the alleged facts in the context in which they are framed. As the Commission has been monitoring, the governance of democratic institutions in Haiti continues to present serious challenges that impede the correct and effective functioning of the branches of government and the full enjoyment of the fundamental rights of all Haitians, including Haitian women.<sup>6</sup> With regard to health services, it was identified that the crisis has affected the reproductive and maternal health of pregnant women in a differentiated manner.<sup>7</sup> In this regard, the IACHR notes that, as of 2022, the maternal mortality rate in Haiti is 480 per 100,000 births, which is the highest rate in the region.<sup>8</sup>

<sup>4</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 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.

<sup>5</sup> See in this regard: I/A Court H.R., Inter-American Court of Human Rights. Case of the Inhabitants of the Communities of the Miskitu Indigenous People of the Northern Caribbean Coast Region with respect to Nicaragua. Extension of Provisional Measures. Resolution of the Inter-American Court of Human Rights of August 23, 2018, Whereas 13; IACHR Court. Matter of children and adolescents deprived of liberty in the “Complexo do Tatuapé” of Fundação CASA. Request for extension of provisional measures. Provisional Measures with respect to Brazil. Judgment of the Inter-American Court of Human Rights of July 4, 2006, Whereas 23.

<sup>6</sup> IACHR. The right of women to a life free of violence in Haiti/Haiti. OEA/Ser.L/V/II. Doc. 64 10 March 2009, para.24; Annual Report 2004, Chapter IV: Haiti, para. 140; Annual Report 2005, Chapter IV: Haiti, paras. 242 and 243; Annual Report 2006, Chapter IV: Haiti, para. 125; IACHR, Annual Report 2022, Chapter IV: Haiti, paras. 488 and 490.

<sup>7</sup> IACHR, Annual Report 2022, Chapter. IV: Haiti, para. 488. See also: Observations of the Inter-American Commission on Human Rights on its visit to Haiti in 2007. OEA/Ser.L/V/II.131 doc. 36, March 2, 2008, para. 40.

<sup>8</sup> IACHR. Annual Report 2022, Chapter IV: Haiti, para. 488.

18. Regarding the situation of persons deprived of their liberty, the Commission expressed its concern about the deplorable conditions of detention in Haitian prisons. The Commission was informed about the existence of an inadequate budget, lack of food provision, and negligent medical care due to limited medical supplies and delays in the transfer of detainees to hospitals.<sup>9</sup>

19. In its 2023 report on women deprived of liberty in the Americas, the Commission warned about the differentiated impacts suffered by pregnant, postpartum and breastfeeding women deprived of liberty.<sup>10</sup> In particular, the IACHR highlighted that the main affectations faced by pregnant, postpartum and breastfeeding women detainees are linked to the following: i) lack of adequate programs and spaces; ii) poor pre- and post-natal health care; iii) inadequate food; and iv) use of means of coercion. In this regard, the Commission emphasized that pregnant, postpartum and breastfeeding women deprived of liberty have the right to receive adequate pre- and post-natal care.<sup>11</sup> Specifically, the State's obligations should focus on providing specialized medical care that responds to the needs derived from their condition, which should be provided by qualified medical personnel in the place of detention and comparable to the care they would receive in the community.<sup>12</sup> If this is not possible, frequent access to health centers in the community should be guaranteed.<sup>13</sup> With respect to postpartum women, in addition, States should ensure that evaluations are carried out to identify depression and, in this case, provide the required care.<sup>14</sup>

20. In the case of *Brítez Arce et al. v. Argentina*, the Inter-American Court has specifically ruled on violence during pregnancy, childbirth and after childbirth in access to health services. In this regard, the Court has held that it constitutes a violation of human rights and a form of gender-based violence called obstetric violence, which “encompasses all situations of disrespectful, abusive, negligent treatment, or denial of treatment, during pregnancy and the previous stage, and during childbirth or postpartum, in public or private health centers.<sup>15</sup> Similarly, the Committee on Economic, Social and Cultural Rights, in *General Comment No. 22*, pointed out that “the lack of emergency obstetric care services [...] are often the cause of maternal mortality and morbidity, which, in turn, are a violation of the right to life or safety, and, in certain circumstances, may amount to torture or cruel, inhuman or degrading treatment.”<sup>16</sup>

21. In analyzing the requirement of seriousness, the Commission considers it pertinent to take into account the context indicated and the obligations of the State, as well as the various factors of vulnerability that affect the proposed beneficiary Lovely Lamour in Haiti. The Commission observed that the proposed beneficiary would be exposed to a multiplicity of sources of risk, likely to seriously affect her rights to life, personal integrity, and health. When making its assessments, the Commission took into account the differential impact of the alleged facts given the age of the proposed beneficiary and the health conditions she is allegedly facing after having given birth while deprived of her liberty.

