
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 107/2021**

Precautionary Measure No. 1084-21

Glenda Carolina Ayala Mejía and her family regarding Honduras

December 28, 2021

Original: Spanish

I. INTRODUCTION

1. On December 3, 2021, the Inter-American Commission on Human Rights (“the Inter-American Commission”, “the Commission” or “the IACHR”) received a request for a precautionary measure filed by the National Commissioner for Human Rights (CONADEH) (“the applicants”) urging the Commission to require that the State of Honduras (“the State” or “Honduras”) adopt the necessary measures to protect the rights to life and personal integrity of Glenda Carolina Ayala Mejía and her relatives.¹ According to the applicants, the proposed beneficiary is at risk because she has been subjected to threats and harassment, and because there exists an alleged plan to assassinate her. As it was alleged, this situation is related to her work as Presiding Commissioner of the National Committee for the Prevention of Torture and Cruel, Inhuman or Degrading Treatment (MNP - CONAPREV), and complaints filed concerning the situation of persons deprived of liberty in Penitentiary Centers of Honduras.

2. On August 3, 2021, the IACHR requested information from the parties pursuant to Article 25(5) of its Rules of Procedure. The applicants sent information on December 13 and 15, 2021, and the State sent information on December 16, 2021. On December 17, 2021, the applicants submitted additional information.

3. Upon analyzing the submissions of fact and law furnished by the parties, the Commission considers that the information provided shows *prima facie* that the proposed beneficiary is in a serious and urgent situation, given that her rights to life and personal integrity are at risk of irreparable harm. Consequently, in accordance with Article 25 of the IACHR Rules of Procedure, it requests that Honduras: a) adopt the necessary measures, with a gender perspective, to protect the rights to life and personal integrity of Glenda Carolina Ayala Mejía and her family; b) adopt the necessary measures so that the proposed beneficiary can carry out her activities as Presiding Commissioner of the National Committee for the Prevention of Torture and Cruel, Inhuman or Degrading Treatment, without being subjected to threats, harassment, and other acts of violence in the exercise of her duties; c) consult and agree upon the measures to be adopted with the beneficiary and her representatives; and d) report on the actions taken to investigate the alleged facts that gave rise to the adoption of this precautionary measure, so as to prevent such events from reoccurring.

II. SUMMARY OF FACTS AND ARGUMENTS

A. Information provided by the applicants

4. The applicants indicated that, in 2016, the construction of three maximum security prisons began as part of a security policy characterized by the militarization of the Penitentiary System through the

¹ The applicants indicate as the family of the proposed beneficiary: A.L.V.A. (daughter), J.A.V.A. (son), M.C.V.A. (daughter), D.A.R. (father) and E.M.S. (mother).

National Inter-Institutional Security Force (FUSINA).² In this context, since 2016, the proposed beneficiary acts as President Commissioner of the National Prevention Mechanism against Torture and Cruel, Inhuman and Degrading Treatment (MNP-CONAPREV). As part of its mandate, it periodically examines the treatment of persons deprived of liberty, presenting recommendations to the national authorities and making complaints of human rights violations to the detriment of persons deprived of liberty.

5. It was indicated that the proposed beneficiary is being subjected to denial of admission to prisons, permanent surveillance during interviews with persons deprived of liberty, and acts of threats, harassment, and violence against them. The proposed beneficiary began to report such events to the Public Ministry and other instances in order to be able to carry out their work. The applicants documented complaints filed by the proposed beneficiary, in different government instances, between the years 2017 and 2021, against officials responsible for prisons. Such complaints refer to human rights violations of persons deprived of liberty, as well as acts of obstruction of the proposed beneficiary's work:

1. On January 25, 2017, before the First Battalion, Special Operations Command, he denounced a Colonel for obstructing the work of Commissioner Ayala;
2. On March 23, 2017, before the Special Prosecutor for Human Rights, a complaint against the director of the Marcala Penal Center, for irregular acts;
3. On March 23, 2017, before the Special Prosecutor for Human Rights, a complaint against the director of the Centro Sagrado Corazón Casitas 21 and the Deputy Chief of Security, for actions and omissions to the detriment of minors;
4. On June 13, 2018, before the National Commissioner for Human Rights, a complaint against a member of the Armed Forces for violation of the right to life and rights of women;
5. On November 19, 2018, before the Subcommittee for Prevention against Torture, he denounced the obstruction of the work of the MNP-CONPARE and acts of intimidation against him;
6. On January 30, 2019, before the Special Prosecutor for Human Rights, he denounced the Captain of the 1st Infantry Battalion for unjustifiably obstructing the work of the MNP-CONAPREV;
7. On January 30, 2019, before the Special Prosecutor for Human Rights, a complaint against public officials for repressing relatives of persons deprived of liberty;
8. On April 3, 2019, before the Special Prosecutor for Human Rights, a complaint against public officials for physical abuse and torture to the detriment of a person deprived of liberty;
9. On June 18, 2019, before the Special Prosecutor for Human Rights, a complaint against the Deputy Director of the National Penitentiary Institute, for obstructing the work of the MNP-CONAPREV;
10. On August 28, 2019, before the Special Prosecutor for Human Rights, the MNP-CONAPREV denounced multiple violations against those deprived of liberty and their families;
11. On November 4, 2019, before the Special Prosecutor for Human Rights, an investigation was requested from the Director of the Támara Penitentiary Center for acts of cruel, inhuman and degrading treatment;
12. On February 3, 2020, before the Special Prosecutor's Office for the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Operators, an investigation was requested against the director of the Támara Penitentiary Center for discrimination against a trans woman;
13. On November 18, 2020, before the Special Prosecutor for the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Operators, a complaint was filed against the director of the Támara Penitentiary Center, for obstruction of the work of the MNP-CONAPREV;
14. On April 13, 2021, before the Special Prosecutor for Human Rights, against members of the National Force for the Control of Penitentiary Centers, he denounced for obstruction of the work of the MNP-CONAPREV;
15. On June 29, 2021, before the Special Prosecutor for Human Rights, against the director of the National Women's Penitentiary for Social Adaptation for obstruction of the work of the MNP-CONAPREV;
16. On April 30, 2021, before the Special Prosecutor's Office for Human Rights, request for an investigation of events denounced by inmates of the Maximum Security Module of the Támara Penitentiary Center;
17. On July 15, 2021, before the Police Disciplinary Affairs Directorate, a complaint was filed against the director of the National Women's Penitentiary for Social Adaptation for obstruction of the work of the MNP-CONAPREV;

