
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 36/2020**

Precautionary Measures No. 516-20

Maury Carolina Carrero Mendoza regarding the Bolivarian Republic of Venezuela
July 17, 2020
Original: Spanish

I. INTRODUCTION

1. On June 3, 2020, the Inter-American Commission on Human Rights ("the Inter-American Commission," "the Commission," or "the IACHR") received a request for precautionary measures from the organizations Foro Penal and Robert F. Kennedy Human Rights ("the applicants"). They urged the Commission to request the Bolivarian Republic of Venezuela ("the State" or "Venezuela") to protect the rights of Maury Carolina Carrero Mendoza ("the proposed beneficiary"), who was allegedly deprived of her liberty in April 2020 by State agents and whose whereabouts or location is unknown to date.

2. The IACHR requested information on June 11, 2020, in accordance with Article 25.5 of its Rules of Procedure and Article XIII of the Inter-American Convention on Forced Disappearance of Persons. On June 25, 2020, the applicants forwarded additional information. On July 7, 2020, the Permanent Mission of the Bolivarian Republic of Venezuela to the Organization of American States (OAS) sent a written communication.

3. After analyzing the allegations of fact and law, the Commission considers, on the basis of the applicable prima facie standard, that Ms. Maury Carolina Carrero Mendoza is in a situation of seriousness and urgency. She faces a risk of irreparable harm to her rights to life and personal integrity. Therefore, the Bolivarian Republic of Venezuela is requested to: a) adopt the necessary measures to protect the rights to life and personal integrity of Ms. Maury Carolina Carrero Mendoza. In particular, the State should inform whether the beneficiary is in the custody of the State and the circumstances in which she is being held, or the measures aimed at determining her whereabouts or fate; and b) implement actions aimed at investigating the facts that led to the granting of this precautionary measure so as to prevent such incidents from reoccurring.

II. SUMMARY OF FACTS AND ALLEGATIONS

1. Information provided by the applicants

4. The proposed beneficiary is Maury Carolina Carrero Mendoza, a Venezuelan citizen, accountant by profession, resident of Caracas. On April 2, 2020, she was allegedly arrested by approximately 15 agents of the General Directorate of Military Counterintelligence (DGCIM). The agents broke into her home, allegedly because of her relationship with an adviser to Mr. Juan Guaidó. Moreover, several valuable objects and electronic devices belonging to the family were taken away, and the parents of Maury Carrero were told that they were taking her away temporarily and that they would "bring her back".

5. Initially, she was reportedly detained at the DGCIM. During the first month, she was allowed to make only one "extremely" short phone call per week, always in the presence of officers. On 4 April 2020, the proposed beneficiary was criminally charged with "conspiracy to commit a crime" and "concealment of firearms and explosives", for which the applicants raised various questions about due

process. On May 14, 2020, the proposed beneficiary was allegedly transferred from the DGCIM to another location.

6. On April 13 and 28, 2020, the applicants requested that certain investigative steps be taken. On May 20, 2020, the defense requested the competent court to modify the measure of deprivation of liberty to which the proposed beneficiary is subject. The court was informed that the proposed beneficiary is in the National Institute of Women's Guidance ("I.N.O.F."), with headquarters in the city of Los Teques, Guaicaipuro Municipality of Miranda State. After having received unofficial information \, the beneficiary's family members believe she is being held at this location incommunicado, but so far the authorities have refused to confirm her location. None of the lawyers of the proposed beneficiary have been allowed to communicate with her. Moreover, neither of them have been allowed access to the case file despite the requests made, such as one made on May 26, 2020. In sum, the applicants pointed out that the alleged transfer was not formally reported.

2. Response from the State

7. The IACHR requested information from the State on June 11, 2020.

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

8. The mechanism of precautionary measures forms part of the Commission's function of monitoring compliance with the human rights obligations established in Article 106 of the Charter of the Organization of American States. These general supervisory functions are established in Article 18 (b) of the IACHR's Statute, while the mechanism for precautionary measures is described in Article 25 of the Commission's Rules of Procedure. In accordance with that article, the Commission grants precautionary measures in situations that are serious and urgent, and in which such measures are necessary to prevent irreparable harm.

