

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 68/2020**

Precautionary Measure No. 545-19
12 women¹ with breast cancer regarding Venezuela
October 14, 2020

I. INTRODUCTION

1. On June 3, 2019, the Inter-American Commission on Human Rights (“the Inter-American Commission”, “the Commission” or “the IACHR”) received a request for precautionary measures presented by Beatriz Borges of the civil organization Center for Justice and Peace (CEPAZ), along with Feliciano Reyna and Natasha Cristina Saturno Siñovsky from the civil organization Acción Solidaria, Katherine Martinez from the civil organization Prepara Familia, Luisa Honoria Rodríguez Táriba from the Foundation for Fight Against Breast Cancer (FUNCAMAMA), Bolivia Cristina Belisario de Bocaranda and Maria Consuelo Monsant de Martinez from SENOSAYUDA A.C. and Edward Pérez (“the applicants”), urging the Commission to require the Bolivarian Republic of Venezuela (“the State” or “Venezuela”) to protect the rights of (i) D.P.M., (ii) M.A.D.V., (iii) M.A.C.T., (iv) M.E.A., (v) M.L.Z., (vi) I.A.M., (vii) A.M.G., (viii) D.A.C., (ix) G.L., (x) L.V.G., (xi) P.M., and (xii) C.E. (“the proposed beneficiaries”). According to the applicants, the proposed beneficiaries, who suffer from breast cancer, are in a situation of risk due to the lack of medical treatment adequate to address their medical conditions.

2. In accordance with Article 25.5 of its Rules of Procedure, the IACHR requested information from the State and the applicants on October 8, 2019. The Commission reiterated the request to the State on January 13, 2020. The applicants submitted additional information on February 19 and May 1, 2020, regarding the situation of the proposed beneficiaries.

3. After analyzing the factual and legal allegations made by the applicants, the Commission deems, from the applicable *prima facie* standard, that (i) D.P.M., (ii) M.A.D.V., (iii) M.A.C.T., (iv) M.E.A., (v) M.L.Z., (vi) I.A.M., (vii) A.M.G., (viii) D.A.C., (ix) G.L., (x) L.V.G., (xi) P.M., and (xii) C.E. find themselves in a serious and urgent situation, given that their rights to life, personal integrity and health are at risk of irreparable harm. Consequently, the IACHR requests that the State of Venezuela: a) implement the necessary measures to protect the life, personal integrity and health of the beneficiaries, by adopting immediate measures that facilitate their access to adequate medical treatment, including the necessary medicines as prescribed by the corresponding health professionals, as well as assessments and examinations that make it possible to regularly evaluate their state of health, in accordance with applicable international standards and with the incorporation of a gender perspective.

II. SUMMARY OF FACTS AND ARGUMENTS

1. Information provided by the applicants

4. The applicants indicate that the situation of risk of the proposed beneficiaries derives from the repeated failure of the State of Venezuela to guarantee the right to health of the patients, given “the context of the complex humanitarian emergency that Venezuela is going through”, as well as the “absolute collapse of the health system generated by the State itself”, whose authorities have allegedly refused “to adopt the minimum measures necessary to address this situation”.

¹ At the request of the applicants, the Commission decided to maintain in reserve the identities of the beneficiaries, who nevertheless are fully accredited in the present proceeding and in the documents forwarded to the State.

5. Thus, regarding the health situation of each of the proposed beneficiaries, the applicants indicate the following:

(i) **D.P.M.** (46 years old). She was diagnosed with breast cancer in March 2017. That year, she would have received eight chemotherapy sessions, after which she should have received radiation therapy, however, this would not have been available and would not have been provided by the Venezuelan Institute of Social Security (IVSS). She reportedly would have to undergo two surgeries. The proposed beneficiary has allegedly requested the delivery of her treatment before the IVSS on several occasions, at least since January 2018. She would have also traveled to Caracas, Barquisimeto and Maracay in search of medications and treatment, without obtaining them.

(ii) **M.A.D.V.** (44 years old). She was diagnosed with stage II breast cancer in July 2015. She began chemotherapy, and then underwent surgery in May 2016 and radiation therapy that same year. The next step in her treatment would have included a “hormonal blockade” with the medications Goserelin and Tamoxifen, which would have been provided by the IVSS until April and August 2017, respectively. From that moment on, the proposed beneficiary would have had irregular access to these medications through purchases in Colombia or donations from foundations such as FUNCAMAMA, indicating that she has 3 years left to complete her treatment. Likewise, she would be awaiting surgeries on the other breast due to genetic risk and for the purposes of reconstruction, as well as a preventive hysterectomy, however, to date, she would have not undergone these surgeries nor would she have received a response from the IVSS in this regard. Since August 2017, the proposed beneficiary has allegedly repeatedly requested the delivery of her treatment from the IVSS.

