
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 17/2020**

Precautionary measures No. 114-20

Alonso José Mora Alfonso regarding Venezuela
April 8, 2020

I. INTRODUCTION

1. On February 6th, 2012, the Inter-American Commission on Human Rights (“the Inter-American Commission”, “the Commission” or “the IAC_HR”) received a request for precautionary measures presented by the non-governmental organization “Casla Institute” (“the applicants”), urging the Commission to protect the rights of Mr. Alonso José Mora Alfonso (“the proposed beneficiary”), who is deprived of his liberty at the National Center for Prosecuted Military Officials of Ramo Verde (CENAPROMIL, by its Spanish acronym, often called *Ramo verde*) and who is allegedly suffering from the effects of attacks that occurred during his arrest. His current detention conditions are also likely to place him in a situation of risk.

2. The IAC_HR requested information from both parties on February 13th, 2020, and granted a seven-day deadline to submit the information. As of the date, no response has been received from the State. The applicants sent additional information on February 20th.

3. After analyzing the legal and factual allegations provided by the applicants, the Commission considers, from the applicable *prima facie* standard, that Mr. Alonso José Mora Alfonso is in a serious and urgent situation, since his rights to life, personal integrity and health face a risk of irreparable harm. Therefore, the IAC_HR requests that Venezuela: a) take the necessary measures to protect the rights to life, personal integrity and health of Mr. Alonso José Mora Alfonso, by ensuring that he has access to medical treatment, as indicated by the relevant experts. In that regard, the authorities must submit in a timely manner a medical report certifying the current health situation of the beneficiary, also sharing this information with his relatives. Furthermore, the State must carry out the necessary actions so that his detention conditions are compliant with the applicable international standards; and b) implement the actions aimed at investigating the facts that motivated the granting of this precautionary measure and thus avoid their repetition.

II. SUMMARY OF FACTS AND ARGUMENTS

1. Information provided by the applicants

4. The proposed beneficiary was arrested on April 15th, 2018 in the framework of the “Operation Gideon II”, described by the authorities as an investigation aimed at dismantling a terrorist group linked to the former policeman Óscar Pérez. In June 2017, Mr. Pérez, along with other persons, stole a helicopter that was used to throw grenades over the Supreme Court of Justice and to attack the Ministry of the Interior¹. Initially, the proposed beneficiary was reportedly held at the headquarters of the General Directorate of Military Counterintelligence (DGCIM) in Boleita, Caracas, for 17 days, and was allegedly subject to torture, which included, among others, being hit on the soles of his feet and being

¹ The New York Times, “Fugitive Venezuelan Police Officer Is Killed in Shootout” (June 16, 2018). Available at: <https://www.nytimes.com/2018/01/16/world/americas/oscar-perez-dead-venezuela.html>

hanged. The latter reportedly caused him a shoulder dislocation. The applicants also pointed to the psychological effects on the proposed beneficiary.

5. Since September 2018, the proposed beneficiary has been deprived of freedom in Ramo Verde. The applicants reported that the authorities kept him in conditions that seriously affected his rights to life, personal integrity and health. They specifically indicated that on August 27th, 2019, he was locked up for the first time in a punishment cell, popularly known as the *tigrito*, for eighteen consecutive days (there are no more details about the reasons or circumstances). When he was released, he had allegedly lost approximately five kilos. The applicants mentioned a “[...] physical deterioration, pain in his entire body caused by the reduced space and by sleeping on the floor despite his state of health.”

6. On January 30th, 2020, he was reportedly held again in the same location for the same number of days. According to the applicants, during that time “[...] they only supplied two hundred grams of food a day, which consisted of rice and black turtle bean or lentil and very little hydration. On this second occasion, [the proposed beneficiary] lost ten kilos.” On February 1st, he was once again transferred to the *tigrito* cell, after a search had been carried out.