9. The Inter-American Commission and the Inter-American Court of Human Rights ("the Inter-American Court" or "IA Court HR") have repeatedly established that precautionary and provisional measures have a dual nature, one being protective and the other precautionary. With respect to the protective nature, the measures seek to avoid irreparable harm and to preserve the exercise of human rights. With respect to the precautionary nature, the precautionary measures are intended to preserve a legal situation while it is being considered by the IACHR. The purpose of the precautionary nature is to preserve rights at possible risk until the petition under consideration in the Inter-American System is resolved. Its object and purpose is to ensure the integrity and effectiveness of the decision on the merits and, in this way, to prevent the alleged rights from being violated, a situation that could render harmless or detract from the useful effect (*effet utile*) of the final decision. In this sense, precautionary or provisional measures allow the State in question to comply with the final decision and, if necessary, to make the ordered reparations. For the purposes of taking 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

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- c. “irreparable harm” refers to injury to rights which, due to their nature, would not be susceptible to reparation, restoration or adequate compensation.

10. In the analysis of the above requirements, the Commission reiterates that the facts underlying a request for precautionary measures do not need to be fully established. The information provided must be assessed on a *prima facie*¹ basis. Similarly, the Commission recalls that, by its very mandate, it is not the task of the Commission to rule on the criminal responsibility of individuals, nor to determine whether there have been violations of due process in the present mechanism. This requires an analysis of the merits of a petition or a case. The following analysis relates exclusively to the requirements established in Article 25 of the Rules of Procedure.

11. Similarly, the IACHR is aware that the Inter-American Convention on Forced Disappearance of Persons² establishes that “forced disappearance is considered to be the deprivation of liberty of one or more persons, in whatever form, committed by agents of the State or by persons or groups of persons acting with the authorization, support, or acquiescence of the State. This is followed by the lack of information or the refusal to acknowledge such deprivation of liberty or to report on the whereabouts of the person, thereby preventing the exercise of legal remedies and relevant procedural guarantees”. In this regard, it is important to recall that, in accordance with Article 1(a) of that inter-American instrument, the States Parties are obliged not to practice, permit, or tolerate the forced disappearance of persons. At the same time, Articles XIII and XIV establish the processing of petitions and communications alleging the forced disappearance of persons subject, inter alia, to the mechanism for precautionary measures, as well as the power to request information from the States on an urgent basis.

12. In line with the above, the Commission reiterates its mandate to States, as stipulated in Article 18 (b) of its Statute, to “make recommendations to Governments of States for the adoption of progressive measures in favor of human rights, within the framework of their legislation, their constitutional precepts and their international commitments, and also appropriate provisions to promote respect for those rights”. In this way, the mechanism of precautionary measures has been progressively developed to become a protection mechanism of the inter-American system, in compliance with its treaty and statutory obligations and emanating from the aforementioned function of the IACHR to ensure compliance with the international commitments assumed by the States Parties.

13. Entering into the analysis of the requirements established in Article 25 of the Rules of Procedure, with respect to the requirement of seriousness, given the particular circumstances of the State of Venezuela, the Commission considers it pertinent to evaluate the alleged facts described with reference to the exceptional context in which they would take place. In this context, the Commission warns that there is a pattern of attacks, persecution, and detentions of opposition members of the National Assembly³ and their immediate circles. The IACHR has observed that, although harassment against parliamentarians is not a new phenomenon in Venezuela, it has intensified after the 2015 elections, when the opposition to the government of Nicolás Maduro won a large majority of the seats in the National Assembly, and the most visible figure in that opposition today is Mr. Juan Guaidó.

¹ On this subject, see IA Court H.R. Matter of the inhabitants of the Miskitu Indigenous Peoples of the Northern Caribbean Coast Region with respect to Nicaragua. Extension of provisional measures. Order of the Inter-American Court of Human Rights of August 23, 2018, recital 13; IA Court H.R., Matter of Children and Adolescents Deprived of their Liberty in the “Complexo do Tatuapé” of the Fundação CASA. Request for extension of provisional measures. Provisional Measures with respect to Brazil. Order of the Inter-American Court of Human Rights of July 4, 2006. Recital 23. Available at: http://www.corteidh.or.cr/docs/medidas/febem_se_03.pdf

² The State of Venezuela has been linked to it since its ratification on January 19, 1992.

