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**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION 76/2021**

Precautionary Measure No. 475-21  
Bertha María Deleón Gutiérrez regarding El Salvador  
September 19, 2021  
Original: Spanish

**I. INTRODUCTION**

1. On May 27, 2021, 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 Salvadoran Network of Human Rights Defenders, the Center for Justice and International Rights, and the Mesoamerican Initiative of Women Human Rights Defenders (“the applicants”), urging the Commission to request that the State of El Salvador (“the State” or “El Salvador”) adopt the necessary measures to protect the rights to life and personal integrity of Ms. Bertha María Deleón Gutiérrez (“the proposed beneficiary”). According to the request, the proposed beneficiary is receiving threats and being harassed as a result of her work as a human rights defender.

2. Under the terms of Article 25(5) of its Rules of Procedure, the IACHR requested information from the State on June 3, 2021, which responded on June 9, 11, 21, and 30, 2021. For their part, the applicants most recently submitted additional information on June 29, 2021.

3. Upon analyzing the submissions of facts and law furnished by the parties, the Commission considers that the available information shows *prima facie* that Ms. Bertha María Deleón Gutiérrez is facing a serious and urgent situation, given that her rights to life and personal integrity are at risk of irreparable harm. Therefore, the IACHR requests that El Salvador: a) adopt the necessary measures to protect the rights to life and personal integrity of Ms. Bertha María Deleón Gutiérrez, taking into account a gender perspective, so that she can continue to carry out her work as a human rights defender without being subjected to threats, intimidation, harassment or acts of violence in the exercise thereof; b) consult and agree upon the measures to be adopted with the beneficiary and her representatives; and c) report on the actions taken to investigate the alleged facts that led to the adoption of this precautionary measure, so as to prevent them from reoccurring.

**II. SUMMARY OF FACTS AND ARGUMENTS**

**A. Information provided by the applicants**

4. Bertha María Deleón Gutiérrez is a human rights lawyer who has worked on women’s rights, reproductive rights, and the fight against corruption. Her work, including her participation as a lawyer in cases of national importance, has allegedly generated her relevant visibility in the country. According to the request, due to her work, she began to be the target of monitoring, surveillance, and harassment, including by state officers. The foregoing purportedly led, in 2015, the Office of the Procurator for the Defense of Human Rights (PDDH) to issue precautionary measures in her favor. However, in 2016, the proposed beneficiary reportedly registered again acts of surveillance and intimidation against her.

5. According to the applicants, the risk faced by Ms. Deleón Gutiérrez has worsened in 2020, given her critical stance towards the current government of El Salvador and has reached a fever pitch after the dismissal of the justices from the Constitutional Chamber of the Supreme Court of Justice on May 1, 2021.

In this context, upon making her positions publicly known, the proposed beneficiary has reportedly received “attacks” on social media from people related to the government and even from high state authorities of the executive branch.<sup>1</sup> The applicants stressed that the animosity created online against the proposed beneficiary amounts to “cyberbullying” and promotes a situation presenting a risk to her life and integrity. In particular, a former representative (*diputado*) of the government, whose candidacy in the last elections was allegedly prevented by judicial action brought by the proposed beneficiary, purportedly promotes a harassment campaign against her. This has caused that on some occasions, hashtags against her, such as #BerthaPandillera, become relevant according to the amplification formats (trending topics) on Twitter in El Salvador.<sup>2</sup>

6. In this regard, the applicants provided abundant information on messages and tweets against the proposed beneficiary, which are said to reproduce defamatory and misogynistic content, some of them reproduced by people with significant national visibility, among them a former president, using messages such as “*There is no comforter to calm the gang woman.*” The request emphasized the misogynistic content in many of the messages, which allude to sexual morality, her private life, or mental illnesses. Between February 2020 and May 2021, a single account in Twitter allegedly published more than 400 tweets through which stigmatizing and defamatory messages against the proposed beneficiary are disseminated. Between May 28 and June 2, 2021, the applicants alleged that, based on statements of the proposed beneficiary, at least 11 videos were published in YouTube, from different accounts, in which she is slandered. According to the applicants, messages against the proposed beneficiary are observed, indicating that she is a “traitor,” “corrupt,” “unhinged,” “sick in the head,” “sold,” “*vendepatria*” [which means “one who sells their country”], indicating that “sooner or later she will be punished.” Such a situation is said to worsen in moments of visibility of her work as a human rights defender. For example, when she participated in the march on March 8, 2021; after expressions critical of the government; when she appeared for interviews; and even when the existence of the request for precautionary measures was made public.