(iii) **M.A.C.T.** (39 years old). She was diagnosed with breast cancer in October 2017. She underwent surgery in December of the same year. She reportedly requires chemotherapy treatment with the medications Docetaxel and Cyclophosphamide, however, she would have never received these drugs from the IVSS and therefore, would have had access to them exceptionally through private pharmacies abroad that send the products to Caracas. According to the applicants, the IVSS did not issue a medical prescription to the proposed beneficiary for her to be able to obtain the medications that she needs. Therefore, every month she would request a medical report from an oncologist so that she can purchase the medications in Colombia. In June 2019, she would have received oral chemotherapy that was purchased in Colombia. The proposed beneficiary has repeatedly requested the delivery of her treatment from the IVSS since August 2017.

(iv) **M.E.A.** (36 years old). She was diagnosed with breast cancer in April 2018. She would require a chemotherapy treatment consisting of the drugs Cyclophosphamide, Doxorubicin, Dexrazoxane (Cardioxane), Lenograstim, Aprepitant and Palonosetron, which she would not receive regularly. Further, she should be in maintenance chemotherapy with Tamoxifen and Goserelin, however, the IVSS allegedly delivers these medications in an irregular manner. The proposed beneficiary would have searched for these medications in private pharmacies, where she would have been informed that “they have not arrived in the country for a long time”. Likewise, she would have found them through social media networks, but at very high prices in US dollars. Since May 2018, the proposed beneficiary would have reported the shortage of such medications at the pharmacy in Puerto Cabello before the General Directorate of the IVSS. As a result, she would have been given a form to pick up the medications at the pharmacy in Los Ruices, however, the following month, the Director of the IVSS would have refused to give them to her. When she returned, she would have been told that she had to pick up the medications in Puerto Cabello. Subsequently, the Director would have informed her that she was not allowed to change pharmacies, since the proposed beneficiary would have allegedly been removed from the system

and in order to reenroll her, she would need to use the internet, to which she reportedly does not have access. Currently, the proposed beneficiary would not have been reincorporated into the system and would not be receiving any treatment from the IVSS.

(v) **M.L.Z.** (58 years old). She was diagnosed with breast cancer in May 2018. She would require chemotherapy treatment consisting of Doxorubicin and Cyclophosphamide, medications that she would not receive from the IVSS. In view of this lack of medical attention, the proposed beneficiary would allegedly be managing to complete her third cycle of six chemotherapies with supplies that she would buy from external resellers at high prices. The proposed beneficiary would have repeatedly requested the delivery of her treatment from the IVSS since the moment that she was diagnosed.

(vi) **I.A.M.** (61 years). She has suffered from breast cancer since 2017 and would require treatment with Anastrozol, for a period of 4.5 years. The proposed beneficiary allegedly received the treatment prescribed by the IVSS for 2 years. However, since April 2018, the IVSS would not have provided her with the drugs required for her treatment, despite the fact that she would have expressly requested them from the Institute.

(vii) **A.M.G.** (51 years). She was diagnosed with stage III breast cancer in October 2014. She was prescribed a treatment with the drug Tamoxifen, which she would have received from the IVSS for one year. However, since 2018, she would have stopped receiving it, indicating that her treatment should last for 5 years. She would be awaiting several exams, including a MRI of the specific breast, which would not have been performed to date. Additionally, since November 2019, she would not have received the medication Zometa (zoledronic acid) because it is allegedly not available in the IVSS' pharmacies. The proposed beneficiary would have been requesting her treatment from the IVSS since August 2016.

(viii) **D.A.C.** (41 years old). She was diagnosed with breast cancer in September 2016 and underwent surgery in October of the same year. She was prescribed treatment with Doxorubicin, a drug that she allegedly never received from the IVSS even though it is essential for her to complete chemotherapy. Subsequently, she received 4 cycles of chemotherapy with Cyclophosphamide, which was last given to her on January 18, 2017. She received external radiation therapy from February to April 10, 2017. She was prescribed treatment with Tamoxifen and Goserelin (Zoladex) for 10 and 3 years, respectively. However, she would have only received two boxes of these medications in January and February 2017. According to a medical report dated May 3, 2019, the proposed beneficiary would have been told that she needs to restart treatment with the drug Tamoxifen every 6 months, in view of "osteopenia in her femur and results that indicate a decrease in recurrence with the use of Zometa", however, this medication is not available in IVSS' pharmacies. The proposed beneficiary would have requested her treatment from the IVSS since January 2017.

