

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 52/2022**

Precautionary Measure No. 637-22
C.A.Z.S. regarding Venezuela
October 9, 2022
Original: Spanish

I. INTRODUCTION

1. On August 16, 2022, the Inter-American Commission on Human Rights (“the Inter-American Commission,” “the Commission,” or “the IACHR”) received a request for precautionary measures filed by the organization *Defiende Venezuela* (“the applicants”) urging the Commission to require that the State of Venezuela (“the State” or “Venezuela”) adopt the necessary measures to protect the rights to life, personal integrity, and health of C.A.Z.S. According to the request, the proposed beneficiary is at risk as he has been deprived of liberty since March 2020 and, despite living with human immunodeficiency virus (HIV), he has reportedly not been receiving the necessary medicines for his treatment during these two years.
2. In accordance with Article 25 of its Rules of Procedure and the Inter-American Convention to Prevent and Punish Torture, the IACHR requested information from the applicants on August 16, 2022. Following a request for time extension, which was granted by the IACHR on August 30, 2022, the applicants submitted additional information on September 7, 2022. The IACHR requested information from the State on September 20, 2022. To date, the State has not submitted information, and the granted time limits have expired.
3. Upon analyzing the submissions of fact and law furnished by the applicants, the Commission considers that the information presented shows *prima facie* that C.A.Z.S. is in a serious and urgent situation, given that his rights to life, personal integrity, and health are at risk of irreparable harm. Consequently, the Commission requests that Venezuela: a) adopt the necessary measures to protect the rights to life, personal integrity, and health of C.A.Z.S. In particular, adopt immediate measures that grant access to adequate medical treatment, including the necessary medicines in accordance with corresponding health professionals’ prescriptions, as well as the diagnoses and examinations for a regular evaluation of his health status, according to the applicable international standards; b) consult and agree upon the measures to be adopted with the beneficiary and his representatives; and c) report on the actions undertaken in order to investigate the alleged facts that led to the adoption of this resolution, so as to prevent such events from reoccurring.

II. SUMMARY OF FACTS AND ARGUMENTS

A. Information provided by the applicants

4. The proposed beneficiary has been diagnosed with Human Immunodeficiency Virus (HIV) since April 2012. Since March 2020, he is being confined at the headquarters of the Scientific, Penal, and Criminal Investigation Service Corps (*Cuerpo de Investigaciones Científicas, Penales y Criminalísticas, CICPC*), located in the Plaza de Toros sector, in the city of Valencia, state of Carabobo, Venezuela.
5. The proposed beneficiary received medical treatment for his health condition and was formerly given access, with certain limitations, to an anti-HIV “cocktail” made up of the drugs *atazanavir*,

norvir, and *reyataz* up until 2018. In March 2020, the proposed beneficiary was arrested for a crime of gender violence in the CICPC and was presented before the Second Trial Court in functions of Control, Hearings, and Measures of the Judicial Circuit in matters of Crimes of Violence against Women (*Instancia en funciones de Control, Audiencias y Medidas del Circuito Judicial en materia de Delitos de Violencia contra la Mujer*) of the Judicial Circuit of the state of Carabobo. Since his arrest, the proposed beneficiary has not had access to the medicines he requires for his treatment.