7. According to the request, such events are part of the stigmatization campaign against the proposed beneficiary linked to actors related to the government at various levels, such as one former representative. The request referred to the fact that numerous messages are being published, mainly on the social media platform Twitter, which purportedly have a significant audience that is constantly supported by institutional communication channels on the platform. Through such messages, the proposed beneficiary is allegedly attacked directly or through retweets, accusing her of lying and harming the government, of being “perverse,” and of defending “terrorist gang members.” In addition, the applicants claim that sexualized messages are broadcast, making fun of her condition as a woman and her physical appearance, and exposing how they would physically attack her. These messages are spread and reposted by followers, who reportedly have a similar response.

8. In view of the foregoing, in July 2020, Ms. Deleón Gutiérrez reportedly filed a complaint with the specialized jurisdiction against gender-based violence against the aforementioned former representative. In October 2020, the responsible court allegedly ordered protection measures in favor of the proposed beneficiary. The court prohibited the individual linked to the current government from publishing degrading messages against her, approaching her, or communicating with her through any means. However, such a court ruling has allegedly not been complied with.

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<sup>1</sup> A copy of tweets was provided.

<sup>2</sup> A copy was provided.

9. The applicants report that, following the events of May 1, 2021 and the appointment of the new Attorney General of the Republic of El Salvador, the former representative related to the government published a tweet in which he publicly called the media for May 4 of 2021 and announced that he would file a complaint for the crime of contempt of the court against the proposed beneficiary in relation to an alleged violation of the court order of total secrecy in the case of 2020. The foregoing is based on the fact that the proposed beneficiary has purportedly publicly spoken about her status as a victim in the case already described. The publication of this message is said to have deliberately reactivated the harassment against the proposed beneficiary, through comments such as “Destroy her,” “Destroy her completely without mercy,” “Go for it,” “Put pressure on her,” or by calling her “the toxic,” “viper,” and “bandit,” and purportedly telling her to “hold her underwear.”

10. The applicants indicate that some of the messages against the proposed beneficiary have come from other persons with important national visibility, such as a former president of El Salvador. Furthermore, a current Minister allegedly had an exchange with the proposed beneficiary on Twitter, referring to statements of a former representative suggesting that the proposed beneficiary had been fired by the Attorney General for having sexually involved with a person who held a higher-rank position.

11. The applicants alleged that in addition to being discredited and defamed on social media, the proposed beneficiary has received threats and messages that incite sexual violence against her. As an example, a copy of messages from May 3, 2021, was provided, which read “*Stick it all without hesitation and without lubricant hahaha*” (sic) and “*Oh! Today they’ll stick it all into the toxic*” (sic). In a publication, on May 27, 2021, third parties even suggested that she “be taken to a firing squad for being a traitor to the homeland,” and that “in another time she would have already been shot in a public square.” Moreover, death threats were reported, including one from an account identified as “*Grupo De Exterminio*” whose description says, “*We are the new group that kills former representatives and former president*” (sic). Under that Group, on May 27, 2021, in response to a message requesting that the proposed beneficiary be imprisoned, it was posted: “*Yes! Or the beast of extermination is going to take her*” (sic). Additionally, in this context, private photographs of the proposed beneficiary, which are not publicly accessible, have been reportedly disseminated.<sup>3</sup>

12. In this regard, the applicants argued that the messages “are not simple criticism or questioning of Bertha for her opinions, but rather [...] include messages in which an apology is made of sexual assault against her, criminalization, and even threats to attempt against her life, which in no way can be tolerated, much less considered as an exercise of free expression [...]” Additionally, the proposed beneficiary alleged that she was being persecuted, having observed follow-ups by cars and two individuals on motorcycles without license plates on April 13, 15 and 20, 2021. On April 22, 2021, the lawyer’s vehicle was opened and a computer belonging to the school that her daughter attends was removed from it. The proposed beneficiary interprets such an event as an act of intimidation.

