

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS**  
**RESOLUTION 2/ 2015**

PRECAUTIONARY MEASURE No 455-13<sup>1</sup>  
Matter Nestora Salgado García concerning México  
January 28, 2015

**I. INTRODUCTION**

1. On December 23, 2013, the Inter-American Commission on Human Rights (hereinafter “Inter-American Commission”, “Commission” or “IACHR”) received a request for precautionary measures filed by Thomas Antkowiak and Alejandra Gonza (hereinafter “the applicants”), seeking that the IACHR request the Republic of Mexico (hereinafter “Mexico” or “the State”) to protect the life and personal integrity of Nestora Salgado García (hereinafter “the proposed beneficiary”). According to the submitted information, Nestora Salgado García is allegedly at risk as she is not receiving proper health treatment while being currently deprived of her liberty at the Federal Women's Center ‘Northwest’, a maximum security prison in Nayarit, Mexico; especially considering that the proposed beneficiary is not receiving proper health treatment to address the illness she is currently suffering from. In addition, the applicants requested, *inter alia*: i) “the State be required to adopt the release order and the criteria established by the federal justice in the criminal proceedings”; ii) that “the State be required to take all the necessary measures for the leader to immediately and freely access to legal defense of her choice”; iii) to “immediately take alternative measures to the deprivation of her liberty until she is released.”

2. After analyzing the factual and legal arguments presented by the applicants, the Commission considers that the information presented shows *prima facie* that Nestora Salgado García is in a serious and urgent situation, as her life and physical integrity are at risk. Consequently, in accordance with Article 25 of its Rules of Procedure, the Commission requests that Mexico: a) Adopt the necessary measures to ensure the life and personal integrity of Nestora Salgado García, providing proper treatment recommended by specialists, b) Agree on the measures to be adopted with the beneficiary and her representatives; and c) Report on the actions taken to investigate the facts that gave rise the precautionary measures in order to avoid their repetition.

**II. SUMMARY OF THE FACTS AND ARGUMENTS PROVIDED BY THE APPLICANTS**

3. In the original request dated on the 23<sup>rd</sup> of December of 2013, applicants indicated that the request for precautionary measures seeks to protect the rights to life, personal integrity and family protection of indigenous leader Nestora Salgado, a 41 year old US and Mexican citizen, who is allegedly deprived of liberty in the federal maximum security prison in Tepic, Nayarit, since August 21, 2013. Likewise, the applicants allege violations of the rights to due process, presumption of innocence and access to appropriate legal defense. In accordance with the request, due to the alleged “increase in violence, violent crimes and political corruption,” the proposed beneficiary decided to become “a human rights defender and participate in the movement in “defense of indigenous rights in Olianá, and led the organization of a group of Community Police in Olianá”. The governor of Guerrero initially promised to support the Community Police, but decided to eliminate it two months ago. The Community Police, led by the proposed beneficiary, arrested “several teenage girls [...] for allegedly distributing drugs [...] and

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<sup>1</sup> In accordance with Article 17.2a, of the Rules of Procedure of the Commission, Commissioner José de Jesús Orozco Henríquez, a Mexico national, did not participate in the discussion or vote on this precautionary measure. Furthermore, in view of the dual nationality of Nestora Salgado Garcia, a Mexican and United States national, Commissioner James Cavallaro declined to participate in the discussion or vote of this precautionary measure. .

arrested the municipal legal representative, Armando Patrón Jiménez, for allegedly tampering with evidence in the scene of a double murder.” Due to these actions, Ms. Salgado was charged with the “kidnap of the municipal legal representative and the teenage girls”, arrested on August 21, 2013, and taken the Federal Women's Center ‘Northwest’, the maximum security prison in Nayarit (hereinafter “CEFEFE”). The applicants state that the arrest of the proposed beneficiary was the result of retaliation, among others, for filing claims against the Mayor and other government figures [...] linked to drug trafficking.” In this sense, the applicants stated that:

- a) There was a lack of due process guarantees in the case of the proposed beneficiary. In particular, the applicants stated that “the arrest of a person who has not been convicted, in a federal maximum security prison, far away from her family and her legal defense constitutes a situation of gravity, urgency and irreparable harm to her rights.”
- b) Ms. Salgado was not receiving the medicine she needs for treating the illness from which she suffers. Specifically, the proposed beneficiary suffers from chronic pains (serious neuropathies in her hands, feet and back), as a result of a car accident she had in the past, for which she needed “medicine for the pain and frequent exercise.” However, the authorities were allegedly not providing her with said medicine and she was forced to “stay in her cell.”
- c) The proposed beneficiary expressed that “she was kept in her cell blindfolded,” that she is being forced to wear men’s clothes and to “sleep in a cell with 20 inmates who have just given birth and she is not allowed to speak with them,” and that in said cell “the lights were always on.”