6. The applicants argue that there are violations of due process of law in the criminal proceedings against him. In this regard, a severe procedural delay in his trial and the lack of access to his judicial file are alleged. In addition, the proposed beneficiary does not have family support and has limited economic resources. This has made it difficult for him to exercise his right of defense in his criminal proceedings, and he has trouble when attempting to carrying out examinations related to his health condition.
7. According to the request, the CICPC of Plaza de Toros de Valencia has a history of mistreatment towards the prison population and several situations of riots, mainly due to overcrowding and procedural delay.¹ Furthermore, individuals with chronic and terminal diseases have publicly denounced their deficient health treatment and poor detention conditions at the CICPC in Plaza de Toros de Valencia, but their complaints have not been addressed.² In addition, in March and June 2022, there were two riots at the CICPC headquarters in Plaza de Toros due to failures in distributing food to prisoners, overcrowding, ill-treatment, and lack of medical care.³
8. The proposed beneficiary claimed that his detention conditions are deplorable as he does not have access to adequate food, has been restricted from accessing sunlight, and sleeps on a worn-out mat. In addition to the above, as a result of living with HIV, the proposed beneficiary is excluded from certain leisure activities with inmates and is kept away from them. He suffers discrimination both from the prison population and the custodians. The request indicated that the proposed beneficiary allegedly faces overcrowding and is in a general cell with other persons deprived of their liberty. However, it was indicated that only a few persons deprived of their liberty talk with him due to the stigma attached to HIV.
9. Since January 2020, the proposed beneficiary presented symptoms related to acquired immunodeficiency syndrome (AIDS).⁴ In this sense, at the beginning of 2020, the proposed beneficiary began to present health problems while being deprived of his liberty. He reportedly presented dizziness, headaches, muscle weakness, fatigue, and a clinical presentation of anemia with

¹ See in this regard: El Carabobeño. [Overcrowding and procedural delay: The main issues faced by inmates of the Cicpc Plaza de Toros](#), October 27, 2021 [only in Spanish].

² See in this regard: El Carabobeño. [Fourth prisoner dies in Cicpc Plaza de Toros awaiting preliminary hearing](#), September 7, 2020 [only in Spanish].

³ See in this regard: El Carabobeño. [Those deprived of liberty at the Cicpc Bullring protested this Wednesday, March 16, 2022: El Carabobeño. OVP registered a riot in the dungeon of the Cyclops of Plaza de Toros on Saturday](#), June 19, 2022 [only in Spanish].

⁴ HIV is a retrovirus that attacks the immune system of the affected person, which makes them more likely to get other infections or develop HIV-related diseases, known as opportunistic infections. Thus, HIV acts on the body by gradually destroying the immune system. This could generate AIDS, which is the most advanced stage of the condition. This health issue requires antiretroviral drugs that prevent HIV from reproducing; it reduces its concentration in the body and allows the immune system to recover. According to the request, the antiretrovirals necessary for the proposed beneficiary's treatment reduce the risk of HIV transmission by decreasing the concentration of the virus to negligible levels. This prevents its reproduction and allows people to have a longer and healthier life, despite there being no cure available. Without access to treatment, people who advance to the AIDS stage reportedly usually survive for a maximum period of three years. See in this regard: MSD Manuals. Human immunodeficiency virus (HIV) infection. Last revision in April 2021. Available at: <https://www.msdmanuals.com/home/infections/human-immunodeficiency-virus-hiv-infection/human-immunodeficiency-virus-hiv-infection>; Pan American Health Organization. HIV/AIDS. Available at: https://www3.paho.org/hq/index.php?option=com_content&view=article&id=9573:2019-factsheet-hiv-aids&Itemid=40721&lang=en#gsc.tab=0.

weight loss. Currently, his health conditions have worsened as he has lost weight, has headaches, a regular fever, and muscle weakness. He requires help from other people deprived of liberty to be able to stand up. It was indicated that he has presented a similar clinical picture in different intervals during the years 2020, 2021, and 2022. Since 2021, the proposed beneficiary has not been seen by any medical professional. Despite his health condition, the authorities have allegedly not provided adequate medical care, and the proposed beneficiary has not received antiretrovirals.