13. On June 10 and 12, 2021, two persons with government cards came to the beneficiary’s home while she was not there, allegedly to carry out a health survey, questioning those present how many people lived there, who supported the house, what they do and where they work. Some neighbors reported that they did not receive such a visit. For Ms. Deleón Gutiérrez, this fact generates “suspicion and concern,” questioning whether it was an act of surveillance or harassment, given the context of threats. In addition to the above, the proposed beneficiary alleged that on June 9, 2021, in the morning hours, and on June 10, 2021, in the afternoon, drones were seen flying over her house. In the last weeks of June 2021, she allegedly noticed the presence of drones around her house again. In this sense, the applicants

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<sup>3</sup> A copy was provided.

indicated that “[t]he risk faced by defender Bertha de León is not only manifested in the possibility that violence may increase in social media, but also in the likelihood that it may transcend the virtual space and transform into physical attacks.”

14. Additionally, the request added that two weeks after the request for precautionary measures was filed, the intensity and tone of the messages on social media increased, which they described as an “increase to the extent of saying that there is a desire to attack her and suggest that she should be attacked, and her life should be taken for being a traitor to the country.” In this context, the applicants argued that although the proposed beneficiary has protection measures consisting of the prohibition of a former representative from publishing degrading messages against her, approaching her, and communicating with her, these do not imply that she has personal security measures.

15. Lastly, the applicants added that in 2016, 2020, and recently in May 2021, false complaints and/or unfounded criminal proceedings were filed against the proposed beneficiary for alleged crimes of “defamation” or “procedural fraud” in connection with her work in the defense of human rights, with the aim of discrediting the integrity of the activities she carries out.

#### **B. Information provided by the State**

16. According to the State, this request for precautionary measures is unsubstantiated. In the first place, referring to the criminal proceedings against the proposed beneficiary, the State affirmed that “the quality of human rights defenders [does not] constitute *per se* a cause of exclusion of criminal liability for the commission of possible crimes.” However, it recalled that “every person accused of a crime must be subjected to a process with strict respect for the principles of due process and the guarantees of the person,” so that the actions of the Office of the Attorney General of the Republic will obey “criteria of reasonableness and proportionality, since it must have a level of certainty sufficient to substantiate the probability judgment and successfully carry out criminal action.” In this sense, the State alleged that “under no circumstances does it persecute, harass, or stigmatize persons or entities that are critical of the government’s management.”

17. Second, regarding the reported animosity against the proposed beneficiary on social media, the State alleged that the use of social media to disseminate opinions places the person who does it “in the position of being the recipient of opinions contrary to their ideas, which will not always be expressed in their own language, nor in reasonable terms.” Moreover, the State indicated that, in this matter, it must be taken into consideration that the proposed beneficiary was a candidate for representative, “which forces her to be more tolerant of criticism and adverse opinions.” The foregoing purportedly does not mean that she does not have the possibility of activating judicial mechanisms to protect her safety and integrity.

18. Regarding the alleged “attacks” on social media, the State stressed that social media themselves “establish regulations to maintain a safe environment for interaction, so they have their own policies to prevent abusive behavior or behavior that involves risks to the safety of other users.” In this way, social media reportedly prohibit the sending of threats and allow these messages to be reported, “a mechanism that is also available to the proposed beneficiary.”

19. Third, regarding the theft of a computer from inside the car of the proposed beneficiary, which she interprets as a possible intimidation action against her, the State alleged that this was an act of common crime, affirming that it is necessary to “observe an elementary duty of care and adopt preventive measures, avoiding placing oneself as a target of common crime.” The State added that, in addition to the computer, a tire had been taken, and that the relevant investigative measures had been implemented. In

this sense, the State emphasizes that, in contrast to what was alleged by the applicants, who describe this event as “intimidation,” the facts are consistent with a possible pattern of common crime.