22. In the Commission's opinion, the following elements show the seriousness of the situation of the proposed beneficiary in Haiti:

- The proposed beneficiary was arrested at the age of 17, when she was 4 months pregnant (see

<sup>9</sup> IACHR. Annual Report, Chapter IV.A, Haiti, 2022, para. 490.

<sup>10</sup> IACHR. Women Deprived of Liberty in the Americas, OEA/Ser.L/V/II Doc. 91/23, March 8, 2023, para. 155.

<sup>11</sup> IACHR. Women Deprived of Liberty in the Americas, OEA/Ser.L/V/II Doc. 91/23, March 8, 2023, para. 155.

<sup>12</sup> IACHR. Women Deprived of Liberty in the Americas, OEA/Ser.L/V/II Doc. 91/23, March 8, 2023, para. 162.

<sup>13</sup> IACHR. Women Deprived of Liberty in the Americas, OEA/Ser.L/V/II Doc. 91/23, March 8, 2023, para. 162.

<sup>14</sup> IACHR. Women Deprived of Liberty in the Americas, OEA/Ser.L/V/II Doc. 91/23, March 8, 2023, para. 163.

<sup>15</sup> IACHR Court. Case of *Brítez Arce et otros v. Argentina*. Judgment of November 26, 2022. Merits, Reparations and Costs, para. 75; IACHR. Violence and Discrimination against Women, Girls and Adolescents: Good practices and challenges in Latin America and the Caribbean, OEA/Ser.L/V/II. Doc. 233, November 14, 2019, para. 181.

<sup>16</sup> IACHR Court. Case of *Brítez Arce et al. v. Argentina*. Judgment of November 26, 2022. Merits, Reparations and Costs, para. 63. See also: Committee on Economic, Social and Cultural Rights. General Comment No. 22 (2016), para. 28.

- supra* para. 4);
- During her pregnancy, the proposed beneficiary was detained along with adults and men, in a police station that did not have spaces adapted to her specific needs (see *supra* para. 5);
  - The proposed beneficiary was placed in a police station with two small cells with a maximum capacity of ten persons, with approximately 92 detainees by May 2023 (see *supra* para. 8);
  - The cells are cramped, dirty and smelly, and were neither built nor equipped to hold people for a long period of time (see *supra* para. 8);
  - The cells are reportedly not ventilated, illuminated, or sunny. They allegedly have problems of lack of access to water (see *supra* para. 8);
  - The proposed beneficiary did not receive adequate food during pregnancy and does not currently receive it postpartum (see *supra* para. 8);
  - During her gestation process, the proposed beneficiary was not transferred to the hospital nor did she receive a medical evaluation, despite having been requested to the competent authorities in a timely manner. The information indicated that the various medical conditions faced by the proposed beneficiary were reported (see *supra* paras. 6 and 10);
  - Despite the existence of a court order dated February 6, 2023, for medical evaluation of the proposed beneficiary, it became effective on February 9, 2023, the same date on which she gave birth at the La Paz hospital in Port-au-Prince (see *supra* para. 6);
  - The proposed beneficiary was separated from her baby and returned to the police station, where she remained away from her baby (see *supra* para. 6);
  - Numerous follow-ups were carried out to transfer the proposed beneficiary to a women's detention center, in order to breastfeed her baby and have access to postnatal care. However, this transfer was not carried out (see *supra* para. 7).
  - The newborn died approximately one month after spending 15 days in the hospital with oxygen, separated from his mother (see *supra* para. 7);
  - The proposed beneficiary reports mental disorders after the death of the baby and lack of psychological assistance (see *supra* paras. 6 and 7);
  - On June 12, 2023, the physician prescribed medication and a urinary tract ultrasound, which had not yet been performed (see *supra* para. 9);
  - On June 18, 2023, the proposed beneficiary was rushed to the hospital after severe pain caused by an infected catheter. There is no information on the results or measures taken subsequently, although it was indicated that to date she purportedly continues to have problems of insomnia, appetite, and has lost weight. Similarly, she is said to be mentally affected and continue with pain in her vagina (see *supra* para. 9).