²According to the petitioners, said security policy would be contrary to international human rights standards and the recommendations of CONADEH to the State of Honduras.

18. On July 21, 2021, before the Special Prosecutor for Human Rights, a complaint was filed against the director of the National Penitentiary for Social Adaptation for obstruction of the work of the MNP-CONAPREV;
19. On July 26, 2021, before the Special Prosecutor's Office for Human Rights, a complaint against the authorities of the National Penitentiary Institute for non-compliance with court orders;
20. On September 2, 2021, before the Esperanza Intibucá Prosecutor's Office, a complaint against the director of the Esperanza Intibucá Penitentiary Center, for the lack of response to the request for information from the MNP-CONAPREV;
21. On October 21, 2021, before the Special Prosecutor for the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Operators, a complaint was filed against the director of the Támara Penitentiary Center, for obstruction of the work of the MNP-CONAPREV and threats of death; Y
22. On November 10, 2021, before the Special Prosecutor's Office for the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Operators, a complaint against Sub-Lieutenant and Deputy Commissioner of the Metropolitan Headquarters # 1, for obstruction of the mandate of the MNP-CONAPREV .

6. Of the complaints filed, the applicants indicated that it had a registered case against a military officer for an alleged crime of violation of the duties of the officials to the detriment of the public administration and the proposed beneficiary.

7. It was indicated that, in November 2017, Commissioner Ayala appeared to make a monitoring visit to the Ilima Penitentiary Center, due to reports of 34 people being held incommunicado for 5 days. The lieutenant colonel director of the Penitentiary Center would have prevented their entry and had issued insults and intimidation so that the proposed beneficiary desisted from the visit. Subsequently, on February 11, 2018, Commissioner Ayala appeared at the same Penitentiary Center due to a new complaint from relatives of persons deprived of liberty. An agent of the Military Police, assigned to the security of said Penitentiary Center, received him and reportedly told him that: "these little angels are well eaten, they have to be freaked out, these problems are eliminated at the root [referring to people deprived of liberty]." After the visit, on March 5, 2018, the police officer who attended Commissioner Ayala in prison sent her photographs of the conditions of the people deprived of liberty. The proposed beneficiary alleged that the photographs showed the subhuman conditions in which they were found. However, he replied, later erasing the message: "I did not believe that was the case and that with the fact of gaining prominence [on the part of the Commissioner] she did not care about damaging anyone's career and that [he] would abide by the consequences."

8. Due to the above, the proposed beneficiary met with the person in charge of the Military Police in San Pedro Sula, the aforementioned Military Police agent and the director of the Ilima Penitentiary Center, explaining her role as Commissioner of the MNP-CONAPREV. A few days later, Commissioner Ayala returned to the Penitentiary Center to follow up on her recommendations, which had not yet been complied with. In this regard, according to the applicants, the military officials in charge of security warned him that: "the problems take them away." According to the applicants, the above would suggest that the Commissioner would be a problem to eliminate.

9. On February 18, 2019, the proposed beneficiary left her work office at 10 p.m. with her driver. He reportedly informed him that an unknown white van without registration plates had remained near the office. On April 27, 2021, the national director of the National Penitentiary Institute issued instructions to the Directors of Penitentiary Centers to refrain from receiving requests for information on penitentiary matters from representatives of institutions, citing the MNP-CONAPREV institution as an example. and other institutions, since any request for information should be channeled through the Director of the National Penitentiary Institute. The applicants indicated that, at that time, Commissioner Ayala was the one who was requesting information on prison matters.

10. On October 13, 2021, an officer from the MNP-CONAPREV appeared at the Támara Penitentiary Center following reports of attacks against persons deprived of liberty. However, the inspection could not be carried out due to the refusal of the Colonel Director of the Penitentiary Center to grant him access, which was reported to Commissioner Ayala in the presence of public officials military. That same day, Ms. RSLR, a private attorney, sent Ms. MB - a friend in common with Commissioner Ayala - two videos per *WhatsApp* about a meeting between private lawyers - including Ms. RSLR - and the Director of the Támara Penitentiary Center. Then, Ms. MB forwarded the videos received to the proposed beneficiary, in which a conversation is heard between lawyers and the Director of the Támara Penitentiary Center, who would threaten the proposed beneficiary, saying that: “if something happened to her [Commissioner Ayala], it is your responsibility [and that] they would not be surprised if they were found in a gutter [referring to Commissioner Ayala and Ms. RSLR].”