20. Fourth, the State alleged that there is no record of complaints by the proposed beneficiary for the crime of “threats” since 2017. Also, the police purportedly do not have any request for specific protection measures for her or her nuclear family. However, according to the State:

In compliance with the duty to guarantee the right of access to justice, the Prosecutor’s Office referred the communication from the IACHR to the domestic unit in charge of determining whether the facts brought contain sufficient elements to support the launching of a criminal investigation for the crime of threats, clarifying that the Office of the Attorney General of the Republic remains attentive and awaits the filing of the respective complaint by the alleged victims, in order to activate the launching of the corresponding criminal prosecution [...].

21. The relevant complaints prior to 2017 have been reportedly archived, “after having been duly processed.” Lastly, in the fifth place, the State observed that the proposed beneficiary initiated domestic proceedings before the special comprehensive jurisdiction for a violence-free life for women, which activated domestic mechanisms for her protection. In this regard, the State emphasized the actions of the domestic bodies to protect the proposed beneficiary in accordance with the domestic legal framework, “which is in line with the State obligations to guarantee women’s rights.”

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

22. The precautionary measures mechanism is part of the Commission’s 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, and 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.

23. 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, both protective and precautionary.<sup>4</sup> Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.<sup>5</sup> To do this, the IACHR shall assess the problem raised, the effectiveness of state actions to address the situation described, and how vulnerable the persons proposed as beneficiaries would be left in case the measures are not adopted.<sup>6</sup> Regarding their precautionary nature, these measures have the purpose of preserving legal situations

<sup>4</sup> 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.

<sup>5</sup> 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].

<sup>6</sup> 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].

while under the consideration of the IACHR. The 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.<sup>7</sup> In the process of reaching a decision, and according to Article 25(2) of the Rules of Procedure, the Commission considers that:

- a. “serious situation” refers to a grave impact that an action or omission can have on a protected right or on the eventual effect of a pending decision in a case or petition before the organs of the inter-American system;
- b. “urgent situation” refers to risk or threat that is imminent and can materialize, thus requiring immediate preventive or protective action; and
- c. “irreparable harm” refers to injury to rights which, due to their nature, would not be susceptible to reparation, restoration or adequate compensation.

24. In analyzing those 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.<sup>8</sup> The IACHR recalls that, in this proceeding, it is not called upon to rule on violations of rights enshrined in the American Convention or other applicable instruments.<sup>9</sup> 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.<sup>10</sup>

25. Before proceeding with the analysis of the procedural requirements, the Commission shall examine two preliminary issues on the matter at hand. In the first place, the Commission recalls that in this proceeding it is not called upon to rule on whether the criminal proceedings launched on facts related to this matter have been arbitrary. In line with the information provided by the State, the Commission considers that such processes must include the corresponding procedural guarantees pursuant to Articles 8 and 25 of the American Convention and the applicable international standards. Second, the Commission

<sup>7</sup> 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.

<sup>8</sup> 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.

<sup>9</sup> 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 his family regarding Nicaragua. April 30, 2021, para. 33 [only in Spanish].

<sup>10</sup> 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 Barrios Family v. Venezuela](#). Provisional Measures. Order of the Inter-American Court of Human Rights of April 22, 2021, considerandum 2 [only in Spanish].

recalls that by its own mandate, it is not called upon to rule or make any determinations on the criminal liability of the persons involved in the facts alleged in this proceeding, according to the domestic regulations of the country. As indicated above, the assessment carried out below concerns exclusively the requirements established in Article 25 of the Rules of Procedure, which can be resolved without making any determinations on the merits or finding criminal liabilities. Having made such clarifications, the Commission shall analyze the procedural requirements.