10. The applicants mentioned that, for over two years, the proposed beneficiary is allegedly not receiving the treatment that would prevent the effects of AIDS from progressing.
11. On June 10, 2020, the Public Defender requested that the Court trying the case urgently carry out the legal medical examination of the proposed beneficiary as he was presenting general discomfort, fever, vomiting, stomach pain, and headaches. She noted that this request had already been previously submitted on May 13, 2020. The Court granted the request after verifying a deterioration in the proposed beneficiary's health. On June 17, 2020, as a matter of urgency, it agreed to the proposed beneficiary's immediate transfer to the Emergency Service of the Hospital City "Dr. Enrique Tejera," to receive a medical evaluation by a cardiologist and to ensure the necessary medical treatment is provided. The Court ordered this transfer again on July 3, 2020. However, the CICPC of Plaza de Toros has not carried out this transfer. On July 14, 2020, the Public Defender once again requested the Court trying the case request that the proposed beneficiary receive a forensic medical examination. On the same day, the Court issued a court order for his urgent transfer and sent orders for his transfer to CICPC of Plaza de Toros, "Dr. Enrique Tejera" Hospital, and to the National Service of Medicine and Forensic Sciences (*Servicio Nacional de Medicina y Ciencias Forenses*) of the CICPC of the state of Carabobo. However, this transfer did not occur.
12. On February 23, 2021, June 28, 2021, and August 27, 2021, the Court ordered the urgent transfer of the proposed beneficiary to the Hospital City "Dr. Enrique Tejera for his HIV evaluation. However, despite the judicial decisions, the proposed beneficiary's transfer has not been carried out. On June 11, 2021, the proposed beneficiary's preliminary hearing was held, and the accusation against him was admitted. On January 24, 2022, the Public Defender filed a written request for the transfer of the proposed beneficiary's files to the corresponding Court. It also reported that the forensic medication was carried out by the CICPC of Plaza de Toros in favor of the proposed beneficiary on January 17, 2022. On March 17, 2022, the Public Defender again filed a brief with the Court trying the case requesting the proposed beneficiary's forensic medical examination be incorporated. This record states that he has HIV, and that he therefore urgently requires attention and medical treatment through antiretrovirals. In addition, the brief warned that there was an unjustified delay in his criminal proceedings.
13. On April 2, 2022, the Court again ordered the proposed beneficiary's urgent transfer. On April 3, 2022, the Public Defender submitted a written report informing that, after reviewing the file, she noticed that the report with the proposed beneficiary's medical examination had not been incorporated into the file, despite having been performed over four months prior. She also alleged that the proposed beneficiary had reportedly not received medical treatment for two years and does not have any relatives who can process his treatment before the Venezuelan Social Insurance Institute (*Instituto Venezolano de Seguros Sociales*) to guarantee his right to health. She also requests that the CICPC Municipal Delegation of Valencia be officiated to submit the medical results. According to the applicants' interview with the Public Defender, these medical results were considered lost. Subsequently, on June 7, 2022, the Court again ordered the urgent transfer of the proposed beneficiary. To date, this transfer has not yet taken place.

14. On September 5, 2022, the applicants attempted to visit the proposed beneficiary. However, they were denied entry to the CICPC headquarters in Plaza de Toros. They were therefore unable to contact the proposed beneficiary to verify his health and detention situation.
15. The applicants state that, for two years, the Venezuelan State unjustifiably fails to comply with its duty to provide the proposed beneficiary, who is deprived of liberty, with the antiretrovirals treatment for his health condition due to his HIV diagnosis, despite the repeated determinations of the judicial authorities. This has caused the proposed beneficiary's condition to worsen which affects his overall health. Therefore, the applicants request the State to adopt measures to protect the life, personal integrity, and health of the proposed beneficiary, taking into consideration that he is deprived of liberty, in addition to his health due to his HIV diagnosis.

B. Information provided by the State

16. The IACHR requested information from the State on September 20, 2022. To date, the State has not submitted any information.