(ix) **G.L.** (60 years). She was diagnosed with breast cancer in June 2018. She has allegedly not received regular treatment since June 2018. At the end of 2019, she would have undergone surgery at the Luis Razetti Clinic, but the result of a biopsy and a medical consultation are allegedly pending, and would not have not been provided by the IVSS to date.

(x) **L.V.G.** (47 years old). She was diagnosed with breast cancer in September 2017. She received 20 sessions of radiation therapy. She reportedly requires treatment with the medication Tamoxifen for 5 years according to a medical report dated June 18, 2019, however, she would not have received this treatment to date despite having requested it from the IVSS. The applicants indicate that the times that the proposed beneficiary would have been able to obtain her treatment would have been with the help

of the organization SENOSAYUDA, or through relatives or friends who would have brought the medications from outside the country.

(xi) **P.M.** (52 years old). She was diagnosed with breast cancer in July 2018. According to a medical report dated May 13, 2019, she was diagnosed with an infiltrating ductal carcinoma and treatment was planned with the drugs Cyclophosphamide and Doxorubicin for 4 cycles, and then 4 cycles of Docetaxel and Trastuzumab. She would have been told that her treatment should continue with Trastuzumab, Zometa, Dexamethasone, Ranitidine and Chlor-Trimeton, and that she should undergo radiation therapy. The proposed beneficiary would have received these medications in an irregular manner, not always receiving all of the drugs, with the last delivery being on June 17, 2019. Likewise, she reportedly requires an immunohistochemistry test, whose results would be essential for a new medical examination, which would also not have been provided by the IVSS. The proposed beneficiary would have reported the lack of medical attention before the IVSS and other State bodies since June 2019, without having received a response in this regard.

(xii) **C.E.** (49 years). She was diagnosed with stage II breast cancer in January 2016. Since March 8, 2018, she has allegedly been awaiting radiation therapy. She would not be receiving any type of treatment from the IVSS.

6. The request notes that while some of the proposed beneficiaries would have managed to obtain the medicines and treatment that they require at some point after the IVSS stopped delivering them, this would only have been possible thanks to donations from non-governmental organizations and foundations. In this regard, some of the proposed beneficiaries would have been able to obtain the drugs in Colombia and other countries, however, this would imply large economic expenses and would entail an additional risk with respect to the necessary refrigeration requirements of such medicines. Further, the application highlights that the State has allegedly restricted the entry of medicine into the country, meaning that, in the event that the proposed beneficiaries could pay the high cost of their treatment outside of the country, they would have difficulties bringing them into Venezuela.

7. In the same sense, the applicants state that the COVID-19 pandemic would have created additional obstacles for the proposed beneficiaries to obtain their medications and treatment. The passage between cities in Venezuela would have been restricted, and the border between Colombia and Venezuela would be closed², which would directly impact the proposed beneficiaries, given that the limited access that some of them had to oncological healthcare was through supplies and medicines acquired in Colombia.

8. On the other hand, the applicants indicate that the proposed beneficiaries would have repeatedly requested that the competent authorities, particularly the IVSS, provide them with the medications and treatments necessary to confront the disease they suffer from. However, these authorities allegedly did not adopt “any measures whatsoever” to guarantee their rights of access to health. In this regard, the applicants highlight the case of the proposed beneficiary M.E.A., who would have reported the lack of availability of medicines to the General Directorate of the IVSS and as an immediate consequence, would have been removed from the system and would no longer have access to insurance.

9. In addition, the applicants state that there has allegedly been a breakdown of the democratic order in Venezuela since 2017, characterized by the interference of the Executive Branch in the other

² Efecto Cocuyo. [COVID-19: The humanitarian channel with Colombia is narrowed and only the trails remain](#). April 7, 2020 (Available in Spanish).

branches of the Public Power, and specifically, by the lack of independence of the Judiciary³. Likewise, they allege that resorting to other instances, such as the Attorney General and the Ombudsperson's Office, would be futile, given that these entities would be occupied by persons appointed by the National Constituent Assembly and who would have assumed a position of systematically denying the humanitarian crisis in the country⁴. The applicants point out that, in this context, there would be no instances that they could resort to in order to vindicate the rights of the proposed beneficiaries or request official information regarding these facts.

2. Information provided by the State

10. The Commission requested information from the State on October 8, 2019 and reiterated that request on January 13, 2020.