26. As for the requirement of *seriousness*, the IACHR considers that it has been met. At the time of making this determination, the Commission observes that proposed beneficiary Bertha María Deleón Gutiérrez is a human rights defender who has acted, *inter alia*, in the defense of sexual and reproductive rights, has national visibility for her work, and has faced, at least since 2016, events against her due to such activities. Moreover, her concrete and specific situation is said to be framed in a particular context faced by women human rights defenders in the country and which has been monitored by the IACHR within the framework of its mandates. In this regard, the Commission recalls that in its preliminary observations on the *in loco* visit to the country in December 2019, it considered that women defenders continuously face individuals or groups who, in addition to disapproving of their participation in public life and their leadership in the defense of human rights, use sexist stereotypes to delegitimize their work.<sup>11</sup> The foregoing allegedly even leads to situations presenting a risk for those who defend issues that in themselves challenge established socio-cultural patterns, such as sexual and reproductive rights. Moreover, in its Annual Report 2020, the IACHR underscored with respect to El Salvador that:

[It] received worrying information about acts of harassment against women human rights defenders. In this regard, the IACHR was informed of different types of digital attacks against women defenders who publicly denounce alleged State irregularities in the efforts made to address the COVID-19 crisis. As a result of these complaints, various women defenders have received intimidating messages on different social media, which contain strong misogynistic and gender-based messages. Similarly, there is knowledge of stigmatizing speeches made from the highest authorities of the State that purportedly seek to discredit the complaints raised by defenders.<sup>12</sup>

27. On that occasion, the IACHR recommended to the Salvadoran State on the “importance of publicly and unequivocally recognizing the fundamental role that human rights defenders play in guaranteeing democracy and the rule of law.”<sup>13</sup> Considering the said recommendation, and the specific situation allegedly faced by the proposed beneficiary, the Commission also takes into account that as she is a human rights defender, she faces an accentuated risk due to gender stereotypes, historical discrimination, and prejudices related to how she should dress, act, or the roles that women should play in society.<sup>14</sup> As an example, in the framework of its monitoring work, the Commission has observed that women human rights defenders are particularly exposed to violations of their rights to life and personal integrity, including various forms of violence against their families in retaliation for their work, and that deeply ingrained gender stereotypes are repeatedly used against them to delegitimize their work.<sup>15</sup>

<sup>11</sup> IACHR. [Press Release 335/19](#). IACHR presents preliminary observations on its on-site visit to El Salvador. as of December 27, 2019

<sup>12</sup> IACHR. [Annual Report 2020](#). Chap. IV-A, para. 354.

<sup>13</sup> IACHR. [Annual Report 2020](#). Chap. IV-A, para. 354.

<sup>14</sup> IACHR. Towards Effective Integral Protection Policies for Human Rights Defenders. December 29, 2017, paras. 43 and 146; IACHR, Second Report on the Situation of Human Rights Defenders in the Americas. December 31, 2011, para. 283.

<sup>15</sup> IACHR. Towards Effective Integral Protection Policies for Human Rights Defenders. December 29, 2017, para. 303; IACHR, Violence and Discrimination against Women and Girls: Best Practices and Challenges in Latin America and the Caribbean. November 14, 2019.

28. Taking the foregoing into consideration, the Commission observes that the proposed beneficiary has been subject to certain events of special concern, which, understood in the context of the country and her work as a human rights defender, currently denote an especially serious risk for her. In this regard, based on what is indicated by the applicants, the Commission notes the following:

- The proposed beneficiary is labeled on various virtual and social media platforms as a “traitor,” “corrupt,” “sold,” “*vendepatria*,” a person who defends “terrorist gang members,” or as a person who will eventually be punished for what she is allegedly doing.
- Certain messages refer to or exacerbate stereotypes against women human rights defenders who carry out actions that challenge macho cultural patterns. Messages such as “toxic,” “viper,” “bandit,” “perverse,” “unhinged,” or “sick of the head.”
- Some messages reportedly have a sexist and misogynistic content, in which the public is called upon to assault her physically and sexually. In this regard, the applicants referred, for example, to the following qualifiers or messages: “Put pressure on her,” “They’ll stick it all into the toxic,” “Stick it all without hesitation and without lubricant,” take her to “a firing squad for being a traitor to the homeland,” a person who deserves to be “shot in a public square,” or that “there is no comforter to calm the gang woman.”
- Personal photographs of the proposed beneficiary that are not publicly accessible were allegedly made public.
- The above-mentioned actions against the proposed beneficiary reportedly increase in moments of special visibility of her work as a human rights defender in the country, or in response to the high public profile of the person involved in the events.
- The messages are purportedly attributed to persons related to the government, and even high or former authorities of the country.