4. In view of the information provided, specific information was requested regarding the health situation of the proposed beneficiary in her site of reclusion and about her regimen of visits. The applicants responded to the request of information indicating that:

- a) Despite that the State had manifest that her health conditions were good, the applicants, based on a report made by the Consulate of the United States in Mexico, express their concern “for the lack of medical care and the detention conditions.” On this regard, they allege that the illness of the proposed beneficiary are not being taken care of. They held that such information is consistent with a testimony given by the proposed beneficiary in which she manifested that “despite they say that doctors are taking care of her, she is not visit neither receiving medical treatment and since November she has being emphasizing that she has not received medical care.” In this sense, it is alleged that she is not being provided of medicine to treat “serious back and neck pains” and that a “dental infection” is not being treated.
- b) The sister of the proposed beneficiary had the authorization “to visit her every two weeks” and talk to her “at most one hour.” Also, a daughter of the proposed beneficiary was authorized to receive calls from the proposed beneficiary, calls that took place every 8 days with duration between 6 to 8 minutes.
- c) The proposed beneficiary “has not been authorized the legal visits required to her legal representative, neither guarantee confidential phone calls for her legal advice, national or international.”

5. On March 25, 2014, information was requested to the State. The State responded to this request on May 5, 2014, indicating that:

- a) The health of the proposed beneficiary is allegedly stable, according to a report of the medical area of the Prison, and that the proposed beneficiary is being assisted medically in a periodic way in the Area of Medical Services according to her illness (applicants presented medical records).
- b) According to the Decentralized Administrative Organ for Prevention and Social Re adaptation, until February 11, 2014 the proposed beneficiary had not been subjected of disciplinary sanctions, that she has made several phone calls, and that she was allegedly visited by her sister on several occasions and that she has been authorized extraordinary passes in favor of Sayra Crystal Rodriguez Salgado (daughter), Cleotilde Salgado Garcia (sister) and Maribel Gonzales Pedro (defender).
- c) A work meeting allegedly had been held with the representatives of the Regional Coordinator of Community Authorities (RCCA), representatives of the community's police detainees and the family of the proposed beneficiary where they allegedly reached several agreements.
- d) The Attorney's General Office of the state of Guerrero specified the reasons that motivated the detention and criminal prosecution of Mrs. Salgado Garcia. The State indicated that this detention would be because the authority manifested that complaints were filed against Mrs. Nestora Salgado Garcia for the crime of kidnapping. The alleged victims were six persons, including four children, who alleged violence arrests, beatings and confinement in punishment cells, which motivated the actions of the Attorney General.

6. This information was transferred to the applicants who submitted additional information on July 1, 2014. From the information presented, the applicants indicated that:

- a) The proposed beneficiary has been 10 months in preventive detention in a federal prison, without access to her lawyer and unacceptable detention conditions and with a release order issued by a federal court, which is not being complied with by the local courts of the state of Guerrero. In this sense, the applicants expressed that on March 31, 2014, the First Unitary Court of the Twenty First Circuit (federal), annulled the commitment order and ordered immediate freedom to the proposed beneficiary, since it cannot be considered like organized crime in the modality of kidnap the acts that the proposed beneficiary allegedly made as community police. On April 25, 2014, actions were filed for immediate release in favor of the proposed beneficiary without having a response.
- b) The health of the proposed beneficiary is delicate, since she has allegedly lost the mobility of her arms, has drastically lost weight, suffers from severe neuropathies, from the kidneys and allegedly is not receiving medical treatment. These facts were allegedly confirmed by Federal Congressmen that visited the proposed beneficiary. According to the applicants, the proposed beneficiary manifested that the medical checkup that was made was superficial and that the doctor was very aggressive because the proposed beneficiary filed a complaint against the lack of medical care.
- c) Ms. Salgado allegedly had mentioned that he "forced her to sign the paper of the medical checkup" "but the only thing he did was to press her abdomen and say that she has colitis." Also, she allegedly mentioned that "because the light was on all day she has vision problems." The applicants indicated that "her limitation in upper extremity movement corroborates her suffering as an imminent risk of irreparable damage to life

and physical integrity." The proposed beneficiary allegedly suffers of depression, anxiety and desperation for not having a lawyer.