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

17. Precautionary measures are one of the mechanisms of the Commission for the exercise of its function of overseeing compliance with human rights obligations, as established in Article 106 of the Charter of the Organization of American States. These general oversight functions are established in Article 18(b) of the Statute of the IACHR, while the precautionary measures mechanism is described in Article 25 of the Rules of Procedure of the Commission. In accordance with that Article, the Commission grants precautionary measures in serious and urgent situations in which these measures are necessary to avoid an irreparable harm.
18. The Inter-American Commission and the Inter-American Court of Human Rights (“the Inter-American Court” or “I/A Court H.R.”) have repeatedly established that precautionary and provisional measures have a dual nature, protective and precautionary.⁵ Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.⁶ To do this, the IACHR shall assess the problem raised, the effectiveness of state actions to address the situation described, and the vulnerability to which the persons proposed as beneficiaries would be exposed if the measures are not adopted.⁷ Regarding their precautionary nature, these measures have the purpose of preserving legal situations while under the consideration of the IACHR. They aim to safeguard the rights at risk until the petition pending before the inter-American system is resolved. Their object and purpose are to ensure the integrity and effectiveness of an eventual decision on the merits and, thus, avoid any further infringement of the rights at issue, a situation

⁵ See in this regard: I/A Court H.R. [Matter of the Yare I and Yare II Capital Region Penitentiary Center](#). Request for Provisional Measures submitted by the IACHR regarding the Bolivarian Republic of Venezuela. Order of the Inter-American Court of Human Rights of March 30, 2006, considerandum 5; I/A Court H.R. [Case of Carpio Nicolle et al. v. Guatemala](#). Provisional Measures. Order of July 6, 2009, considerandum 16 [only in Spanish].

⁶ See in this regard: I/A Court H.R. [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#). Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, considerandum 8; I/A Court H.R., [Case of Bámaca Velásquez](#). Provisional Measures regarding Guatemala. Order of the Court of January 27, 2009, considerandum 45; I/A Court H.R. [Matter of Fernández Ortega et al.](#) Provisional Measures regarding Mexico. Order of the Court of April 30, 2009, considerandum 5; I/A Court H.R. [Matter of Milagro Sala](#). Request for Provisional Measures regarding Argentina. Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5 [only in Spanish].

⁷ See in this regard: I/A Court H.R. [Matter of Milagro Sala](#). Request for Provisional Measures regarding Argentina. Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5 [only in Spanish]; I/A Court H.R. [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#). Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, considerandum 9; I/A Court H.R. [Matter of the Criminal Institute of Plácido de Sá Carvalho](#). Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of February 13, 2017, considerandum 6 [only in Spanish].

that may adversely affect the useful effect (*effet utile*) of the final decision. In this regard, precautionary or provisional measures enable the State concerned to comply with the final decision and, if necessary, to implement the ordered reparations.⁸ In the process of reaching a decision, according to Article 25(2) of its Rules of Procedure, the Commission considers that:

- a. “serious situation” refers to a grave impact that an action or omission can have on a protected right or on the eventual effect of a pending decision in a case or petition before the organs of the inter-American system;
 - b. “urgent situation” refers to risk or threat that is imminent and can materialize, thus requiring immediate preventive or protective action; and
 - c. “irreparable harm” refers to injury to rights which, due to their nature, would not be susceptible to reparation, restoration or adequate compensation.
19. In analyzing these requirements, the Commission reiterates that the facts supporting a request for precautionary measures need not be proven beyond doubt. The information provided should be assessed from a *prima facie* standard of review to determine whether a serious and urgent situation exists.⁹ Similarly, the Commission recalls that, by its own mandate, it is not called upon to make any determination on any individual criminal liabilities for the facts alleged. Moreover, in this proceeding, it is not appropriate to rule on violations of rights enshrined in the American Convention or other applicable instruments.¹⁰ This is better suited to be addressed by the Petition and Case system. The following analysis relates exclusively to the requirements set forth in Article 25 of the Rules of Procedure, which can be resolved without making any determinations on the merits.¹¹
20. As a preliminary matter, and in view of the nature of the facts described by the applicants, the Commission recalls that the Inter-American Convention to Prevent and Punish Torture, to which the State of Venezuela is a party since its ratification on August 26, 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,” as well 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.”¹²

⁸ See in this regard: I/A Court H.R. [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#). Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, considerandum 7; I/A Court H.R. [Matter of “El Nacional” and “Así es la Noticia” newspapers](#). Provisional Measures regarding Venezuela. Order of the Court of November 25, 2008, considerandum 23 [only in Spanish]; I/A Court H.R. [Matter of Luis Uzcátegui](#). Provisional Measures regarding Venezuela. Order of the Court of January 27, 2009, considerandum 19.