29. According to the applicants, such alleged facts relate to critical expressions of the proposed beneficiary towards the current government of El Salvador, while her situation has worsened and a “campaign” of delegitimization against her has been observed. In this regard, the IACHR observes that information has been provided which describes animosity developed on social media and other multimedia platforms such as YouTube. In this context, it is also observed that the proposed beneficiary has reportedly received messages through the said media platform calling for or inciting her rape and death. For the Commission, it is even more worrisome that according to the applicants, since the end of June 2021, the intensity of the tone of the publications against her has increased. Such posts reportedly express a desire to attack her or that she commits suicide.

30. For the IACHR, this campaign allegedly seeks to intimidate the proposed beneficiary within the framework of her work as a human rights defender so that she limits or completely ceases such a work. It is also noted that the tone of the messages has worsened over time, potentially allowing threats to transcend from the virtual to the physical space, especially given that the proposed beneficiary continues her work as an advocate. Indeed, as provided by both parties, the Commission notes as background information that the harassment in social media against her has led the specialized jurisdiction against gender-based violence to order protection measures in her favor in July 2020, prohibiting a former representative from “publishing degrading messages against her, approaching her, and communicating with her through any means.” These measures, however, have purportedly not been complied with.

31. Additionally, for the Commission it does not go unnoticed that according to the applicants, certain expressions were published, or disseminated, by persons with a high political profile in Salvadoran society and in the current context. This includes public officers, representatives of political parties, former presidents, and individuals related to the government that have great national visibility. By publishing



this type of messages, people who participate in the public debate in a leading way operate as a vector that amplifies and accelerates the dissemination of stigmatizing messages and, in this way, exponentially increases the likelihood that these messages be spread or supported by certain sectors of society. As the Inter-American Court has indicated in the *Case of Perozo et al. v. Venezuela*, in certain contexts and given the perception that may be generated, “it is possible to consider that [...] pronouncements by high public officials propitiated, or at least contributed to accentuate or exacerbate, situations of hostility, intolerance, or animosity on the part of sectors of the population”<sup>16</sup> towards certain people, as could happen in the matter at hand. In this vein, within the framework of precautionary measures, the IACHR has considered that the existence of a situation of animosity can generate a climate conducive to the violation of rights, particularly when they involve the participation of high state authorities.<sup>17</sup> Also in this vein, the Inter-American Court has stated that:

In a democratic society, public officers have a position of guarantor of the fundamental rights of people and, therefore, their statements cannot ignore these or constitute forms of direct or indirect interference for those who seek to contribute to the defense of human rights. This duty of special care is particularly accentuated in situations of greater social conflict, or social or political polarization, precisely because of the set of risks that they may imply for certain people or groups at any given time. Therefore, it is not only the responsibility of the state authorities to respect such rights but also to guarantee them, even against third parties.<sup>18</sup>

32. In the specific matter, the “harassment campaign” against the proposed beneficiary is said to be especially intense. As indicated by the applicants, many publications have been posted in different social media platforms in short periods of time. For example, between February 2020 and May 2021, a single account on a social media platform allegedly published more than 400 tweets spreading messages against the proposed beneficiary, which the applicants classified as defamatory; and between May 28 and June 2, 2021, at least 11 videos were reportedly published on YouTube, from different accounts, in which she is allegedly defamed, while hashtags against her reached the trends on Twitter on more than one occasion. In summary, for the Commission, hate speeches to which the proposed beneficiary has been subjected seek to affect her credibility, question the integrity of the activities she carries out, and create a hostile climate against her, which ultimately makes her even more vulnerable.