- d) The proposed beneficiary is at "a small unit, almost 24 hours a day, with no natural light, suffering much heat, [...], without significant social interaction. According to the applicants, she starves and is not allowed to take part on any of the other inmates' activities. A report prepared by Federal Deputies had stated that the proposed beneficiary is "completely isolated, with no cellmate, and is punished if she tries to talk to other cellmate, adding that the authorities do not allow her to go on a daily walk."
- e) Regarding visitation, the applicants reiterate that there is a serious problem of accessibility for the family and for the lawyers, since only her daughter and sister have been authorized.

7. Given the presented information, additional information was requested from both parties concerning the various issues alleged in the latest communications.

8. On September 2, 2014, the applicants presented additional information, stating that:

- a) On a "brief telephone interview", 7 minutes long, with relatives of the proposed beneficiary, these had allegedly stated that "all the detention conditions remain and she does not receive any treatment, not even the medication needed for the pain."
- b) On August 2, 2014 the daughter of the proposed beneficiary had allegedly visited her. During the visit, the proposed beneficiary had told her that a guard had come to give her medications without them been identified. The proposed beneficiary had taken a pill that had been indicated to her as for the pain. However, this had only caused her anxiety. According Ms. Salgado, the guard had made fun of her and had told her that she had confused the pill. The applicants state that, due to this situation, the proposed beneficiary had decided that "she cannot take anything that is not from a treatment given by an independent medical doctor [,] after full evaluation";
- c) Different treatments had been requested since her admission. Among these, the daily supply of Neurotin pills for severe neuropathies, daily exercise and the medical checkups of her kidneys because of her recurrent infections for diagnosis of pain and high fever.
- d) Regarding her detention conditions, they indicate that besides the alleged medical treatment, constant light exposure, she has to buy her own water and does not have a decent food regime. During the visit of August 25, 2014, her daughter had noticed that she had lost 10 pounds. Without providing any details of matter, place or time, applicants indicated that she is being threatened by the only detainee that she has contact with.
- e) On January 14, 2014, a request for constitutional protection (amparo) had been requested for the protection of her life, personal integrity and health. Within the context of the process, the Director of the detention center had reported that "the referred detainee is stable, in view that in this Federal Center, medical care is provided periodically to the inmate population [...] [and that] [i]n relation that the detainee had referred to have coexistence problems with one of her section inmates, actions were being taken that correspond according to the Regulation." According to the applicants, none of these actions had a result.
- f) Regarding visitation rights, they indicate that only one of her daughters had been authorize to see the proposed beneficiary (every 12 days). In the applicants' words, "the rest of her family would also like to visit her, but because of the problematic, demanding and expensive that it results to request an authorization [,] her daughter Ruby and her husband have not yet applied for authorization." The applicants indicate that they have economic

inaccessibility to visit the proposed beneficiary. Regarding the accessibility of the attorney visits, applicants claim that "the inaccessibility due to the lack of authorization of legal visits [...] comes from the rigidity of the system of authorizations and its practical application." They claim that "only after almost a year and after making numerous efforts to the prison and the US Embassy the visit authorization of one of the representing attorneys was achieved, who was able to visit her only once since he was authorized."