11. The proposed beneficiary sent the videos to the chief general of FUSINA, indicating their concern about the threat from the director of the Támara Penitentiary Center in the videos and requesting that such events be investigated. Therefore, the chief general of FUSINA sent commissions to Támara and the National Penitentiary Institute, which would have caused annoyance to the director of the Penitentiary Center, who had access to the videos. After allegedly realizing that the RSLR lawyer was responsible for recording them, he would have sent her messages saying that she “had a lot of courage.” In that sense, on October 29, 2021, the General Directorate of the Protection System interviewed the lawyer RSLR, who testified about the constant threats to the proposed beneficiary due to her work and stated that she recorded a conversation in which she heard a call to Commissioner Ayala: “son of a bitch, bochinera, eat shit and that neither the MNP-CONAPREV, nor the CONADEH were going to arrive at the time they wanted.” She reportedly stated that the director of the Támara Penitentiary Center “has a lot of hatred [regarding the proposed beneficiary] and that he is a very impulsive person and that it is something beyond work, as it is something personal.”

12. On December 7, 2021, the proposed beneficiary was conducting a monitoring visit at the Támara Penitentiary Center, when a person who would work with the colonel director of the Támara Penitentiary Center approached and requested a private meeting. On December 11, 2021, this person informed him that the deputy director of the Támara Penitentiary Center had made a call ordering a chief of hitmen to assassinate the proposed beneficiary, due to his complaint for acts of torture against a private of freedom. According to the applicants, the deputy director of the Támara Penitentiary Center would have indicated that Commissioner Ayala “walks bounced,” which would mean that she goes without protection. Likewise, he would have made threats: “he pays me, he pays me”; “You have to turn it down, turn that lady around”; and “they want to shit on the military career.”

13. According to the applicants, 9 complaints or requests regarding the risk situation of the proposed beneficiary have been presented repeatedly, from 2018 to date, before the Office of Human Rights and the Security Offices of the Secretariat of the State, as well as in the Protection Mechanism for Human Rights Defenders, Journalists, Social Communicators and Justice Operators:

1. On June 5, 2018, two complaints were presented regarding the situation of risk to the life of the proposed beneficiary and other commissioners of the MNP-CONAPREV, before the Security Office of the Secretary of State (SEDS), which were sent to CONADEH;
2. On June 5, 2018, a complaint regarding the risk situation of the proposed beneficiary was filed with CONADEH, which admitted the complaint and proceeded to investigate the facts;
3. On July 2, 2018, a new complaint regarding the risk situation of the proposed beneficiary and other commissioners of the MNP-CONAPREV was filed with CONADEH, which requested the applicants’ security measures from SEDS;
4. On November 19, 2018, information was requested from the Human Rights Office of the Secretary of State (SEDH) on the measures taken on the complaints of intimidation filed by the proposed beneficiary, which recommended that the commissioner access the General Directorate of the System of protection;

5. On February 4, 2019, CONADEH was asked to urge the SEDS to carry out a risk analysis, which was carried out;
6. On February 5, 2021, the proposed beneficiary requested protection measures from the Protection Mechanism, however, the General Directorate of the Protection System rejected their request;
7. On July 22, 2021, the proposed beneficiary and CONADEH requested an urgent meeting with the SEDH, without receiving a response;
8. On October 29, 2021, the events that occurred on October 13 were reported to the SEDH, however, the General Directorate of the Protection System rejected the request for protection measures;
9. On October 29, 2021, the General Directorate of the Protection System requested the director of the National Penitentiary Institute to intervene in the alleged conflict between Commissioner Ayala and the Director of the Támara Penitentiary Center, without a response to said request being recorded. the date.

14. In particular, the applicants referred to the request for protection measures to the Protection Mechanism on February 5, 2021, which was declared without place for not complying with the formal requirements established in article 43 of the Protection Law.³ Likewise, on October 29, 2021, the events that occurred on October 13, 2021 were reported to the Secretary of State in the Office of Human Rights. In this regard, the General Directorate of the Protection System reported that “no concrete, clear and specific threat was identified; while it is considered a personal situation between officials”, and requested an intervention for an alternative dialogue on the alleged conflict between the proposed beneficiary and the director of the Támara Penitentiary Center.

15. Additionally, it was indicated that the police protection measures, which consisted of a liaison and police patrols, were adopted intermittently and were therefore not effective. To date, the proposed beneficiary does not have any type of protection measures. On its own initiative, the proposed beneficiary has adopted protection measures such as taking alternate routes, being accompanied by her driver and hiring private security for her family member when she has sufficient financial resources. Lastly, the applicants stated that the proposed beneficiary exhibits symptoms of anxiety due to threats to her life and to her family members.