7. The applicants additionally reported that the authorities keep him locked up twenty-four hours a day in his cell when he is not in the *tigrito*, which prevents him from having access to open spaces. In fact, his cell is reportedly only “[...] a very small room set up next to the bathroom and used to store objects [...].” The applicants further added that the cell is humid, has leaks in the ceiling, rats and cockroaches, apparently due to deterioration of the pipes. The proposed beneficiary reportedly shares the space with seven other inmates.

8. Since “another political prisoner” escaped on December 26th, 2019, the authorities allegedly increased the “cruel treatment” towards both the proposed beneficiary and other inmates, using electric shocks, and introducing, for example, a cable through their mouths and noses. In this regard, the applicants stated that, ever since he was admitted to the Ramo Verde prison, the proposed beneficiary “[...] has been the victim of continuous intimidation, constant psychological torture, strong frisks carried out by the same people that tortured him in the DGCIM and who threaten and beat him. This happens at any time and moment.”

9. Regarding his health status, the applicants indicated that it is currently unknown, since his family has not been able to see him (visits, including those of his lawyer, were reportedly suspended until further notice). However, it was noted that, due to the attacks to his head and neck, he allegedly has continuous migraines and headaches. Moreover, he urgently needs to be evaluated by a multidisciplinary medical board to review the multiple trauma suffered, including a left ankle deviation, shoulder dislocation, a fissure with splinter in the right hand, a possible fracture of the left hand index finger, nodules on his entire skin caused by bruises, purulent abscesses, and a progressive loss of vision in one of his eyes.

2. Response from the State

10. The IACtHR requested information from the State on February 13th, 2020, and granted a seven-day deadline. As of the date, no response has been received from the State.

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

11. The precautionary measures mechanism is part of the Commission's function of overseeing Member State compliance with human rights obligations established in Article 106 of the Charter of the Organization of the American States. These general oversight functions are set forth in Article 18 (b) of the Statute of the IACtHR. The precautionary measures mechanism is described in Article 25 of the Commission's Rules of Procedure. Pursuant to this article, the Commission grants precautionary measures in serious and urgent situations, and when these measures are necessary to prevent an irreparable harm.

12. 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 precautionary and protective. As regards the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights. Regarding their precautionary nature, these measures have the purpose of preserving legal situations while they are being considered by the IACtHR. The protective nature aims to preserve the rights that may be at risk until the petition that is under consideration in the Inter-American System is resolved. Its object and purpose are to ensure the integrity and effectiveness of the decision on the merits of the case and, in this way, prevent the infringement of the rights at issue, a situation that could render moot or disprove the *effet utile* of the final decision. In this sense, precautionary or provisional measures allow the State concerned to comply with the final decision and, if necessary, to fulfill the ordered reparations. For such purposes, according to Article 25(2) of the 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.

13. In analyzing those requirements, the Commission reiterates that the facts supporting a request for precautionary measures need not be proven beyond doubt; rather, the purpose of the assessment of the information provided should be to determine *prima facie* if a serious and urgent situation exists².

14. On a preliminary basis, and taking into consideration the nature of the incidents described by the applicants, the Commission recalls that the Inter-American Convention to Prevent and Punish Torture, which the State of Venezuela adhered to since its ratification on August 26th, 1991, includes the definition of torture as "[...] any act intentionally performed whereby physical or mental pain or suffering is inflicted on a person for purposes of criminal investigation, as a means of intimidation, as personal punishment, as a preventive measure, as a penalty, or for any other purpose." Torture is further defined as "[...] the use of methods upon a person intended to obliterate the personality of the victim or to diminish his physical or mental capacities, even if they do not cause physical pain or mental anguish." In this sense, it is crucial to keep in mind that, pursuant to Article 1 of this Inter-American instrument, the State Parties are under the obligation to prevent and punish torture. In addition, Article

² See in this regard, I/A Court H.R. *Matter Inhabitants of the Miskitu Indigenous People Communities of the North Caribbean Coast Region regarding Nicaragua*. Extension of Provisional Measures. Order of the Inter-American Court of Human Rights of August 23th, 2018, considerandum 13; I/A Court H.R., *Matter of children and adolescents deprived of liberty in the "Complexo do Tatuapé" of the CASA Foundation*. Request for extension of precautionary measures. Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of July 4th, 2006. Considerandum 23. Available at: http://www.corteidh.or.cr/docs/medidas/febem_se_03.pdf

17 establishes the commitment to “inform the Inter-American Commission on Human Rights of the legislative, judicial, administrative and other measures that have been adopted in application of this Convention.”