³ IACHR, IACHR presents its preliminary observations and recommendations following its historic on-site visit to Venezuela to monitor the human rights situation, May 8, 2020. Available in Spanish at: <http://www.oas.org/es/cidh/prensa/comunicados/2020/106.asp>

14. In analyzing the seriousness requirement, the Commission notes that the allegations made are consistent with the context described. In particular, the Commission notes that the proposed beneficiary is identified as a person close to an advisor to Mr. Juan Guaidó, and her situation would be related to the activities of the opposition in Venezuela. After her detention on April 2, 2020, at the DGCIM's facilities, the Commission notes that she was in the custody of the State, which, therefore, must have assumed a special position as guarantor from that moment on, since the prison authorities exercise strong control or domination over the persons in their custody⁴. Nevertheless, the Commission notes that since May 14, 2020, the whereabouts of the proposed beneficiary have not been determined, and there is a suspicion, according to unofficial information, that she was transferred to another detention center. If this were the case, the alleged transfer would have been made without notifying her lawyers or family members, with no possibility of access to the criminal file where the place where she would currently be held should be recorded. This situation has persisted to date, despite the requests made to the judiciary in May 2020 and the claims made by the applicants and presented to the judge. In these circumstances, the Commission notes that this alleged refusal to report on the status of the proposed beneficiary prolongs her state of defenselessness and creates uncertainty about her life and the conditions in which she would be.

15. In this scenario, after requesting information from the State, the Commission has no information on whether the authorities are implementing actions to protect the rights of the proposed beneficiary and, therefore, to assess whether the alleged risk situation is disproved or not. This is particularly relevant in a situation whose gravity is amplified by the context in which it is embedded and, by the fact that, according to the allegations, the beneficiary was deprived of liberty by State agents, who have also reportedly refused to officially inform of her whereabouts.

16. In light of the abovementioned, from the *prima facie* standard, the Commission concludes that the existence of a situation of serious risk to the rights to life and personal integrity of Ms. Maury Carolina Carrero Mendoza is sufficiently established, in so far as her whereabouts or destination are unknown.

17. Regarding the requirement of urgency, the Commission considers that it has been met, since the passage of time is likely to continue to have a greater impact on her rights to life and personal integrity. It should be noted that the family members have not been certain of the whereabouts or destination of the proposed beneficiary for more than a month. Given the lack of response from the State, the Commission also does not have information on measures implemented to find out her whereabouts or report on her current situation.

18. With respect to the requirement of irreparability, the Commission maintains that it has been fulfilled. The potential effect on the rights to life and personal integrity constitutes the maximum situation of irreparability.

IV. BENEFICIARY

19. The Commission declares that the beneficiary of this precautionary measure is Ms. Maury Carolina Carrero Mendoza, duly identified in this proceeding.

V. DECISION

⁴ IA Court H.R. Case of Mendoza and others v. Argentina. Preliminary Objections, Merits and Reparations. Decision of May 14, 2013. Series C No. 260, para. 188. Also, see: IACHR, Report on the Human Rights of Persons Deprived of Liberty in the Americas, December 31, 2011, para. 49.

20. The Commission considers that the present case meets *prima facie* the requirements of seriousness, urgency and irreparability laid down in Article 25 of its Rules of Procedure. Consequently, the Commission requests that the Bolivarian Republic of Venezuela:

- a) adopt the necessary measures to protect the rights to life and personal integrity of Ms. Maury Carolina Carrero Mendoza. In particular, the State should inform whether the beneficiary is in the custody of the State and the circumstances in which she is being held, or the measures aimed at determining her whereabouts or fate; and
- b) implement actions aimed at investigating the facts that led to the granting of this precautionary measure so as to prevent such incidents from reoccurring.

21. The Commission requests that the Bolivarian Republic of Venezuela report, within 15 days from the date of this resolution, on the adoption of this precautionary measures and to update this information periodically.

22. 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 prejudice any violation of the rights protected in the applicable instruments.

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

24. Approved on July 17, 2020 by: Joel Hernández García, President; Antonia Urrejola Noguera, First Vice-President; Flávia Piovesan, Second Vice-President; Margarette May Macaulay; Esmeralda Arosemena de Troitiño, Julissa Mantilla Falcón, and Edgar Stuardo Ralón Orellana, members of the IACHR.

Paulo Abrão
Executive Secretary