⁹ See in this regard: I/A Court H.R. [Matter of Members of the Miskitu Indigenous Peoples of the North Caribbean Coast regarding Nicaragua](#). Extension of Provisional Measures. Order of the Inter-American Court of Human Rights of August 23, 2018, considerandum 13 [only in Spanish]; I/A Court H.R. [Matter of Children and Adolescents Deprived of Liberty in The Complejo Do Tatuapé” of Febem](#). Request for extension of provisional measures. Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of July 4, 2006, considerandum 23.

¹⁰ IACHR. Resolution 2/2015. Precautionary Measure No. 455-13. Matter of Nestora Salgado regarding Mexico. January 28, 2015, para. 14; IACHR. Resolution 37/2021. Precautionary Measure No. 96-21. Gustavo Adolfo Mendoza Beteta and family regarding Nicaragua. April 30, 2021, para. 33.

¹¹ In this regard, the Court has indicated that “[it] cannot, in a provisional measure, consider the merits of any arguments pertaining to issues other than those which relate strictly to the extreme gravity and urgency and the necessity to avoid irreparable damage to persons.” See in this regard: I/A Court H.R. Matter of James et al. regarding Trinidad and Tobago. Provisional Measures. Order of the Inter-American Court of Human Rights of August 29, 1998, considerandum 6; I/A Court H.R., Case of the Barrios Family v. Venezuela. Provisional Measures. Order of the Inter-American Court of Human Rights of April 22, 2021, considerandum 2 [only in Spanish].

¹² [Inter-American Convention to Prevent and Punish Torture](#), Article 2.

21. In this regard, the Inter-American Court has indicated that a violation of the protection of the right to integrity encompasses various connotations of degree, such as those ranging from torture to other types of cruel, inhuman, or degrading treatment, or humiliation.¹³ In this line, there is also a prohibition of torture, cruel, inhuman, and degrading treatment and the impossibility of suspending it under any circumstances. The Inter-American Court has indicated that the lack of medical attention to a person deprived of liberty and under the custody of the State may be considered a violation of this prohibition.¹⁴
22. In view of the above, it should be noted that, in accordance with Articles 1 and 6 of this document, the member States are obliged to prevent and punish torture and cruel, inhuman or degrading treatment, or punishment within their jurisdiction. In turn, Article 17 establishes a commitment to “inform the Inter-American Commission on Human Rights of any legislative, judicial, administrative, or other measures they adopt in application of this Convention.”¹⁵ Accordingly, the Commission reiterates as part of its powers over the States, those provided for in Article 18 (b) of its Statute, consisting of “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.”¹⁶ Therefore, the mechanism of precautionary measures has had a progressive development to become a protection mechanism of the inter-American system, in compliance with its conventional and procedural obligations and deriving from the aforementioned function of the IACHR to ensure compliance with the international commitments assumed by the member States.
23. In addition, the Commission recalls that, in relation to persons deprived of liberty in general, the State is in a special position of guarantor that implies the duty to respect their life, health, and personal integrity, in addition to other human rights, inasmuch as prison authorities exercise a strong control or command over the persons in their custody.¹⁷ This is due to the unique relationship and interaction of subordination between the person deprived of liberty and the State. This is characterized by the particular intensity with which the State can regulate their rights and obligations, and by the very circumstances of imprisonment. In these circumstances, prisoners are prevented from satisfying on their own a series of basic needs that are essential for the development of a dignified life.¹⁸
24. More specifically, and in light of the facts described by the applicant, the Commission recalls that, based on the principle of non-discrimination, the Inter-American Court has indicated that this duty implies the obligation of the State to guarantee their physical and mental health, specifically through the provision of a regular medical check-up and, when required, adequate, timely and, where appropriate, specialized medical treatment according to the special care needs required by the detained persons in question. In the same way, the Inter-American Court has indicated that