9. On September 2, 2014, the State presented a report with extensive documentation, stating that:

a) Although it had been resolved to revoke warrant of arrest for the crime of organized crime, the proposed beneficiary continues deprived of her liberty because she is being subject to other criminal proceedings, including aggravated kidnapping, deprivation of personal liberty, plagiarism, among others.

b) As regards her health, the State indicated that the pains that the proposed beneficiary would be suffering would not cause irreversible harm to her health as it is providing "medical care promptly, thoroughly and impartially since her admission into the detention center." The State mentioned that on March 18 and July 8, 2014 the proposed beneficiary had been assessed by the specialty of Orthopedics and Traumatology who had determined that the proposed beneficiary has full mobility in the pelvic limbs and independent ambulation. The doctor had prescribed her a treatment. On August 22, 2014, she had been assessed by an ophthalmologist who had diagnosed presbyopia and determined as a treatment program for optometry. The State provided approximately 13 medical notes, related to medical checkups that had been made to the proposed beneficiary in recent months. Additionally, an overview of all the times the proposed beneficiary has been assessed in the nursing department, the diagnosis issued and the treatment plan suggested by the attending physician has been provided. It has also provided copies of radiographs performed and some medical prescriptions.

c) Mexico emphasizes that the proposed beneficiary is not obliged to sign any document regarding the medical care received.

d) Regarding the alleged loss of weight of the proposed beneficiary, the State emphasizes that when admitted, Ms. Salgado weighted 72.5 kg and nowadays weights 79.5 kg. This assessment had been carried out on August 28, 2014.

e) Regarding the detention conditions, the State indicated that the proposed beneficiary is located in an individual cell, but with the possibility to maintain communication with other inmates. Particularly says that she is in a dorm of "Special Needs", where she is together with other detainees (31 people), so she is "receiving humane treatment consistent with her dignity." She is doing occupational therapy activities. To this regard, they attached photographs of the proposed beneficiary allegedly making crafts, as well as the attendance list signed by the proposed beneficiary. The State emphasizes that the proposed beneficiary goes to group and individual psychotherapy, has access to table games, recreational cinema, attend scheduled activities.

f) The State contradicts the applicant's assertions and ensures that the proposed beneficiary has access to potable water and adequate food, in sufficient quantities. .

g) In relation with the system of legal visits, the State argued that the defenders Vildulfo Rosales Sierra and Emiliano Robles Gomez Mont are authorized to visit her. The proposed beneficiary had proposed five more defenders; however the State mentions that it had not received the necessary documentation to authorize the visits. The State holds that the

proposed beneficiary had received the visit of her defender Mr. Vidulfo Rosales Sierra on April 14 and August 13, 2014 and the visit of Mr. Emiliano Robles Gomez Mont on August 7, 2014.

h) With respect to family visits, the State mentioned that the proposed beneficiary has on her record of visits Grisel and Ruby Gardenia Rodriguez Salgado, but they had not provided the required documentation to proceed with the authorization process. Regarding the visit of her spouse the State said that this had not been requested by the proposed beneficiary. It states that she had been visited by her sister and her daughter Sayra in many occasions. The States presented copies of the lists of visits conducted and the calls made.

10. On September 15, 2014 the report of the State was forwarded to the applicants. The applicants submitted their observations on October 6, 2014. The applicants provided extensive information which may be summarized as follows:

a) With respect to the alleged breach of the release order of the proposed beneficiary, applicants indicated that the State has not justified "why it keeps Nestora confined, without legal justification, in a federal penitentiary." In this sense, the applicants indicate that regarding the two ordinary causes that are pending, that it is a duplication of the facts and that it is "an obvious demonstration of the use of criminal law to criminalize her." The proposed beneficiary had requested "the disagreement of all outstanding ordinary cause." On September 26, 2014 they had requested, as a domestic precautionary measure until her release is ordered, her transfer to safeguard her health and the right to legal and family visits.

b) Regarding the alleged interference of the State to provide medical care to the proposed beneficiary and her health status, applicants indicated that:

- i. Applicants indicate that "medical certificates without veracity in which the pain is not mentioned [had been issued before] and that she is considered clinically healthy, and therefore, she is not adequately treated." Applicants indicate that this problem is reflected in the report by the Consulate of the United States when it had conducted a visit to the proposed beneficiary in which they had found that her manifestation on neck and back pain would be absent in her medical record;
- ii. That "[t]he State hinders and denies adequate medical care by not complying with international standards that require access to an independent doctor" and argue that the proposed beneficiary had denounced for a year "serious conditions detention, inadequate legal and family visits regime";
- iii. The State is denying medical treatment to her by not conducting the necessary studies, not prescribing the right dose of medication, the non-supply of the medication and the harassment shown with the supply of 10 unidentified tablets. The applicants allege that "the alleged diagnoses and prescriptions do not correspond with their effective implementation, or with the medical advice about dosage." They state that "the alleged medication list does not contain Nestora signature and she has repeatedly denounced to not receive them, therefore her pain has not ceased in a year and the loss of her upper extremities are already underway."
- iv. Regarding the weight loss of the proposed beneficiary, applicants indicate that "again in a document produced by simply trying to verify it is not so, it is sent a lost document, with a crossed signature testifying that she rose nearly 8 kilos." To this regard, they mention that in late August a nurse had come with a scale and when the proposed beneficiary weighed the scale had indicated 40 kilos. The proposed