33. The IACHR takes note of the State’s allegation that the use of social media implies that a person may receive opinions contrary to theirs and criticisms, as well as the particular public exposure of those who participate in democratic elections as candidates. This is especially important in democratic societies, recalling that the Inter-American Court has held that “without an effective guarantee of freedom of expression the democratic system is weakened, and pluralism and tolerance suffer; citizen control and complaint mechanisms may become inoperative and, ultimately, a fertile field is created for authoritarian systems to take root.”<sup>19</sup> However, in this matter, the IACHR understands that the messages aimed at the proposed beneficiary are said to be prior to her stage as a political candidate or mainly related to her role as a human rights defender in the country. Similarly, as has already been assessed by the Commission, these are expressions that call for sexual violence, aggression, and threats against their rights. In this matter, beyond criticism or contrary expressions, animosity and hostility against the proposed

<sup>16</sup> I/A Court H.R. [Caso Perozo et al. v. Venezuela](#). Preliminary Objections, Merits, Reparations and Costs. Judgment of January 28, 2009. Series C No. 195, para. 160.

<sup>17</sup> IACHR, [Resolution 55/2021](#). Precautionary Measure No. 576-21. Matter of José Domingo Pérez Gómez and his nuclear family regarding Peru. July 11, 2021; IACHR, [Resolution 22/2019](#). Precautionary Measure No. 125-19. Matter of María Corina Machado Parisca regarding Venezuela. April 12, 2019.

<sup>18</sup> 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 12.

<sup>19</sup> I/A Court H.R. [Case of Herrera Ulloa v. Costa Rica](#). Preliminary Objections, Merits, Reparations and Costs. Judgment of July 2, 2004. Series C No. 107, para. 165.

beneficiary have been generated, maintained, and exacerbated, and the IACHR understands that this may translate into a risk to her life and integrity.

34. Considering the above elements, for the Commission it is also alarming that the public campaign to discredit the proposed beneficiary has allegedly materialized in specific events against her. In this regard, the IACHR notes that according to the applicants, car and motorcycle tracks were observed on at least three occasions in April 2021, as well as the presence of drones flying over her home on some occasions in June 2021. Furthermore, the proposed beneficiary indicated as alleged acts of intimidation and surveillance: a theft of a computer from her car on April 22, 2021, and the presence at her home of two persons wearing a government card on June 10 and 12, 2021. Regarding these allegations, the IACHR notes that, although the State argued that the purported theft of the computer was an act of “common crime,” it did not provide further information on the other alleged events of persecution, only indicating that there are no complaints for the crime of “threat” filed by her recently, nor requests for protection measures.

35. Regarding the State’s argument on the responsibility of social media to keep a safe environment for interaction, the IACHR acknowledges that community guidelines of social media platforms play a relevant role in terms of stigmatizing speech, hate speech, or speech that incites sexual violence, especially in the case of human rights defenders and members of particularly vulnerable populations. However, the Commission understands that the foregoing does not imply that the State disregards its international obligations, particularly those emanating from the American Convention and the applicable standards. In this regard, the Commission stresses, in line with that indicated by the Court in the *Case of Ríos et al. v. Venezuela*, that:

In a democratic society, it is not only legitimate, but sometimes a duty of state authorities to rule on matters of public interest. However, in doing so, they are subject to certain limitations in that they must reasonably, though not necessarily exhaustively, verify the facts on which their opinions are based, and should do so with even greater diligence than that employed by private citizens, in view of their high office, the broad scope, and potential effects that their expressions may have on certain sectors of the population, and to prevent citizens and other interested persons from receiving a manipulated version of certain facts. In addition, they should bear in mind that insofar as public officers have a position of guarantors of the fundamental rights of people and, therefore, their statements cannot ignore these or constitute forms of direct or indirect interference in the rights of those who seek to contribute to public debate through the expression and dissemination of their thought. This duty of special care is particularly accentuated in situations of greater social conflict, alterations of the public order, or social or political polarization, precisely because of the set of risks that they may entail for certain persons or groups at any given time.”<sup>20</sup>