15. Therefore, the Commission reiterates, as part of its responsibilities with the States, the provisions set out in Article 18 (b) of its Statute, which include “to make recommendations to the governments of the states on the adoption of progressive measures in favor of human rights, in the framework of their legislation, constitutional provisions and international commitments, as well as appropriate measures to further observance of those rights.” Thus, the precautionary measures mechanism has progressively developed into a protection mechanism of the Inter-American System in compliance with its conventional and statutory obligations. In addition, it derives the aforementioned mandate of the IACtHR to ensure compliance with the international commitments undertaken by the States parties.

16. When assessing this request, the Commission recalls that in regards to persons deprived of their liberty in general, the State is in a special position of guarantor, inasmuch as the penitentiary authorities have full control and command over the persons who are subject to their custody³. This is due to the relation and unique interaction of subordination between the person deprived of liberty and the State, characterized by the particular intensity with which the latter can regulate their rights and obligations, inasmuch as the very circumstances of imprisonment prevent persons deprived of liberty from satisfying on their own a series of basic necessities essential for the development of a dignified life⁴.

17. When assessing the context of the request, the Commission considers that it is important to mention that various persons who had been imprisoned in Ramo Verde had already reported the abovementioned situation and presented similar allegations. In the matter *Leopoldo López*⁵, the beneficiaries were allegedly subject to long periods of seclusion. On various occasions, as punishment, the beneficiaries were withheld in the same “*tigritos*” mentioned above: two-by-two meter cells⁶. The UN Special Rapporteur on Torture even indicated that the State had been declared responsible of violating the prohibition against torture while the beneficiaries were at Ramo Verde⁷. In addition, the authorities allegedly acted in a general climate of animosity and hostility that was shown, for example, during the cell requisitions and by hindering the inmates’ access to health care⁸. More recently, in the matters *Luis Alejandro Mogollón Velásquez*⁹ and *Williams Alberto Aguado Sequera et al*¹⁰, the Commission once again mentioned the delicate health status of the proposed beneficiaries, some of which were a result of injuries caused by the alleged ill treatment and the lack of adequate medical treatment. It was reported that Ramo Verde does not have enough medical means or equipment. In addition, in the first matter, the applicants alleged the ill treatment in the context of deprivation of liberty, though no further details were provided¹¹.

³ I/A Court. *Caso Mendoza et al Vs. Argentina*. Preliminary objections, merits and reparations). Judgement from May 14, 2013. Series C No. 260, para. 188. Also see: IACtHR, Report on the Human Rights of Persons Deprived of Liberty in the Americas, December 31, 2011, para. 49.

⁴ IACtHR, *Report on the Human Rights of Persons Deprived of Liberty in the Americas*, December 31, 2011, para. 49 y ss.

⁵ IACtHR, *Leopoldo López and Daniel Ceballos regarding Venezuela* (PM-335-14), Resolution 12/2015 from April 20. Available (in Spanish) at: <http://www.oas.org/es/cidh/decisiones/pdf/2015/MC335-14-ES.pdf>

⁶ IACtHR, *Leopoldo López and Daniel Ceballos regarding Venezuela*, para. 16.

⁷ IACtHR, *Leopoldo López and Daniel Ceballos regarding Venezuela*, para. 18.

⁸ IACtHR, *Leopoldo López and Daniel Ceballos regarding Venezuela*, para. 17.