beneficiary had manifested that she does not weight 40 kilos, so the nurse "made fun of Nestora and smiled because the scale did not work."

- v. Regarding the filed complaints, they indicate that these include a request for constitutional protection (amparo) for lack of communication, transfers requests, complaints to the CNDH, request for constitutional protection for health and conditions, release request by fading of causes, among others, all of which they considered not to have worked.
  - vi. Regarding her detention conditions, they mentioned that they these are based on her assessment as highly dangerous and that she is be in the most strict detention regime, being confined in the area of special treatment. They noted that she remains most of her time in a cell of 3x3 with minimal natural light, lack of natural air, extreme heat, remaining there for 22 to 24 hours a day without significant social interaction and without leaving the room 3 times a day, or participate in physical and recreational activities.
- c) They consider that the documents submitted by the State regarding the participation of the proposed beneficiary in recreational activities and visiting hours demonstrate untruthfulness by inconsistencies in schedules. They Indicate that "the alleged activities have no schedules, are crossed or overlapped and they do not know if Nestora really signed this or not and nor if it involves activities outside the cell." They mention that since the submission of her request before the Commission they had taken "sporadically" the proposed beneficiary to make "some other activity, such as craft." They indicated that the cell of the proposed beneficiary does comply with the minimum rules because it has "a very [small] window and a tin roof that gives a lot of heat." According to the applicants the proposed beneficiary has already complained of dizziness, headaches, seeing lights and even loss of vision.
- d) In terms of access to a lawyer, the applicants indicated that the proposed beneficiary only had one visit from one lawyer of her choice on August 15, 2014, Emiliano Robles. To this respect, they mention that the information provided by the State is false as the proposed beneficiary had signed since February 2014, before the prison authorities the power of attorney appointing 5 representatives and on that date had signed the respective papers. This power had been submitted to the courts on February 25, 2014 in order to be recognized. The applicants indicate that the inaccuracy of the State is noticeable when it is stated that "only on June 6, 2014 [the proposed beneficiary] had put Emiliano in her lawyers list, this being absolutely false." The applicants alleged that Emiliano Robles had made the first and only visit on August 18, 2014 and that had cost the family \$ 1,500 dollars. Concerning the lawyer Vildulfo Rosales, who had represented Nestora since her arrest until January 2014, the proposed beneficiary had revoked the power and the same had confirmed not having visited the proposed beneficiary on April 16, 2014.
- e) Regarding the reasons why the proposed beneficiary should be transferred to another detention center, the applicants stated that her transfer to the Medical Tower of Tepepán will "allow her to be effectively taken from the unjustified confinement in the federal system of maximum security, under a highly dangerous regime and remove her from the risk that she is by the regime itself in which she is framed, giving the opportunity that in a less stringent penal it is allowed the rapid entry of an independent doctor ."
- f) Regarding possible irreparable harm, the applicants considered that the conditions described would generate an irreparable harm to her life and personal integrity because, according to them, there could be a real possibility that the lack of serious treatment of her cervical could generate a "cervical myelopathy." They mention that the risk of "losing the

mobility of the arms has already begun." Likewise, they indicate that the detention conditions of the proposed beneficiary would generate irreparable harm to her right to family protection.

g) Furthermore, applicants alleged that the daughter of the proposed beneficiary, Sayra Rodríguez, and her immediate family group had received death threats demanding them money in exchange. The applicants alleged that had filed the corresponding complaint and that had been placed custody of the state police, which they considered not to be an optimal measure.