¹³ I/A Court H.R. Case of the Barrios Family v. Venezuela. Judgment of November 24, 2021. Merits, Reparations, and Costs. Series C No. 237, para. 52.

¹⁴ I/A Court H.R. Chinchilla Sandoval v. Guatemala. Judgment of February 29, 2016. Preliminary objection, merits, reparations, and costs. Series C No. 132, para. 173.

¹⁵ Inter-American Convention to Prevent and Punish Torture, Articles 1,6, and 17.

¹⁶ IACHR. Statute of the Inter-American Commission on Human Rights, Article 18 (b).

¹⁷ I/A Court H.R., Case of Mendoza et al. v. Argentina. Preliminary Objections, Merits and Reparations. Judgment of May 14, 2013. Series C No. 260, para. 188; IACHR. Report on the Human Rights of Persons Deprived of Liberty in the Americas. OEA/Ser.L/V/II. Doc. 64, December 31, 2011, para. 49.

¹⁸ IACHR. Report on the Human Rights of Persons Deprived of Liberty in the Americas. OAS/Ser.L/V/II. Doc. 64, December 31, 2011, paras. 49-50.

the States must create conditions of real equality with regard to groups that are at greater risk of being discriminated.¹⁹

25. Additionally, with regard to the right to health, the jurisprudence of the Inter-American Court has recognized that health is a fundamental human right essential for the adequate exercise of the other human rights, and that every individual has the right to enjoy the highest attainable standard of health that allows him or her to live a full life.²⁰ The Commission recalls that the general obligation to protect health results in the State obligation to ensure access to essential health services, guaranteeing good quality and efficient medical care, and to promote the improvement of the health of the population as a whole.²¹ Specifically for those with an HIV diagnosis, access to drugs is an indispensable part of the right to enjoy the highest attainable standard of health.²² The Inter-American Court has pointed out that States must take steps to provide for the regulation of HIV related goods, services and information, so as to ensure that there are sufficient services for HIV prevention and care, including antiretroviral therapy and other safe and effective medicines, diagnostics and related technologies for preventive, curative and palliative care of HIV, and related opportunistic infections, and conditions.²³
26. Taking into account the above assessments, the Commission will proceed to analyze the regulatory requirements regarding the proposed beneficiary C.A.Z.S.
27. When analyzing the requirement of *seriousness*, the Commission considers that it has been met. The Commission notes that the proposed beneficiary faces risk due to the lack of medical care during pre-trial detention, despite repeated judicial decisions in his favor. In this sense, Mr. C.A.Z.S. has been deprived of liberty since March 2020 at the headquarters of the Scientific, Penal, and Criminal Investigation Service Corps (CICPC), in the Plaza de Toros sector, in the city of Valencia, state of Carabobo. Since his arrest, he has not received antiretrovirals for his health condition as a person living with HIV (see *paras.* 4 and 5). Therefore, Mr. C.A.Z.S. has not received adequate medical care for HIV for over than two years.
28. With regard to HIV, the Commission has previously recognized that it constitutes an impact on the health of a person which, in turn, impacts their personal integrity and could even cause a serious risk to life.²⁴ For its part, the Inter-American Court has pointed out that the damage to health caused by HIV/AIDS due to the severity of the disease may pose a risk of death.²⁵ In this regard, discontinuation of antiretroviral therapy could lead to a resurgence of symptoms and premature death.²⁶
29. According to the information available, the State is reportedly aware of the health of Mr. C.A.Z.S. at least since May 2020, when the Second Trial Court in Control, Hearings, and Measures of the Judicial Circuit in matters of Crimes of Violence against Women of the Judicial District of the state

¹⁹ I/A Court H.R. Case of Cuscul Pivaral et al. V. Guatemala. Preliminary objection, merits, reparations, and costs. Judgment of August 23, 2018, para. 105.