B. Information provided by the State

16. The State stated that, on December 8, 2021, the Police Units of the city of Tegucigalpa (UMEP 1) and the city of Comayagua (UDEP 3) reported that they are in compliance with the police protection measures for the proposed beneficiary and its children since 2018. Thus, the UMEP 1 reported that the patrols and police liaison measure of the proposed beneficiary and her children is being complied with at that time, which is currently being implemented in their home, since the patrols occur daily. For its part, the UDEP 3 also reported that the measure of police liaison with the proposed beneficiary and her daughter is being carried out at that time, which is implemented in their home and in a study center. Police units have reported that no risky incidents have occurred.

17. In addition, the General Directorate of the Protection System reported that, on February 5, 2021, the Unit for Reception of Cases and Immediate Reaction decided not to admit the request for protection measures in favor of Glenda Carolina Ayala Mejía and Miguel Arturo Sánchez, both commissioners of the MNP-CONAPREV, on the grounds that the requirements established in the Protection Law for Human Rights Defenders, Journalists, Social Communicators and Justice Operators

³ In accordance with Article 43 of the Protection Law for Human Rights Defenders, Journalists, Social Communicators, and Justice Operators, the General Directorate of the Protection System, the existence of four elements must be reviewed to grant the protection measures: 1. that the consent of the potential beneficiary exists, except for serious and/or exceptional causes; 2. that there is a causal link between the situation presenting a risk and their activity as human rights defenders or their work in the case of journalists, social communicators, and justice operators; 3. that there are indications about the situation presenting a risk; 4. that the applicant or the person in whose name protection is requested, is within the beneficiary population of this Law. The request of the proposed beneficiary was rejected by the General Directorate of the Protection System due to the alleged absence of elements 3 and 4 of the Protection Law.

were not met, since both are public officials, therefore are subject to the Law for the Special Protection of Officials and Former Officials at Extraordinary Risk. Additionally, no concrete, clear and specific threat to the commissioners was identified. The applicants have not provided authorization for their cases to be known by military or police authorities, therefore no ex officio actions were taken and the proceedings of the cases were archived.

18. The General Directorate of the Protection System also reported that, on October 22, 2021, it received a request for protection measures in favor of Glenda Carolina Ayala Mejía. After conducting a first contact interview, on October 29, 2021, the resolution of the Unit for Reception of Cases and Immediate Reaction decided not to decree the requested protection measures, because no specific, clear and specific threat was identified. specific, causal link or existence of indications about the referred risk situation. In this regard, a communication was sent to the National Human Rights Commissioner requesting his attention to the petitioner's complaint against the director of the Támara Penitentiary Center before the Special Prosecutor for Protection of Human Rights Defenders, Journalists, Social Communicators and Operators of Justice. Likewise, a communication was sent to the National Penitentiary Institute requesting intervention for a harmonious solution to the conflict between the proposed beneficiary and the director of the Támara Penitentiary Center.

19. The State indicated that, on March 23, 2021, the Office of Human Rights of the Secretariat of Security received an official letter signed by the Central Eastern Regional Delegate of the National Commissioner for Human Rights regarding threats to the proposed beneficiary. Thus, on March 24, 2021, the National Director of Protection and Special Services of the National Police was requested to carry out a new risk analysis to the proposed beneficiary and her children, because she was not received in the Mechanism of Protection of the General Directorate of the Protection System of the Secretariat for Human Rights, which exercises its function within the framework of the Protection Law for Human Rights Defenders, Journalists, Social Communicators and Justice Operators, to the extent that the proposed beneficiary She continues in her position as a public official, therefore she is a beneficiary of the Law for the Special Protection of Officials and Former Officials at Extraordinary Risk. Consequently, on December 8, 2021, the National Directorate for Protection and Special Services of the National Police reported that, on November 3, 2021, a police officer contacted the proposed beneficiary to schedule the appointment for the analysis interview. risk, who answered by phone call informing her that she would be busy. Likewise, on November 4, 2021, the proposed beneficiary would have responded to a message in *WhatsApp* to schedule the aforementioned appointment saying that : "Do not worry, I do not think that the protection of my life is of interest to the State, you calm down, establish in your report that I have not been able to do so." Therefore, the request for the risk analysis of the proposed beneficiary and her children was filed.

20. The State also provided information regarding the procedural status of the complaints made by the proposed beneficiary. The Office of the Special Prosecutor for the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Operators indicated the existence of complaints from 2018 to 2021, in different procedural states:

1. Complaint of January 8, 2019, against a Captain for violation of the duties of officials, under investigation;
2. Complaint of February 14, 2019, against the National Force for Control of Penal Centers for violation of the duties of officials, in administrative closure;
3. Complaint of September 16, 2020, against the deputy director of the National Penitentiary Institute for abuse of authority, in administrative closure;
4. Complaint of October 29, 2021, against the director of the Támara Penitentiary Center for abuse of authority, violation of the duties of officials and impediment to the exercise of other rights recognized in the Constitution, under investigation;
5. Complaint of November 16, 2020, for abuse of authority and violation of the duties of officials, under investigation;

6. Complaint of April 27, 2021, against the deputy director of the Támara Penitentiary Center, for cruel, inhuman or degrading treatment, under investigation;
7. Complaint of December 6, 2019, against the commander of the First Infantry Battalion, for violation of the duties of the officials, finds a formal indictment pending the resolution by the Court of Appeals; Y
8. Complaint of 2021, against the director of the Intibucá Penitentiary Center, for abuse of authority and violation of the duties of public officials, under investigation.