11. This report was forwarded to the State on October 14, 2014, which presented its report on November 5, 2014. In its report, the State indicated that:

a) Regarding the inconsistencies outlined by the applicants, the State indicated that the proposed beneficiary had made calls to her sister during the first three months. Similarly, it indicates that the proposed beneficiary had made phone calls with her daughter Sayra on September 20 and 28, 2013 without obtaining answers, as the phone that had been provided to her "did not have the service charge." However, the State mentioned that the proposed beneficiary had communicated with her daughter on October 30, 2013. Similarly, the State submitted a list clarifying the alleged irregularities in the schedules of activities and visits in which the proposed beneficiary had participated.

b) With respect to inconsistencies in the documents relating to recreational activities in which the proposed beneficiary had participated, the State reiterated that the recreational activities had been provided to her and that the proposed beneficiary had participated in them indicating the times in which they had been conducted contrasting with what was said by the applicants.

c) Regarding access to a doctor of her choice, the State indicated that the proposed beneficiary is receiving adequate medical care according to her medical conditions and if specific attention is required, a specialist would intervene, and she would be transferred to a public institution within the health sector, as well as with private doctors.

d) Regarding the health status of the proposed beneficiary, the State mentioned that the proposed beneficiary receives physical therapy in order to resolve her cervical spine pathology. The State said that she had been valued by trained prison doctors and by different ophthalmology and orthopedics specialists who had made studies according to her sufferings. It mentioned that her health is stable and that she would receive medical care once a month and follow a special diet high in fiber and red meat.

e) Regarding the detention conditions of the proposed beneficiary, the State indicated that she is in a cell with bathroom furniture, desk, bench, shelves and single bed. That she has an emergency light inside and in the hall and that she would have natural ventilation with windows in a room. The proposed beneficiary enjoys a period of access to the patio every day at designated times.

f) Finally, the State mentioned that on October 13, 2014 the Mechanism for the Protection of Human Rights Defenders and Journalists initiated the procedure for the incorporation of Mrs. Sayra Rodríguez Salgado, daughter of Mrs. Nestora Salgado García. In this sense, permanent 24-hours a day protective measures had been immediately implemented by agents of the Department of Public Safety and Civil Protection in order to guarantee the life and physical integrity of the proposed beneficiary's daughter.

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



12. The mechanism of precautionary measures is a part of the Commission's function of overseeing Member State compliance with the human rights obligations set forth in Article 106 of the Charter of the Organization of American States. These general oversight functions are set forth in Article 41 (b) of the American Convention on Human Rights, and Article 18 (b) of the Commission's Statute; and the mechanism of precautionary measures is set out in Article 25 of the Commission's Rules of Procedure. According to this Article, the Commission issues precautionary measures in situations that are serious and urgent, and where such measures are necessary to prevent irreparable harm to persons.

13. The Inter-American Commission and the Inter-American Court of Human Rights (hereinafter "the Inter-American Court" or "IAHR Court") have repeatedly established that precautionary and provisional measures have a dual nature, precautionary and protective. Regarding their protective nature, the measures seek to avoid irreparable harm and preserve the exercise of human rights. Regarding their precautionary nature, the measures have the purpose of preserving a legal situation being considered by the IACHR. Their precautionary nature aims to preserve those rights at risk until the petition in the Inter-American system is resolved. Its object and purpose are to ensure the integrity and effectiveness of the decision on the merits and, thus, avoid infringement of the rights at issue, a situation that may adversely affect the useful purpose (effet utile) of the final decision. In this regard, precautionary measures or provisional measures thus enable the State concerned to fulfill the final decision and, if necessary, to comply with the reparations ordered. As such, for the purposes of making a decision, and in accordance with 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. In view of the aforementioned requirements and the nature of the precautionary measures mechanism, the Commission wants to express that in this current matter it will exclusively consider requests and information that comply with the seriousness, urgency and irreparable harm requirements. To this regard, the IACHR deems it necessary to clarify that it is not a court or an internal tribunal intended to decide on criminal, administrative or disciplinary liability. Likewise, it is not expected to decide on alleged human rights violations, within the framework of the lack of due process, among other related topics, that could be subject of a petition or case to be filed before the Inter-American System of Human Rights. In this sense, of the submitted information and the requests filed by applicants, and in the light of article 25 of the Commission's Rules of Procedure, the IACHR will analyze the request filed with respect to the alleged at-risk situation of the rights to life, personal integrity and health of Ms. Nestora Salgado García.