36. In this matter, the IACHR observes, even from the information provided by the State itself, that the proposed beneficiary had initiated domestic proceedings before the special comprehensive jurisdiction for a violence-free life for women, which ordered protection measures in her favor. However, although the applicants indicated that such measures were not being complied with, the State did not furnish information in this regard, while it could have referred, for example, to details about their implementation or how the State is effectively protecting the proposed beneficiary. Inasmuch as the measures were activated in 2020, the Commission does not have additional elements of assessment to indicate, for example, that the new situation of the proposed beneficiary is being considered in the current context, or that material protection measures have been assessed or activated. Considering the foregoing, the Commission takes note and values the information sent by the State on the actions of the corresponding domestic institutions after communication from the IACHR. However, it is observed that

<sup>20</sup> I/A Court H.R. [Caso Ríos et al. v. Venezuela](#). Preliminary Objections, Merits, Reparations and Costs. Judgement of January 28, 2009. Series C No. 194, para. 139.

at present there are purportedly no material protection measures implemented in favor of the proposed beneficiary.

37. In these circumstances, considering that the proposed beneficiary continues her work as a human rights defender, in view of the alleged increasing harassment against her and the threats received, and given the lack of information on protection measures effectively implemented, the Commission deems that from the applicable *prima facie* standard, the rights to life and personal integrity of Bertha María Deleón Gutiérrez are at serious risk.

38. With regard to the requirement of urgency, the Commission considers that it has been met, given that the facts described suggest that the risk is likely to continue and exacerbate over time, as it is reportedly linked to the proposed beneficiary's journalistic work. Therefore, in view of the lack of protection measures implemented, the situation calls for the immediate adoption of measures to safeguard her rights to life and personal integrity. At the time of making such assessments, the Commission notes that the alleged harassment and threats that Ms. Deleón Gutiérrez has been facing have increased, reaching high points from May 2021 to date, while there are no elements of assessment to indicate that the identified risk factors have been duly mitigated.

39. Regarding the requirement of irreparable harm, the Commission considers that it has been met, insofar as the potential impact on the rights to life and personal integrity, by their very nature, constitutes the maximum situation of irreparability.

40. Lastly, it is noted that the risk described, given the lack of protection measures, is potentially not limited in a personal capacity to the proposed beneficiary, but can affect the conditions and actions of various voices that must be able to make safe use of the virtual and physical democratic space in terms of freedom of expression and the exercise of political rights.

#### **IV. BENEFICIARY**

41. The Commission declares Ms. Bertha María Deleón Gutiérrez, who is duly identified in this proceeding, as the beneficiary.

#### **V. DECISION**

42. 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 the Rules of Procedure. Consequently, it requests that El Salvador:

- a) adopt the necessary measures to protect the rights to life and personal integrity of Ms. Bertha María Deleón Gutiérrez, taking into account a gender perspective, so that she can continue to carry out her work as a human rights defender without being subjected to threats, intimidation, harassment or acts of violence in the exercise thereof;
- b) consult and agree upon the measures to be adopted with the beneficiary and her representatives; and
- c) report on the actions taken to investigate the alleged facts that led to the adoption of this precautionary measure, so as to prevent them from reoccurring.

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43. The Commission requests as well that the State of El Salvador 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.

44. The Commission emphasizes that, in accordance with Article 25(8) of its Rules of Procedure, the granting of this precautionary measure and its adoption by the State do not constitute a prejudgment on any violation of the rights protected in the applicable instruments.

45. The Commission instructs its Executive Secretariat to notify this resolution to the State of El Salvador and the applicants.

46. Approved on September 19, 2021, by Antonia Urrejola Noguera, President; Julissa Mantilla Falcón, First Vice-President; Flávia Piovesan, Second Vice-President; Margarete May Macaulay; Joel Hernández García y Edgar Stuardo Ralón Orellana, members of the IACHR.

Tania Reneaum Panszi  
Executive Secretary