23. In this regard, the Commission understands that the proposed beneficiary was detained in inadequate conditions in a police station with adults and men, even though at the time of her admission she was underage. In this regard, the IACHR emphasizes that, in accordance with the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, known as the Beijing Rules, the proposed beneficiary should have been assigned to a penitentiary establishment where there is separation from adults, or exclusively for adolescents; and where she receives the care, protection and all necessary assistance -social, educational, professional, psychological, medical and physical- in accordance with her age, sex and personality and in the interest of her healthy development.<sup>17</sup> As previously indicated, the Commission recalls that every child deprived of liberty must be separated from adults. Otherwise, children and adolescents are exposed to serious violations of their rights.<sup>18</sup>

24. Similarly, in line with the United Nations Standard Minimum Rules for the Treatment of Prisoners, known as the Nelson Mandela Rules, and the Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, States must ensure differentiated housing spaces adapted to their needs –mother and child

<sup>17</sup> United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 26(2)(3)

<sup>18</sup> See among others: IACHR, Children and Adolescents in the Adult Criminal Justice System in the United States, 2018, paras. 10 and 249.

modules–.<sup>19</sup> In addition to the above, the Commission notes with concern the deficient health care received by the proposed beneficiary during her pregnancy, during childbirth and during the postpartum period, having been separated from her newborn child until his death. Recently, despite having reported pain, leaking of fluid from her vagina and infection to the penal establishment, the Commission notes that it has been alleged that she did not receive the corresponding medical treatment.

25. With regard to postpartum care, the Commission notes that, despite a request for the transfer of the proposed beneficiary to a detention center for women to breastfeed her baby, the transfer was not carried out. The Commission recalls that, in Advisory Opinion 29/22, the Inter-American Court demonstrated its concern with the premature separation of children from their mothers deprived of liberty, which sometimes occurs between 24 and 72 hours after birth. In this regard, the Court considered it important to privilege physical contact between the mother and her breastfeeding children, due to the importance of the maternal-filial bond and nutrition with breast milk. In addition, it identified that the separation of children from their families constitutes, under certain conditions, a violation of the right to family coexistence that may have an impact on the rights and integral development of the child.<sup>20</sup> Considering the foregoing, for the Commission it is particularly serious that the proposed beneficiary could not be present during the last moments of life of her newborn son, who was in a delicate condition receiving oxygen in a hospital. Given the factual elements alleged, the Commission considers that it is reasonable to understand that the physical and mental health of the proposed beneficiary has been seriously affected in the terms alleged by the applicants. In this regard, the Commission notes with particular concern that the allegations indicate that she is not receiving adequate medical attention.

26. The Commission would like to recall that pregnant, postpartum and breastfeeding women deprived of liberty have the right to receive adequate pre- and post-natal care. Specifically, “specialized medical care that responds to the needs arising from their condition should be provided by qualified medical personnel in the place of detention and comparable to the care they would receive in the community.”<sup>21</sup> If this is not possible, “frequent access to health centers in the community must be guaranteed. In addition, such care should be provided throughout the pregnancy, from the moment the pregnancy becomes known.”<sup>22</sup> In the particular case of postpartum women, States must “ensure that evaluations are carried out to identify depression and, in this case, provide the required care.”<sup>23</sup> In addition, pregnant, postpartum and lactating women “have the right to receive written and accessible information regarding their special condition and state of health of themselves, the fetus, and their children.”<sup>24</sup> As indicated by the IACHR, “this should include advice on health, diet, pre- and post-natal care, medical assessments, labor, and access to post-release medical care, which, according to the Bangkok Rules, should be provided within the framework of a program developed and supervised by medical personnel.”<sup>25</sup>

27. After requesting information from the State in accordance with 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 adopted that are being implemented to address the situation placing the proposed beneficiary at risk and to disprove the facts alleged by the applicant. Therefore, the Commission does not have information that would allow it to assess whether the risk has been mitigated.