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

11. The precautionary measures mechanism is part of the Commission's functions of overseeing Member State compliance with the human rights obligations established in Article 106 of the Charter of the Organization of American States ("OAS"). 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 Rules of Procedure, by which the Commission grants precautionary measures in serious and urgent situations, where such measures are necessary to prevent 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 protective and precautionary. Regarding their protective nature, these measures seek to avoid irreparable harm and to protect the exercise of human rights. With regards to their precautionary nature, these measures have the purpose of preserving legal situations while the bodies of the Inter-American System analyze a petition or case. Their objective 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 *effet utile* of the final decision. In this regard, precautionary or provisional measures allow the State concerned to comply with the final decision and if necessary, implement 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.

³ IACHR. Annual Report 2019. [Chapter IV.B Venezuela](#). OEA/Ser.L/V/II. Doc. 5. February 24, 2020. Pg. 501, paras. 1-2; IACHR. Press Release No. 151/20. [The IACHR rejects a set of recent decisions of the Supreme Court of Justice of Venezuela that violates democratic institutions and fundamental freedoms](#). June 27, 2020 (Available in Spanish); IACHR. Press Release No. 5/19. [IACHR Alerts about Further Weakening of Rule of Law in Venezuela Ahead of New Presidential Mandate](#). January 9, 2019.

⁴ IACHR. Press Release No. 106/20. [IACHR presents its preliminary observations and recommendations after the historic on-site visit to Venezuela to monitor the human rights situation](#). May 8, 2020 (Available in Spanish); IACHR. Annual Report 2019. [Chapter IV.B Venezuela](#). OEA/Ser.L/V/II. Doc. 5. February 24, 2020. Pg. 506, paras. 30-32.

13. Prior to the analysis of the regulatory requirements, the Commission wishes to clarify that it is outside the scope of the precautionary measures mechanism to determine in this procedure whether the State of Venezuela has international responsibility regarding the alleged facts or to determine whether the human rights of the proposed beneficiaries have been violated. When analyzing 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 of irreparable harm to the human rights of the proposed beneficiaries. 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 exists.⁵

14. In addition, in the present matter, the Commission notes that the alleged situation of risk of the proposed beneficiaries is framed within a specific context, related to a lack of access to medical treatments that women mainly require given the disease that they suffer from.⁶ This implies, therefore, addressing the situation of the proposed beneficiaries from a perspective that is appropriate to their condition, as well as in view of the differentiated impact that the risk factors they face would have on them. The Commission has already carried out this assessment in the framework of other situations that require a differentiated analysis in view of the circumstances.⁷

15. Based on these premises, the Commission recalls that, under the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará), to which the State of Venezuela has been bound since its ratification on January 16, 1995,⁸ “[...] violence against women shall be understood as any act or conduct, based on gender, which causes death or physical, sexual or psychological harm or suffering to women, whether in the public or the private sphere,”⁹ including those situations in which violence is perpetrated by any person and occurs in a health facility.¹⁰ In this regard, it is important to recall that, in accordance with Article 7 of that inter-American instrument, the States Parties have the duty to adopt, by all appropriate means and without delay, policies to prevent, punish and eradicate such violence,¹¹ taking special account of situations of vulnerability.¹² Similarly, it is recalled that Article 12 of the aforementioned Convention establishes that “petitions containing denunciations or complaints of violation of Article 7 of this Convention by a State Party may be lodged with the Inter-American Commission on Human Rights, and the Commission shall consider such claims in accordance with the norms and procedures established by the American

⁵ See in this regard: I/A Court H.R. [Matter of Residents of the Communities of the Miskitu Indigenous People of the North Caribbean Coast Region with respect to Nicaragua](#). Extension of Provisional Measures. Order of the Inter-American Court of Human Rights of August 23, 2018, Considerandum 13; I/A Court H.R. [Matter of the children and adolescents deprived of their liberty in the “Complexo do Tatuapé” of the Fundação CASA](#). Request for extension of precautionary measures. Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of July 4, 2006. Considerandum 23.

⁶ According to the Pan American Health Organization, in Latin America and the Caribbean, breast cancer is the most common cancer among women and is the second in mortality. See in this regard: PAHO. [Breast cancer](#). Likewise, less than 1% of all cases of breast cancer occur in men. See in this regard: CDC. [Breast Cancer in Men](#).

⁷ As an example, the Commission has considered the differentiated risk faced by pregnant, parturient or postpartum women, as well as children and adolescents in the context of their best interests, migrant or displaced populations, and persons with disabilities. See in this regard: IACHR. [Resolution 13/2019. Precautionary Measure No. 150-19. Concepción Palacios Maternity Hospital regarding Venezuela](#). March 18, 2019.