²⁰ I/A Court H.R. Case of Cuscul Pivaral et al. V. Guatemala. Preliminary objection, merits, reparations, and costs. Judgment of August 23, 2018, para. 105.

²¹ I/A Court H.R. Case of Cuscul Pivaral et al. V. Guatemala. Preliminary objection, merits, reparations, and costs. Judgment of August 23, 2018, para. 105.

²² I/A Court H.R. Case of Cuscul Pivaral et al. V. Guatemala. Preliminary objection, merits, reparations, and costs. Judgment of August 23, 2018, para. 108.

²³ I/A Court H.R. Case of Cuscul Pivaral et al. V. Guatemala. Preliminary objection, merits, reparations, and costs. Judgment of August 23, 2018, para. 108.

²⁴ IACHR. Report No. 102/13. Case 12.723. Merits. TGGL (Ecuador). November 5, 2013, para. 168.

²⁵ I/A Court H.R. Gonzales Lluy et al. v. Ecuador. Preliminary Objections, Merits, Reparations, and Costs. Judgment of September 1, 2015. Series C No. 298, para. 190.

²⁶ IACHR. Report No. 63/08. Case 12.534. Andrea Mortlock (United States). July 25, 2008, para. 90.

of Carabobo determined, for the first time, the transfer of the proposed beneficiary as a matter of urgency to the Hospital “Dr. Enrique Tejera” for his evaluation and medical treatment. However, the Commission observes that, after seven court decisions between 2020 and 2022, the latest one dated June 7, 2022, the proposed beneficiary has not yet been transferred and has not received access to antiretroviral drugs (see *paras.* 11 to 13). The Commission notes that on January 17, 2022, the proposed beneficiary’s forensic medical evaluation was carried out by the headquarters of the CICPC in Plaza de Torturas. However, following several unfulfilled requests for it to be included in the file information was obtained that his forensic medical evaluation had been lost (see *para.* 13). Due to the above, the results of the aforementioned assessment are unknown, and the proposed beneficiary has received no medical treatment to date. This is particularly concerning considering that the proposed beneficiary is in a more vulnerable situation, insofar as he is deprived of liberty and has no other possibility of accessing medical treatment. He does not receive support from any relatives either.

30. In this matter, it was indicated that the proposed beneficiary presented alleged symptoms of AIDS since 2020. Currently, the proposed beneficiary is in reported frail health. He has lost weight, regularly presents headaches and fever, as well as muscle weakness. He allegedly requires the help of other inmates to stand up (see *supra* para. 9). The Committee notes that information from the applicants indicates that antiretrovirals help patients achieve a longer and healthier life. Without access to treatment, people who have HIV and who progress to the AIDS stage generally survive for a maximum period of three years (see *supra* para. 10). Given that the proposed beneficiary has not received the necessary treatment since March 2020, over two years ago, in addition to taking into account how HIV develops and its possible health consequences, the Commission evaluates that the situation that Mr. C.A.Z.S. is facing in regard to his health is especially serious.
31. The Commission also takes note of the applicants’ allegations regarding the poor detention conditions. They mention lack of access to adequate food, sunlight restriction, and overcrowding. In addition, the proposed beneficiary is allegedly excluded from activities and isolated from other persons deprived of liberty due to the discrimination that it he faces from both prisoners and custodians because of his HIV diagnosis. In addition, the applicants indicated that recently, in the months of March and June 2022, two riots occurred in the location where the proposed beneficiary is detained (see *above* paras. 7 and 8). The IACHR recalls that it is not called upon to question the domestic criminal process against the proposed beneficiary, or the legal classification of his alleged crime. In this regard, it should be noted that the Commission has given special follow-up to the situation faced by persons deprived of liberty in Venezuela, as it constitutes one of the most serious zones in the region.²⁷ In particular, this situation is characterized by a critical level of overcrowding in prisons and remand centers, as well as a lack of up-to-date official statistics and deplorable detention conditions.²⁸ This does not necessarily reflect the particular situation of the proposed beneficiary, however, this contextual information is relevant to assess the credibility of the applicants’ allegations.
32. Having requested information from the State under Article 25 of the Rules of Procedure, the Commission regrets the lack of response to the request for information. Although the foregoing is not sufficient *per se* to justify the granting of a precautionary measure, the lack of response from the State prevents the Commission from knowing the measures that would have been reportedly implemented to address the situation that places the proposed beneficiary at risk to dispute the facts alleged. Therefore, the Commission does not have information to assess whether the alleged