---

<sup>19</sup> United Nations Standard Minimum Rules for the Treatment of Prisoners, Rule 11.a. and Rule 28; and IACHR, Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, Principle X.

<sup>20</sup> IACHR Court. Differential approaches to certain groups of persons deprived of liberty (Interpretation and scope of Articles 1(1), 4(1), 5, 11(2), 12, 13, 17(1), 19, 24 and 26 of the American Convention on Human Rights and other instruments concerning the protection of human rights). Advisory Opinion OC-29/22 of May 30, 2022. Series A No. 29, para. 182-184.

<sup>21</sup> IACHR. Women Deprived of Liberty in the Americas, OEA/Ser.L/V/II Doc. 91/23 8 March 2023, para. para. 162.

<sup>22</sup> Ibidem

<sup>23</sup> IACHR. Women Deprived of Liberty in the Americas, OEA/Ser.L/V/II Doc. 91/23 8 March 2023, para. 163.

<sup>24</sup> Ibidem

<sup>25</sup> Ibidem

28. In view of the foregoing, the Commission considers, from a *prima facie* standard and in the context that Haiti is currently experiencing, that the rights to life, personal integrity, and health of the proposed beneficiary are at serious risk.

29. As for the urgency requirement, the Commission considers that it has been met, insofar as while the proposed beneficiary is kept without the medical attention she purportedly requires, the evolution of her health condition is likely to cause even greater harm to her rights. Furthermore, the Commission has considered that the lack of timely and adequate specialized care to prevent and treat the complications derived from pregnancy can have serious consequences that put the mother's life and fetal wellbeing at risk.<sup>26</sup> In this consideration, the Commission notes that it does not have elements of assessment to indicate whether the health situation of the proposed beneficiary has been duly attended to. Nor does the Commission have any elements of assessment to indicate that, following the request of July 24, 2023, to the Court of First Instance of Port-au-Prince, an assessment was made of the proposed beneficiary's health situation, in particular in relation to the pain she feels in the uterus at the time of departure [sic].

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

#### **IV. BENEFICIARY**

31. The Commission declares Lovely Lamour, who is duly identified in this proceeding, as the beneficiary of the precautionary measures.

#### **V. DECISION**

32. The Inter-American Commission considers that this matter meets *prima facie* the requirements of seriousness, urgency, and irreparable harm contained in Article 25 of its Rules of Procedure. Consequently, the IACHR requests that Haiti:

- a) adopt the necessary measures to protect the rights to life, personal integrity, and health of Lovely Lamour, with a gender perspective, in accordance with applicable international standards and obligations. In particular, ensuring that she has access to medical treatment, as indicated by the corresponding physicians, and that the authorities prepare a medical report that corroborates the current health situation of the beneficiary;
- b) adopt the necessary measures to bring her conditions of detention into line with applicable international standards;
- 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 gave rise to the adoption of these precautionary measures, so as to prevent such events from reoccurring.

33. The Commission requests the State of Haiti to report, within 15 days from the day following notification of this resolution, on the adoption of the requested precautionary measures and to update this information on a regular basis.

---

<sup>26</sup> IACHR, Request for Advisory Opinion, "Enfoques Diferenciados en Materia de Personas Privadas de la Libertad.", para. 24. Available at: [soc\\_05\\_19\\_en.pdf \(corteidh.or.cr\)](#). In addition, see: Vera Institute of Justice, *Overlooked: Women and Jails in an Era of 415 Reform*, 2016. See also: IACHR, *Women Deprived of Liberty in the Americas*. OEA/Ser.L/V/II Doc. 91/23 8 March 2023, para. 161.



---

34. The Commission emphasizes that, in accordance with Article 25(8) of its Rules of Procedure, the granting of this precautionary measure and its adoption by the State do not constitute a prejudgment of any violation of the rights protected in the applicable instruments.

35. The Commission instructs its Executive Secretariat to notify the State of Haiti and the applicant of this resolution.

36. Approved on August 29, 2023, by Margarete May Macaulay, President; Esmeralda Arosemena de Troitiño, First Vice-President; Roberta Clarke, Second Vice-President; Julissa Mantilla Falcón; Stuardo Ralón Orellana and Carlos Bernal Pulido, members of the IACHR.

Tania Reneaum Panszi  
Executive Secretary