15. Regarding the requirement of seriousness, the Inter-American Commission considers it has been met, in view of the alleged deteriorating health of Ms. Nestora Salgado García, due to the alleged lack of comprehensive medical care to treat her illness. The applicants have specifically indicated that this person suffers from "chronic pain" (serious neuropathies in her hands, feet and back), kidney problems, long-sightedness, among other illnesses. In the last piece of information submitted by the applicants, they particularly stress that Ms. Salgado has started to lose the mobility of her arms, allegedly as a result of a "cervical myelopathy". To this regard, the IACHR takes cognizance of the information submitted by the State on Ms. Salgado García's allegedly stable health condition as opposed to the applicants' stance on its alleged worsening, based on family visits, testimonies and independent reports that suggest that, to

present day, she suffers from a series of illnesses allegedly caused or aggravated by the lack of adequate medical care. Within the framework of this requirement, the IACHR also takes into account that, throughout the procedure, applicants have made reference to a series of alleged detention conditions that allegedly are aggravating Ms. Nestora Salgado García's health conditions.

16. Taking into account the specific characteristics, the Commission considers that it has established *prima facie* that, the rights to life and personal integrity of Ms. Nestora Salgado García are at risk, in view of her current health conditions and the alleged lack of proper medical care.

17. Regarding the requirement of urgency, the IACHR considers that it has been met, to the extent that Ms. Nestora Salgado García's health conditions have been aggravated in the last months, and that the passing of time without proper comprehensive medical care could cause serious harm to her health. To this respect, the IACHR takes cognizance of the fact that the State has not presented consistent information indicating whether it would be taking the necessary measures to ensure that Ms. Salgado receives medical care of her choice and information regarding the special measures it would be implementing to provide Ms. Salgado with comprehensive medical treatment. Consequently, the Commission considers that it is necessary to implement immediate, comprehensive and independent healthcare measures in favor of Ms. Nestora Salgado García, in view of the alleged worsening of the illnesses she suffers from.

18. Regarding the requirement of irreparable harm, the Commission considers it has been met, to the extent that the possible impact on the rights to life and personal integrity, as a consequence of her current health conditions and the lack of adequate medical care, is the highest state of irreparability.

19. The Commission reminds that the States "are guarantors when the prison authorities strongly control those under their custody. The aforementioned, as a result of the special subjection relationship and interrelationships between the person deprived of liberty and the State, characterized by the particular intensity with which the State can regulate its rights and duties [...] because of the very imprisonment circumstances, in which the inmate is prevented from fulfilling on his own basic essential needs with would contribute to his leading of a decent life". Furthermore, the IACHR reminds that "it is intolerable that imprisonment also bears illness and physical and mental suffering in addition to the deprivation of liberty."

### **III. BENEFICIARIES**

20. The request has been submitted in favor of Nestora Salgado García, who is fully identified.

### **V. DECISION**

21. In view of the above-mentioned information, the Commission considers that this matter *prima facie* meets the requirements of seriousness, urgency and irreparable harm contained in article 25 of its Rules of Procedure. Consequently, the Commission requests the Republic of Mexico:

- a) Adopt the necessary measures to ensure the life and personal integrity of Nestora Salgado García, providing proper treatment recommended by specialists;
- b) Agree on the measures to be adopted with the beneficiary and its representatives; and
- c) Report on the actions taken to investigate the alleged facts that gave rise to the adoption of this precautionary measure to prevent its repetition.

22. The Commission also requests that the Government of Mexico provide information within a time limit of 15 days from the date that the present resolution is issued, on the adoption of precautionary measures and provide updated information periodically.

23. The Commission wishes to point out that in accordance with article 25(8) of its Regulations, the granting of precautionary measures and their adoption by the State shall not constitute a prejudging of any violation of the rights protected in the American Convention on Human Rights or any other applicable instrument.

24. The Commission requests that the Executive Secretariat of the IACHR notify the present resolution to the State of Mexico and to the applicants.

25. Approved on January 28, 2015 by: Tracy Robinson, President; Rose-Marie Belle Antoine, First Vice-President; Felipe González, Second Vice-President; Commissioners Rosa María Ortiz and Paulo Vannuchi.