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

21. The precautionary measures mechanism is part of the Commission's function of overseeing compliance with the human rights obligations set forth in Article 106 of the Charter of the Organization of American States. These general oversight functions are 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.

22. 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 character, one protective and the other precautionary.⁴ Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.⁵ 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.⁶ Regarding their precautionary nature, these measures have the purpose of preserving legal situations while under the consideration of the IACHR. The object and purpose of precautionary measures is to preserve 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 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.⁷ In the process of reaching a decision, and according to Article 25(2) of the Rules of Procedure, the Commission considers that:

⁴ See in this regard: I/A Court H.R. Case del Centro Penitenciario Región Capital Yare I y Yare II (Cárcel de Yare). 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.

⁵ 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].

⁶ 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].

⁷ 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; I/A Court H.R. Matter of Luis Uzcátegui. Provisional Measures regarding Venezuela. Order of the Court of January 27, 2009, considerandum 19.

- 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.

23. 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.⁸ Similarly, the Commission recalls that, by its own mandate, it is not called upon to determine any criminal liabilities for the facts alleged. Moreover, it is not appropriate, in this proceeding, to rule on violations of rights enshrined in the American Convention or other applicable instruments.⁹ The analysis performed herein 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.¹⁰

24. As part of the analysis of the procedural requirements, the Commission recalls that, in the terms of Article 25(6) of its Rules of Procedure, “[...] when considering the request [for precautionary measures], [...] it will take into account its context. [...]” In this regard, the Commission identifies that the proposed beneficiary currently holds the position of “Presiding Commissioner” of the National Committee for the Prevention of Torture and Cruel, Inhuman or Degrading Treatment (MNP-CONAPREV) in Honduras (see *supra* para. 4). As part of her functions, the national committee over which she presides conducts periodic reviews of the situation of persons deprived of their liberty in the country and brings the corresponding recommendations or complaints to the competent entities (see *supra* para. 4). Such activities are relevant insofar as they strengthen the State’s response to situations or complaints within the mandate of the MNP-CONAPREV. In the same way, they enable the State to adopt the corresponding domestic measures for the purpose of complying with international obligations on the matter.

25. For the Commission, the work carried out by the MNP-CONAPREV is also of vital importance for the Inter-American System. For reasons of its own mandate, this institution has information that enables this Commission to fulfill its mandate to monitor human rights recognized in the American Convention and other international instruments. Thus, the Commission has used the information that said national mechanism has produced as part of its work in the country on the situation of persons deprived of their liberty. For example, the Commission collected information from the MNP-CONAPREV during its visit *in loco* to Honduras in 2018,¹¹ in the subsequent Country Report published

⁸ 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 Deprived of Liberty in the “Complexo do Tatuapé” of the Fundação CASA. 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.

⁹ 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 [only in Spanish].

¹⁰ In this regard, the Court has indicated that “[it] cannot, in a provisional measure, consider the merits of any arguments pertinent to issues other than those which relate strictly to the extreme gravity, 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 Barrios Family v. Venezuela. Provisional Measures. Order of the Inter-American Court of Human Rights of April 22, 2021, considerandum 2 [only in Spanish].

¹¹ IACHR. Situation of Human Rights in Honduras. OEA/Ser.L/V/II., Doc. 146, August 27, 2019, para. 359

in 2019¹², and in Chapter V of the 2020 Annual Report referring to the follow-up of recommendations made to Honduras previously.¹³

26. In addition to the above, it is noteworthy that the information collected by the MNP-CONAPREV allows the Commission to duly follow up on the recommendations made in 2019 to the State of Honduras in matters of persons deprived of liberty.¹⁴ In this way, based on the comprehensive information received, including that provided by the MNP-CONAPREV, the Commission has classified in 2020 that such recommendations are among “substantial partial compliance”, “partially fulfilled”, or “pending compliance.”¹⁵ On that occasion, for example, the Commission warned that the MNP-CONAPREV would be carrying out actions with a view to reforming internal regulations regarding persons deprived of liberty in the country.¹⁶

27. Considering the previous context, and when analyzing the requirement of *seriousness*, the Commission deems it relevant to understand that the alleged facts that the proposed beneficiary has faced, particularly the most recent ones, have occurred while she has held the position of “Presiding Commissioner” of the MNP-CONAPREV in the country. This position purportedly not only implies that she could lead the aforementioned national institution but would also grant her wide visibility within Honduran society, and particularly in front of state actors, including the military, of the Honduran Penitentiary System (see *supra* para. 4). Such considerations are relevant to the extent that, as she is the person who promotes the implementation of the national mandate of the MNP-CONAPREV, the materialization of risk situations against her would impact on the work of the national mechanism and on the situation of the rest of the members and work team in the face of the possible intimidating effect that would be generated.

28. The Commission observes that the applicants reported various events against the proposed beneficiary. In particular, they indicated that the events are related to the actions of the mandate that it holds within the MNP-CONAPREV (vid *supra* para. 5), which includes, among others: making visits to prisons; request information on the situation of persons deprived of liberty; file complaints with the competent entities for human rights violations (see *supra* para. 4 and 5). The Commission also warns,

¹² IACHR. [Situation of Human Rights in Honduras](#). OEA/Ser.L/V/II., Doc. 146, August 27, 2019, paras. 342, 356, and 359. In this regard, the IACHR used information from the MNP-CONAPREV on the overcrowding of the new prisons and the increase in cases of illnesses in those deprived of liberty.