⁹ IACtHR, *Luis Alejandro Mogollón Velásquez regarding Venezuela* (PM-102-19), Resolution 10/2019 from March 7. Available (in Spanish) at: <http://www.oas.org/es/cidh/decisiones/pdf/2019/10-19MC102-19-VE.pdf>

¹⁰ IACtHR, *Williams Alberto Aguado Sequera et al regarding Venezuela* (PM-751-19), Resolution 5/2020 from February 5. Available at: <http://www.oas.org/en/iachr/decisions/pdf/2020/5-20MC751-19-VE.pdf>

¹¹ IACtHR, *Luis Alejandro Mogollón Velásquez*, para. 4 y 6.

18. As it pertains to the requirement of seriousness, the Commission notes that the proposed beneficiary was allegedly exposed to a plethora of risk sources that are liable to seriously affect his rights to life, personal integrity and health. The reported detention conditions themselves can be concerning for any person, mainly due to the possibility of getting an infection because of the unsanitary conditions. However, in the proposed beneficiary's case there is an additional factor as his health is already depleted as a consequence of the alleged ill treatment he has been receiving. In addition to the alleged use of electrical discharges and the use of excessive force during the requisitions, the proposed beneficiary's situation of risk is also confirmed due to the nature of his injuries which, according to the request, are not being duly treated. In these circumstances, the Commission takes the information provided by the applicants into consideration despite the visitation restrictions.

19. In this context, the Commission regrets the lack of response from the State after having requested its observations on the request for extension. Although the State's lack of response does not imply *per se* the granting of the precautionary measures, it does prevent the authorities from receiving information regarding the actions which are being implemented in order to protect the rights of the proposed beneficiary and, therefore, assess if the alleged situation of risk has been rendered moot.

20. In view of the aforementioned, from the *prima facie* standard, the Commission concludes that the situation of serious risk to the rights to life, personal integrity and health of Mr. Alonso José Mora Alfonso have been sufficiently proven.

21. As it pertains to the requirement of urgency, the Commission finds that it has been met, inasmuch as the proposed beneficiary is deprived of his liberty in the abovementioned conditions. In addition, he is denied access to adequate medical treatment and, hence, his health status is liable to worsen; therefore, immediate measures must be taken. In addition to the aforementioned, the alleged lack of measures to prevent the proposed beneficiary from being subject to acts of violence committed by the authorities should also be taken into consideration, as there are liable to be repeated.

22. As it pertains to the requirement of irreparable harm, the Commission finds that it is met since the possible impact on the rights to life and personal integrity constitute the maximum situation of irreparable harm.

IV. BENEFICIARIES

23. The Commission declares that the proposed beneficiary of this precautionary measure is Mr. Alonso José Mora Alfonso, duly identified in this resolution.

V. DECISION

24. The Inter-American Commission on Human Rights considers that the present matter complies *prima facie* with the requirements of seriousness, urgency and risk of irreparable harm contained in Article 25 of its Rules of Procedure. Consequently, the Commission requests that the State of Venezuela:

- a) take the necessary measures to protect the rights to life, personal integrity and health of Mr. Alonso José Mora Alfonso, by ensuring that he has access to medical treatment, as indicated by the relevant experts. In that regard, the authorities must submit in a timely manner a medical report certifying the current health situation of the beneficiary, also sharing this information with his

relatives. Furthermore, the State must carry out the necessary actions so that his detention conditions are compliant with the applicable international standards; and

b) implement the actions aimed at investigating the facts that motivated the granting of this precautionary measure and thus avoid their repetition.

25. The Commission requests that the Government of Venezuela report, within 15 days from the date of this resolution, on the adoption of the precautionary measures requested and update this information periodically.

26. 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 in the American Convention and other applicable human rights instruments.

27. The Commission requests that the Executive Secretariat of the IAC_HR notify the present resolution to the State of Venezuela and to the representatives.

28. Approved on April 8, 2020, by: Joel Hernández García, President; Antonia Urrejola Noguera, First Vice-President; Flávia Piovesan, Second Vice-President; Esmeralda Arosemena de Troitiño, Commissioner.

Paulo Abrão
Executive Secretary