⁸ The State of Venezuela deposited the instrument of ratification of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará) on February 3, 1995. See in this regard: The Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará). Done in the City of Belém do Pará, Brazil, on June 9, 1994. [General Information of the Treaty](#).

⁹ [Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women “Convention of Belem do Para.”](#) Done in the City of Belém do Pará, Brazil, on June 9, 1994. Art. 1.

¹⁰ Convention of Belém do Pará. Art. 2.

¹¹ Convention of Belém do Pará. Art. 7.

¹² Convention of Belém do Pará. Art. 9.

Convention on Human Rights and the Statute and Regulations of the Inter-American Commission on Human Rights for lodging and considering petitions”.¹³

16. In line with the above, the Commission reiterates that as part of its powers over States, those set out in Article 18(b) of its Statute, which consist of “making 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”. In this way, the precautionary measures mechanism has progressively developed to become a protection mechanism of the Inter-American system, in compliance with its conventional and statutory obligations, and emanating from the aforementioned function of the IACHR to ensure compliance with the international commitments assumed by the State parties.

17. Taking into account these elements as a whole, the Commission considers it necessary to point out that, when determining the situation of risk to the health, life and personal integrity of the women proposed as beneficiaries, this should not only be analyzed in itself, but also adding the dimension of the differentiated impact, thus allowing for a comprehensive assessment. In effect, in accordance with the aforementioned Convention of Belém do Pará, this implies recognizing that the serious barriers to accessing adequate and timely medical treatment represent yet another form of violence against women, which is characterized by the differentiated impact that occurs precisely based on their gender or their sole condition as women, reflecting the discrimination to which they have historically been subjected. In fact, the IACHR has considered that the lack of positive measures to guarantee all the characteristics of the right to health, such as availability, acceptability and quality can affect the principle of equality and non-discrimination, which permeates the inter-American system.¹⁴

18. In this sense, the Commission warns that the shortage and lack of medicines, supplies, materials and medical treatment in Venezuela has been worsening since 2014.¹⁵ The Commission has granted precautionary measures after identifying specific situations of risk for persons with hemophilia,¹⁶ Human Immunodeficiency Virus (HIV) or Acquired Immunodeficiency Syndrome (AIDS),¹⁷ multiple sclerosis and breast cancer with bone metastases¹⁸, who were not receiving their prescribed medications or medical treatments for long periods of time, which has aggravated their health, despite the domestic efforts made to access them.

19. During the IACHR’s on-site visit to the border between Colombia and Venezuela in February 2020, the Commission found that the situation has reached a critical point as a result of the serious political, economic and social crisis,¹⁹ characterized by, among other things, the scarcity and shortage of

¹³ Convention of Belém do Pará. Art. 12.

¹⁴ IACHR. [Access to maternal health services from a human rights perspective](#). OEA/Ser.L/V/II. Doc. 69. June 7, 2010. Para. 76.

¹⁵ IACHR. Annual Report 2019. [Chapter IV.B Venezuela](#). OEA/Ser.L/V/II. Doc. 5. February 24, 2020. Pg. 526, para. 99; IACHR. Press Release No. 52/19. [IACHR and its Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights Condemn the Violent Repression in Venezuela and Urge the State to Protect Human Rights in the Current Political, Economic and Social Crisis](#), March 1, 2019; IACHR. Press Release No. 215/18. [Venezuela: Human rights experts say health system in crisis](#), October 1, 2018; IACHR. Press Release No. 16/18. [IACHR and its Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights Urge the State of Venezuela to Protect and Respect the Rights to Food and Health](#), February 1, 2018

¹⁶ IACHR. [Resolution 37/2017. Precautionary Measure No. 37/17. Johonnys Armando Hernández regarding Venezuela](#). September 8, 2017.

¹⁷ IACHR. [Resolution 76/2018. Precautionary Measure No. 145/18. C.L. et al. regarding Venezuela](#), October 4, 2018.

¹⁸ IACHR. [Resolution 18/2019. Precautionary Measure No. 1286/18, MC 1287/18, 1288/18 and 1289/18. Inírida Josefina Ramos López, Sara María Olmos Reverón, Miguel Eduardo Perozo González, and Carmen Alicia Márquez de D’Jesus regarding Venezuela](#), March 29, 2019.