¹³ IACHR. [Annual report 2020](#), Chapter IV.A. OEA / Ser.L/V/II., Doc. 28. March 30, 2021. Paras. 206, 207, and 210. In this regard, the IACHR used information from the MNP-CONAPREV on the recommendations made to the State of Honduras in matters of persons deprived of liberty regarding the guarantee of regular visits and the use of solitary confinement exceptionally.

¹⁴ IACHR. [Annual report 2020](#), Chapter IV.A. OEA/Ser.L/V/II., Doc. 28. March 30, 2021. 1094 and 1095. The IACHR made the following recommendations to the State of Honduras regarding persons deprived of liberty: Adopt the judicial, legislative, administrative, and other measures required to apply preventive detention in accordance with international standards on the matter. The State must promote, regulate and apply alternative measures to preventive detention; and it must repeal the provisions that order the mandatory application of preventive detention for the type of crime, in particular, article 184 of the Code of Criminal Procedure. Additionally, the IACHR urges the State to carry out actions aimed at efficiently applying the existing initiatives that provide for the application of release benefits; Ensure regular visits are made. In particular, reform article 10 of the Regulation of visits in the establishments of the National Penitentiary System, in order to contemplate only the fulfillment of those essential requirements to guarantee the security inside the penal centers, and that they do not represent a disproportionate expense for people in a situation of poverty or with few resources; Use solitary confinement exceptionally, based on an individualized risk assessment, limited to the shortest possible time, and as a last resort. In this sense, the State must reform Decree No. 101/2015 (Labor Law for Persons Deprived of Liberty and Permanence for Highly Dangerous and Aggressive Inmates) in order to comply with international standards, especially with regard to the duration of isolation and the review that it must be subjected to.

¹⁵ IACHR. [Annual report 2020](#), Chapter IV.A. OEA / Ser.L / V / II., Doc. 28. March 30, 2021. 205, 209 and 210. The IACHR considered that the recommendation regarding the adoption of measures required to apply preventive detention in accordance with international standards on the matter is in substantial partial compliance; the recommendation to guarantee regular visits, particularly the reform of article 10 of the National Penitentiary System Visiting Regulations, is partially fulfilled; and the recommendation regarding the use of solitary confinement exceptionally, and particularly on the reform of Decree No. 101/2015 (Labor Law for Persons Deprived of Liberty and Permanence for Highly Dangerous and Aggressive Inmates) is pending compliance.

¹⁶ IACHR. [Annual report 2020](#), Chapter IV.A. OEA / Ser.L / V / II., Doc. 28, March 30, 2021, para. 206.

based on the available information, that the proposed beneficiary has filed, at least since 2017, complaints before the Prosecutor's Office, and other competent entities, against military personnel and directors of penitentiary centers in Honduras. The complaints reported range from those referring to acts of obstruction of the work of the MNP-CONAPREV to complaints of violations of the human rights of persons deprived of liberty and their families (see *supra* para. 5). Regarding them, the applicants specified that a military officer has been prosecuted for the crime of violation of the duties of officials to the detriment of the public administration and the proposed beneficiary (see *supra* para. 6)

29. Considering the above, the applicants reported on alleged events that occurred between 2017 and 2021 against the proposed beneficiary, which reflect the following:

- i. People who hold the position of director in prisons in Honduras have prevented the proposed beneficiary from entering to carry out monitoring visits, and insults and intimidations were allegedly presented (see *supra* para. 7
- ii. After a visit to verify a prison, a military policeman told her in a message that she would seek to gain prominence and that: “[he] abide by the consequences.” It was indicated that other military officials had indicated in reference to the proposed beneficiary that: “the problems take them away” (see *supra* para. 7 and 8
- iii. Nearby presence of vehicles not identified or known by the proposed beneficiary near their office at night (see *supra* para. 9);
- iv. In a temporary period in which she as Commissioner of the MNP-CONAPREV was requesting information as part of her mandate, the national director of the National Penitentiary Institute would have instructed that the directors of the penitentiary centers refrain from receiving requests for information and that all be channeled through the aforementioned national director (see *supra* para. 9).

30. Recently, it is observed that, in October 2021, the applicants indicated that a colonel director of a penitentiary center had made threats against the proposed beneficiary, indicating, for example, that: “[that] they were not surprised that they were found in a gutter ”; “ son of a bitch ”; “ bochinchera ”; “ eat shit ”, or references to the fact that the MNP-CONAPREV is not going to go to the penitentiary at the time it wants (see *supra* para. 10 and 11. These statements were reported to the FUSINA chief general so that he could initiate the corresponding investigations, which would have led the questioned director to identify the source who passed on said information, indicating that he “had a lot of courage”; and from the General Directorate of the Protection System, before which the source requested protection after recording the conversation with the questioned director of the penitentiary (see *supra* para. 11).