²⁷ IACHR. [2021 Annual Report](#). Chapter IV.B Venezuela, para. 91

²⁸ IACHR. [2021 Annual Report](#). Chapter IV.B Venezuela, para. 201.

risk situation was distorted or not. The foregoing is particularly relevant, considering that Mr. C.A.Z.S. is deprived of his liberty and, therefore, in State custody.

33. Due to the foregoing, the Commission concludes that from the information provided and the context previously indicated, it is sufficiently proven, based on the *prima facie* standard, that the rights to life, personal integrity, and health of Mr. C.A.Z.S. are at serious risk.
34. Regarding the *urgency* requirement, the Commission also considers that it is met, inasmuch as while the proposed beneficiary is kept without the medical care that he requires, the evolution of his health condition is likely to cause even greater effects on his rights. The lack of treatment through antiretrovirals could result in weakening of the immune system due to the extent of HIV, and the proposed beneficiary is even at risk of death. Furthermore, despite the existence of various judicial decisions since 2020 that determine his urgent transfer for evaluation and medical treatment, the prison authorities have not complied with these decisions to date, nor are they identified as having taken measures to address the alleged situation. In this sense, the immediate issuance of these precautionary measures is necessary.
35. Regarding the requirement of *irreparable harm*, the Commission finds that it is met, since the possible impact on the rights to life and personal integrity constitutes the maximum situation of irreparability.

IV. BENEFICIARY

36. The Commission declares C.A.Z.S. as the beneficiary of the precautionary measure, who is duly identified in these proceedings.

V. DECISION

37. The Inter-American Commission considers that this matter meets, *prima facie*, the requirements of seriousness, urgency, and irreparable harm set forth in Article 25 of its Rules of Procedure. Consequently, it requests that Venezuela:
 - a) adopt the necessary measures to protect the rights to life, personal integrity, and health of C.A.Z.S. In particular, adopt immediate measures that grant access to adequate medical treatment, including the necessary medicines in accordance with corresponding health professionals' prescriptions, as well as the diagnoses and examinations for a regular evaluation of his health status, according to the applicable international standards;
 - b) consult and agree upon the measures to be adopted with the beneficiary and his representatives; and
 - c) report on the actions undertaken in order to investigate the alleged facts that led to the adoption of this resolution, so as to prevent such events from reoccurring.
38. The Commission also requests that the State of Venezuela report, within 15 days as from the day after this resolution, on the adoption of the required precautionary measures and to update that information periodically.
39. 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 under the applicable instruments.

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40. The Commission instructs the Executive Secretariat of the IACHR to notify this resolution to the State of Venezuela and the applicants.
 41. Approved on October 9, 2022, by Julissa Mantilla Falcón, President; Esmeralda Arosemena de Troitiño; Joel Hernández García; Roberta Clarke; and Carlos Bernal Pulido, members of the IACHR.

Tania Reneaum Panszi
Executive Secretary