¹⁹ IACHR. Press Release No. 106/20. [IACHR presents its preliminary observations and recommendations after the historic on-site visit to Venezuela to monitor the human rights situation](#), May 8, 2020 (Available in Spanish).

medications, supplies, materials and medical treatment, as well as prolonged periods without electricity that have caused the lack of access to services and multiple effects on the rights of Venezuelans.²⁰ The aforementioned has greater impacts on groups in situations of exclusion and historical discrimination, including women and patients suffering from chronic diseases.²¹ Thus, the IACHR has observed that currently there is allegedly a 61.1% shortage of medicines and medical supplies in the country.²² Further, there would be a collapse of hospital infrastructure nationwide, given that 50% of operating rooms would be inactive and 80% of diagnostic services would be unusable. This situation especially affects individuals who suffer from chronic diseases such as cancer.²³

20. In this sense, the IACHR has expressed its particular concern regarding the oncological healthcare situation in the country and its particular impact on women. The Commission has indicated that the generalized deficiency of public health services would have generated a 14.87% increase in the mortality rate of patients with breast cancer and that 5668 women with this type of cancer would not currently have access to chemotherapy or other treatments to treat their cancer.²⁴ In addition, they would face an almost total lack of supplies and equipment for routine examinations that could determine appropriate treatments, avoid late diagnoses, prevent serious effects and even deaths.²⁵ Likewise, the Commission has been informed that the lack of medicines, and medical services and equipment has caused breast cancer patients to undergo radical mastectomies as a desperate means to save their lives, therefore suffering the physical and psychological consequences, as well as putting their lives and integrity at risk by undergoing such procedures.²⁶ This situation has also resulted in the need for Venezuelans to travel to Colombia to buy medicine.²⁷

21. In addition, the Commission and its Special Rapporteurship on Economic, Social, Cultural and Environmental Rights (REDESCA) have warned with serious concern about the effects of the COVID-19 pandemic in the face of the extreme vulnerability of Venezuelans due to the profound and prolonged

²⁰ IACHR. Annual Report 2019. [Chapter IV.B Venezuela](#). OEA/Ser.L/V/II. Doc. 5. February 24, 2020. Pg. 502, paras. 7-8; IACHR. Press Release No. 64/20. [IACHR and its SRESCER Deeply Concerned about the Impact of COVID-19 Pandemic on Venezuela. Call for Safeguards for the Rights of Venezuelans around the Americas](#). March 29, 2020; IACHR. Press Release No. 52/19. [IACHR and its Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights Condemn the Violent Repression in Venezuela and Urge the State to Protect Human Rights in the Current Political, Economic and Social Crisis](#). March 1, 2019.

²¹ IACHR. Annual Report 2019. [Chapter IV.B Venezuela](#). OEA/Ser.L/V/II. Doc. 5. February 24, 2020. Pgs. 502-03, paras. 7 & 14; IACHR. Press Release No. 106/20. [IACHR presents its preliminary observations and recommendations after the historic on-site visit to Venezuela to monitor the human rights situation](#). May 8, 2020 (Available in Spanish).

²² IACHR. Annual Report 2019. [Chapter IV.B Venezuela](#). OEA/Ser.L/V/II. Doc. 5. February 24, 2020. Pg. 527, para. 106.

²³ IACHR. Press Release No. 52/19. [IACHR and its Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights Condemn the Violent Repression in Venezuela and Urge the State to Protect Human Rights in the Current Political, Economic and Social Crisis](#). March 1, 2019.

²⁴ According to Red Rosa – a coalition of 12 organizations dedicated to defending the rights of persons with breast cancer– more than 25 medications necessary for the treatment of breast cancer are not available in the high-cost pharmacies of the IVSS, including various of the drugs prescribed to the proposed beneficiaries: Anastrozole, Aprepitant, Dexamethasone, Docetaxel, Doxorubicin, Lenograstim, Palonosetron, Ranitidine, Tamoxifen and Trastuzumab. See in this regard: United Nations. Human Rights Council. 26th Period of Sessions. Universal Periodic Review – Venezuela. [Red Rosa Report \(IS39\)](#). 2016. Para. 7; Likewise, the Venezuelan Society of Public Health and the Let's Defend the National Epidemiology Network have indicated that the following medications pertaining to the treatment of breast cancer are not available in the country: Cyclophosphamide, Docetaxel, Gosereline (Zoladex), Tamoxifen, Trastuzumab and Zometa (zoledronic acid). See in this regard: Oletta López J F *et al.* Shortage of the 31 most used oncology medications for the treatment of the most frequent types of cancer. Venezuelan Society of Public Health. Let's Defend the National Epidemiology Network. October 9, 2017.

²⁵ IACHR. Annual Report 2019. [Chapter IV.B Venezuela](#). OEA/Ser.L/V/II. Doc. 5. February 24, 2020. Pg. 538, para. 142.

²⁶ IACHR. Annual Report 2019. [Chapter IV.B Venezuela](#). OEA/Ser.L/V/II. Doc. 5. February 24, 2020. Pg. 538, para. 143.