31. The Commission notes that, according to the applicants, the proposed beneficiary had filed complaints for acts of torture in the penitentiary center run by the questioned colonel director (see *supra* para. 12). Subsequently, in December 2021, they reported that a person, close to the colonel director of the aforementioned penitentiary, had informed the proposed beneficiary, who was on a work visit, that the deputy director of the aforementioned penitentiary had given an order to a chief of hitmen to assassinate the proposed beneficiary (see *supra* para. 12). Likewise, the aforementioned deputy director would have indicated that the proposed beneficiary would walk without protection by stating that “she is walking bounced”, being that she would also have given threats and messages such as: “He pays me, he pays me”; “You have to turn it down, turn that lady around”; and “they want to shit in the military career” (see *supra* para. 12).

32. The elements indicated reflect a situation of special concern regarding the situation of the proposed beneficiary within the framework of the work that she carries out as “Presiding

Commissioner” of the MNP-CONAPREV. The alleged facts allow us to identify not only a context of animosity towards her due to actions linked to her mandate, but also a series of disqualifications towards her person due to the questions that she would be making to agents in the Penitentiary System. In this sense, the risk situation of the proposed beneficiary is marked by a continuum of alleged events that range from messages with threatening content to the point of recently referring to an allegation of possible involvement of a hit man to assassinate her. The Commission also considers it relevant to note the differentiated impact that the proposed beneficiary faces for reasons of its gender. In this sense, it is important to note that women who work to defend human rights are often questioned based on gender stereotypes impregnated in their traditional role in society, which ends up placing them in a situation of special vulnerability.

33. In light of the situation presented, and after requesting information from the State in the terms of paragraph 5 of Article 25 of the Rules of Procedure, the Commission observes that the State reported on the protection measures implemented (see *supra* para. 16), the status of protection requests (vid *supra* para. 17-19), and the status of complaints made by the proposed beneficiary (see *supra* para. 20).

34. Regarding the protection measures implemented, the State referred to “police protection measures” through “patrols” and “police liaison” to the proposed beneficiary and her children in cities of Tegucigalpa and Comayagua, focused on housing. and mother and daughter study center. In this regard, the representation indicated that they were adopted “intermittently.” The Commission values that such measures have been implemented and are in “compliance”, as indicated by the State. However, it warns that the implemented measures focus on the proposed beneficiary’s dwelling, which could cover certain members of their family group, and therefore, do not cover those places where the proposed beneficiary works, such as their office, or during her displacements as part of her work at the MNP-CONAPREV, both inside and outside the prisons that she would visit. The foregoing is relevant to the extent that it has been alleged that the risk factors that she would face are particularly linked to the activities that she carries out, also being that the complaints filed have been focused on the lack of guarantees so that she can adequately carry out her labors. Therefore, the Commission considers that a particular and individualized evaluation of the situation of the proposed beneficiary should be carried out, which includes considerations about the trips that she makes as part of her work, as well as the protection guarantees that she has within of the penitentiary centers that she visits, and in response to the position of “Presiding Commissioner” that she would hold, with a view to assessing the concrete measures to be implemented.

35. The State also reported on the status of requests for protection before various state entities. In certain cases, the State confirmed what was alleged by the applicants and specified some other issues. When analyzing the information as a whole, the Commission notes that, according to the applicants, the proposed beneficiary has requested protection since at least 2019, with the support of its applications from CONADEH. Thus, it is noted as a precedent that, between 2019 and 2021, action was requested from the Security Office of the Secretary of State and the Human Rights Office of the Secretary of State (see *supra* para. 13). So far in 2021, the parties agree that protection measures were requested from the General Directorate of the Protection System:

- i. In February 2021, they were not admitted, according to the State, because the proposed beneficiary is not under the assumptions of the internal regulations and no concrete, clear and specific threat was identified. It was specified that no *ex officio* actions were carried out since authorization was not provided for his situation to be known by military or police authorities (see *supra* para. 17).

- ii. In October 2021, it was decided not to decree them because a concrete, clear and specific threat, causal link or evidence was not identified. A communication was sent to CONADEH to attend to the complaint of the proposed beneficiary against the director of a penitentiary before the Special Prosecutor's Office, and a communication to the National Penitentiary Institute for "intervention" of a "harmonious solution" between the proposed beneficiary and the aforementioned director (see *supra* para. 18).

36. In this regard, the Commission notes that after at least 3 requests for protection in 2021, no additional protection measures have been allegedly implemented in favor of the proposed beneficiary. Although the State assessed internally that certain internal regulations in favor of the proposed beneficiary were not applicable and referred in communications to CONADEH and the National Penitentiary Institute for the respective actions, the Commission does not notice elements of assessment that allow indicating what Actions were taken after such referrals to address the situation presented. In the case of CONADEH, the Commission notes that it is that institution that has requested these precautionary measures for international protection, alleging that no effective protection measures have been adopted. In the case of the National Penitentiary Institute, the Commission observes that no information has been provided on the measures implemented, which is relevant to know since the proposed beneficiary has also made their situation known to the prison authorities, such as the general head of FUSINA (see *supra* para. 11).

37. Unlike the applicants, the State also referred to a request before the Human Rights Office of the Secretariat of Security in March 2021 regarding threats to the proposed beneficiary and considering that she is covered under internal regulations for the protection of officials and former officials at extraordinary risk (see *supra* para. 19). In November 2021, a police officer sought to contact the proposed beneficiary for a "risk analysis interview," in the face of which the proposed beneficiary decided not to participate, and the request for risk analysis was filed (see *supra* para. 19). Based on the information available, the Commission notes with concern that, between the request submitted in March 2021 and the first contact with the evaluator in November 2021, approximately 9 months elapsed without their situation having been duly assessed in a timely manner. The Commission notes with concern that, in this time frame, the proposed beneficiary has continued to denounce to the Prosecutor's Office acts of "obstruction" of the work of the MNP-CONAPREV with respect to different directors of penitentiary centers in Honduras, which includes the complaint of a death threat in October 2021 (see *supra* para. 5).