²⁷ According to International Crisis Group, before the closure of the Colombian-Venezuelan border in the context of the COVID-19 pandemic, more than 50,000 Venezuelans used to cross the border daily to “attend school, go to health centers or buy food or medications, and they returned in the afternoon before the border closed for the night.” See in this regard: International Crisis Group. [Broken Ties, Frozen Borders: Colombia and Venezuela Face COVID-19](#). Briefing No. 24. April 15, 2020.

humanitarian crisis that the country is experiencing.²⁸ The Commission has also indicated that, in the context of the pandemic, States must ensure equitable distribution and access to health facilities, goods and services without discrimination, taking into account the most vulnerable individuals, such as persons with pre-existing diseases that make them especially vulnerable to the virus. The scarcity of resources does not justify direct, indirect, multiple or intersectional acts of discrimination.²⁹ Similarly, the Commission has noted that, in this context, States continue to maintain the duty to provide essential services for diagnosis, treatment, care (including palliative care) and rehabilitation of other diseases, pathologies or medical needs that may require life support or medical attention in a timely and appropriate manner to protect individuals' health and lives.³⁰

22. In this regard, as it has done in other cases,³¹ the Commission considers that the facts alleged in the requests that are the subject of this resolution are inserted in an exceptional context that is decisive for their evaluation. Additionally, the Commission notes that the facts that give rise to this request begin with the lack of or irregularity in access to the medicines and treatments prescribed for the breast cancer diagnosed in the proposed beneficiaries between 2014 and 2018, the effects of which would extend to the present time and would be aggravated in the context of the pandemic.

23. As regards the requirement of seriousness, the Commission considers that it has been met. When evaluating this requirement, the Commission identifies that the proposed beneficiaries, after having received their medical treatment from the IVSS, would no longer be receiving it for prolonged periods of time ranging from 14 and 36 months. In some cases, it was even indicated that when the proposed beneficiaries had previously had the opportunity to receive the treatment, it was not continuous. Likewise, in the case of at least one of the proposed beneficiaries, the information provided by the applicants suggests that, after being diagnosed by the IVSS with breast cancer, she would have never received treatment from the IVSS.

24. In this regard, the Commission notes that, according to specialized entities, the stage of cancer ranges from 0 to IV, with 0 being non-invasive breast cancer and IV being "metastatic breast cancer" which occurs when the cancer has spread to other parts of the body.³² Each stage and medical condition requires a specific treatment to prevent its spread. Thus, in light of the clinical information of the proposed beneficiaries, the Commission understands that the lack of continuous and adequate medical treatment is likely to worsen their health conditions.

25. In this sense, the Commission emphasizes that, based on the information provided by the applicants, the lack of adequate medical treatment would have a direct impact on the proposed beneficiaries given that it would be a direct cause of the deterioration of their health, would cause the progression of their disease, would worsen their physical and psychological suffering, and would put them at an imminent risk of death. Therefore, the Commission also notes that cancer is a disease that, due to its very nature, requires treatment to ensure the survival of the person suffering from it.

²⁸ IACHR. Press Release No. 64/20. [The IACHR and its SRESCER Deeply Concerned about the Impact of COVID-19 Pandemic on Venezuela, Call for Safeguards for the Rights of Venezuelans around the Americas](#). March 29, 2020.

²⁹ IACHR. [Resolution 1/2020. Pandemic and Human Rights in the Americas](#). Adopted by the IACHR on April 10, 2020. Resolutive Part 8.

³⁰ IACHR. [Resolution 4/2020. Human Rights of Persons with COVID-19](#). Adopted by the IACHR on July 27, 2020. Considerative Part.

³¹ See in this regard: IACHR. [Resolution 18/2019. Precautionary Measure No. 1286/18, MC 1287/18, 1288/18 and 1289/18. Infrida Josefina Ramos López, Sara María Olmos Reverón, Miguel Eduardo Perozo González, and Carmen Alicia Márquez de D'Jesus regarding Venezuela](#). March 29, 2019.

³² Mayo Clinic. [Breast cancer. Diagnosis](#).

26. The Commission has noted that, according to the applicants, the proposed beneficiaries would not be able to update their medical reports or undergo new tests in order to have a more accurate diagnosis of their medical condition, since the services of nearby hospitals would be mostly inoperative and they would not have the funds necessary to carry them out in private entities. Similarly, the Commission notes that the proposed beneficiaries would also not have the option of accessing the medicines on their own, since the State would have reserved for itself the importation and distribution of these medicines in the country. Further, in the context of the COVID-19 pandemic, the Commission observes that the Colombian-Venezuelan border would be closed, directly impacting the limited access that some of these women had to oncological healthcare through supplies and medications acquired in Colombia. All these elements effectively converge in the configuration of the situation of risk of the proposed beneficiaries.

27. The Commission observes that, according to the applicants, the alleged risk situation of the twelve proposed beneficiaries would be known to the IVSS, the state entity that would have stopped providing the initially prescribed treatment and before which repeated requests for the delivery of the medications and treatment have been made. In this regard, it is worth mentioning the case of the proposed beneficiary M.E.A. who, after having denounced the lack of availability of drugs before the General Directorate of the IVSS, would have been removed from the system and would no longer have access to the insurance. Considering the situation within the context of the particular crisis that Venezuela is going through, as well as the internal requests made, the Commission does not identify information indicating that the alleged risk situation of the proposed beneficiaries would have been effectively addressed by the State.

28. Despite having requested information from the State, no information from the State has been identified that would dispute the facts alleged throughout the present proceeding. Even though this does not justify, per se, the granting of a precautionary measure, it does prevent the Commission from knowing whether the authorities were implementing actions to protect the rights of the proposed beneficiaries and therefore, from assessing whether the alleged situation of risk was disproved or not.

29. Given the above, considering the exceptional situation that the State of Venezuela is going through and that the health of the proposed beneficiaries would be deteriorating due to the lack of prescribed medical treatment over a prolonged period of time ranging from 14 to 36 months, together with the seriousness of the illness that they are suffering from and the lack of State response, the Commission concludes, from the applicable *prima facie* standard, that the rights to life, personal integrity and health of the persons identified find themselves in a situation of serious risk. At the time of carrying out this assessment, the Commission takes into account that access to medicines is an integral part of the right to health, and that essential medications must be provided and prioritized to treat diseases that pose a public health risk or to cover the priority health needs of the population of Venezuela.³³

30. As for the requirement of urgency, the Commission considers that it is fulfilled, in view of the alleged deterioration of the health of the proposed beneficiaries. Considering furthermore that the State has allegedly stopped delivering the medications for long periods of time and that they would have not been delivered to date despite the repeated requests made by the proposed beneficiaries, the risk situation is likely to worsen and cause further harm to the rights to life, personal integrity and health over time, as long as the medical needs of the proposed beneficiaries are not met. In this regard, as

³³ IACHR. Press Release No. 52/20. [IACHR and its Special Rapporteurship on Economic, Social, Cultural and Environmental Rights Condemn the Violet Repression in Venezuela and Urge the State to Protect Human Rights in the Current Political, Economic and Social Crisis](#). March 1, 2019.

already indicated above, the Commission does not have specific information provided by the State that would allow it to assess the actions that it would be taking to address the alleged situation of risk, in light of the exceptional context that Venezuela is undergoing.

31. As for the requirement of irreparable harm, the Commission considers that it has been met insofar as the potential impact on the rights to life, personal integrity and health constitutes the maximum situation of irreparable harm. In coming to this determination, as indicated above, the Commission has also considered the differentiated impact that the present situation has on the beneficiaries.

IV. BENEFICIARIES

32. The Commission declares that the beneficiaries of this precautionary measure are (i) D.P.M., (ii) M.A.D.V., (iii) M.A.C.T., (iv) M.E.A., (v) M.L.Z., (vi) I.A.M., (vii) A.M.G., (viii) D.A.C., (ix) G.L., (x) L.V.G., (xi) P.M., and (xii) C.E., who are duly identified in this procedure.

V. DECISION

33. The Inter-American Commission on Human Rights considers that the present 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 the State of Venezuela:

- a) implement the necessary measures to protect the life, personal integrity and health of the beneficiaries, by adopting immediate measures that facilitate their access to adequate medical treatment, including the necessary medicines as prescribed by the corresponding health professionals, as well as assessments and examinations that make it possible to regularly evaluate their state of health, in accordance with applicable international standards and with the incorporation of a gender perspective.

34. The Commission requests the State of Venezuela to inform, within a period of 15 days from the date of this resolution, on the adoption of the precautionary measures requested and to update such information periodically.

35. 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 prejudgement of any violation of the rights protected in the applicable instruments.

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

37. Approved on October 14, 2020 by: Joel Hernández García, President; Antonia Urrejola Noguera, First Vice-President; Flávia Piovesan, Second Vice-President; Margarette May Macaulay; Esmeralda Arosemena de Troitiño; Edgar Stuardo Ralón Orellana; and, Julissa Mantilla Falcón, members of the IACHR.

María Claudia Pulido
Acting Executive Secretary