38. The Commission considers it important to remember that when an authority becomes aware of a situation of risk to the life of a person, it corresponds to said authority "to identify or assess whether the person subject to threats and harassment requires protection or to refer the matter to the competent authority to do so," who must "offer the person at risk timely information on the available measures."¹⁷ The Inter-American Court has indicated that: "[...] The assessment of whether a person requires protective measures and what the appropriate measures are is an obligation incumbent upon the State and cannot be restricted to the notion that the victims themselves will request such measures from "the competent authorities" or will know exactly which authority is best able to deal with their situation, since it is the State's responsibility to establish coordination measures among its entities and officials for such purposes. [...]"¹⁸ The Commission has highlighted the importance of national mechanisms or programs for the protection of people with the profile of the proposed beneficiary, in view of the fact that they can favor a timely and specialized intervention, taking into

¹⁷ I/A Court H.R. *Case Luna López v. Honduras*. Merits, Reparations, and Costs. Judgment of October 10, 2013. Series C No. Series C. No. 269, para. 127. Available at http://www.corteidh.or.cr/docs/casos/articulos/seriec_269_esp.pdf

¹⁸ *Ibidem*

account the set of both contextual and specific aspects at the time of analyze the situation presenting a risk.¹⁹

39. Regarding the investigations in this matter, the Commission observes that the proposed beneficiary filed complaints with the Prosecutor's Office about her situation, at least since 2017. Such complaints have continued to be filed until 2021 in the face of various situations that occurred in prisons and that involve their mandate. In this regard, the State referred to certain investigations (see *supra* para. 20). The Commission observes that, according to the information provided, no substantive progress has been made in the sanction of those who would be responsible for the events denounced, which is a relevant aspect when establishing the risk that the proposed beneficiary faces and the chances of recurrence. In relation to the foregoing, the Commission observes that the proposed beneficiary would continue to carry out its complaints and monitoring actions in the Honduran prison system.

40. Considering the seriousness of the proposed beneficiary's situation and the assessments made of the measures adopted by the State, the Commission considers that the situation of Ms. Glenda Carolina Ayala Mejía is sufficient to conclude that her rights to life and personal integrity are *prima facie* in a serious situation. This assessment includes the identified members of her family.

41. Regarding the requirement of *urgency*, the Commission observes that, according to the information provided by the parties, the proposed beneficiary does not have effective protection measures at that time, being in a situation of particular vulnerability to the existing risk. The Commission also observes that, given the absence of protection measures linked to the work of the proposed beneficiary, the applicants indicated that she decided to adopt self-protection measures such as: taking alert routes, accompanying her driver, and contracting with private security, depending on of its resources (see *supra* para. 15). In this sense, such particular measures would not have the vocation of permanence and would depend on the own resources of the proposed beneficiary, who is particularly exposed for carrying out a task inherent to the mandate given to the MNP-CONAPREV at the internal level. To the extent that it has been alleged that one of the risk factors is that certain people, possibly involved in the denounced of the proposed beneficiary, would know that she would move without protection, the Commission considers the implementation of additional protection measures relevant. The Commission recalls that for them to be effective, a space for agreement between the parties is required, which makes it possible to identify the need for modifications or adaptations to the protection schemes to be implemented. By virtue of the foregoing, the Commission considers that the risk situation is likely to persist over time as long as the proposed beneficiary continues with its work, for which it is urgent to adopt immediate measures to safeguard life and integrity staff of the proposed beneficiary.

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

IV. BENEFICIARIES

43. The Commission declares as beneficiaries Glenda Carolina Ayala Mejía and her family, whose members are identified in this proceeding.

V. DECISION

¹⁹ IACHR, "Second Report on the Situation of Human Rights Defenders in the Americas," OEA/Ser.L/V/II. 66, December 31, 2011, para. 484.

44. 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 Honduras:

- a) adopt the necessary measures, with a gender perspective, to protect the rights to life and personal integrity of Glenda Carolina Ayala Mejía and her family;
- b) adopt the necessary measures so that the proposed beneficiary can carry out her activities as Presiding Commissioner of the National Committee for the Prevention of Torture and Cruel, Inhuman or Degrading Treatment, without being subjected to threats, harassment, and other acts of violence in the exercise of her duties;
- c) consult and agree upon the measures to be adopted with the beneficiary and her representatives; and
- d) report on the actions taken to investigate the alleged facts that gave rise to the adoption of this precautionary measure, so as to prevent such events from reoccurring.

45. The Commission requests as well that the State of Honduras 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.

46. 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.

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

48. Approved on December 28, 2021, by Antonia Urrejola Noguera, President; Julissa Mantilla Falcón, First Vice-President; Flávia Piovesan, Second Vice-President; Margarette May Macaulay; Esmeralda Arosemena de Troitiño; Joel Hernández García; and Edgard Stuardo Ralón Orellana, members of the IACHR.

Tania Reneaum Panszi
Executive Secretary