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**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION 101/2021**

Precautionary Measure No. 505-21  
María Lilly Delgado Talavera regarding Nicaragua  
December 8, 2021  
Original: Spanish

**I. INTRODUCTION**

1. On June 8, 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 International Institute on Race, Equality and Human Rights (“the applicants”), urging the Commission to require that the State of Nicaragua (“the State” or “Nicaragua”) adopt the necessary measures to protect the rights to life and personal integrity of Ms. María Lilly Delgado Talavera (“the proposed beneficiary”). According to the applicants, as a result of her journalistic work in Nicaragua, the proposed beneficiary is at risk because she has suffered acts of harassment, threats, and surveillance by state authorities and parastatal groups.

2. Pursuant to Article 25 (5) of its Rules of Procedure, on June 14, 2021, the IACHR requested information from the State and from the applicants. The State submitted information on June 17, 2021. The applicants provided additional information on June 18, and November 22 and 26, 2021.

3. Upon analyzing the submissions of fact and law provided by the parties and the context in which the alleged facts take place, the Commission considers that the information presented shows *prima facie* that Ms. María Lilly Delgado Talavera is in a serious and urgent situation, given that her rights to life and personal integrity are at risk of irreparable harm. Consequently, it requests that Nicaragua: a) adopt the necessary measures, with a gender approach, to protect the rights to life and personal integrity of María Lilly Delgado Talavera. To this end, the State must both ensure that state actors respect the life and personal integrity of the beneficiary, as well as protect her rights in relation to acts of risk that are attributable to third parties, in accordance with the standards established by international human rights law; b) adopt the necessary measures so that María Lilly Delgado Talavera can carry out her activities as an independent journalist without being subjected to acts of violence, intimidation, threats, or harassment in the exercise of her work. The foregoing includes the adoption of measures so that she can duly exercise her right to freedom of expression; 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 them from reoccurring.

**II. BACKGROUND INFORMATION**

4. Between May 17 and 21, 2018, the Commission visited Nicaragua and collected several testimonies on human rights violations committed in the framework of the protests that began the previous month. Subsequently, on June 21, 2018, the IACHR published a report on the serious human rights situation in the country.<sup>1</sup> In order to follow up on the recommendations issued in this report, the Special Monitoring Mechanism for Nicaragua (MESENI) was created, which remained in the country until the State suspended its presence on December 19, 2018.<sup>2</sup> For its part, the Interdisciplinary Group of Independent Experts (GIEI)

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<sup>1</sup> IACHR. Gross Human Rights Violations in the Context of Social Protests in Nicaragua. OEA/Ser.L/V/II. Doc. 86, June 21, 2018, para. 1.

<sup>2</sup> IACHR. Press Release No. 135/18. IACHR Launches Special Monitoring Mechanism for Nicaragua (MESENI). June 24, 2018; IACHR. Press Release No. 274/18. Press Release about Nicaragua. December 19, 2018. See also: IACHR. Press Release No. 113/20. Two Years After Visit to Nicaragua, IACHR Condemns Lack of Compliance with its Recommendations and Calls on the State to Urgently Implement Them. May 16, 2020.

for Nicaragua issued a report that analyzed the events that took place between April 18 and May 30, 2018, confirming the IACHR findings.<sup>3</sup> In its Annual Report 2018, the IACHR included Nicaragua in Chapter IV.B, in accordance with the grounds established in its Rules of Procedure.<sup>4</sup>

5. During 2019, the Commission continued to condemn the ongoing acts of persecution, urging the State to comply with its obligations in matters related to human rights.<sup>5</sup> In June, the State passed a Comprehensive Care for Victims Act and an Amnesty Law, both of which drew criticism for not complying with the international standards in matters of truth, justice, reparation, and guarantees of non-repetition.<sup>6</sup> On September 2019, the IACHR reported an increase in harassment against human rights defenders and persons who, despite having been released from prison, continued to be intimidated.<sup>7</sup> In the same regard, in November, the Commission once again called attention to the ongoing repression, noting that “[...] in addition to the closure of democratic spaces that currently characterizes the human rights crisis in Nicaragua, the families of people who have been deprived of their freedom during this crisis are increasingly becoming the targets of state persecution in the form of surveillance and the obstruction of peaceful actions.”<sup>8</sup>

6. Subsequently, the Commission again included Nicaragua in Chapter IV.B of its Annual Report 2019,<sup>9</sup> noting that the serious human rights crisis in the country extended during 2019, due to the *de facto* installation of a state of emergency characterized by the abusive exercise of public force to repress any dissenting voices against the Government, the search, closure and censorship of media outlets, the imprisonment or exile of journalists and social leaders, the closure of civil society organizations without guarantees of due process, as well as the interference and control of the Executive Power on other public powers. Similarly, the Commission observed that the prolonged weakening of democratic institutions in Nicaragua has resulted in the perpetuation of the human rights crisis in the country, as well as in the generation of a context of structural impunity regarding the serious human rights violations that have taken place.<sup>10</sup>

7. During 2020, the IACHR identified the consolidation of a fifth stage of state repression in the country, characterized by the intensification of acts of surveillance, harassment, and selective repression against people considered to be opponents of the Government.<sup>11</sup> Thus, in May 2020, the IACHR condemned the non-compliance with its recommendations and urgently called on the State to implement them.<sup>12</sup> In October 2020, the IACHR again called upon the State to immediately cease persecution of people who have

<sup>3</sup> Interdisciplinary Group of Independent Experts (GIEI) for Nicaragua. Report on the acts of violence that occurred between April 18 and May 30, 2018. December 2018.

<sup>4</sup> IACHR. Annual Report 2018. Chapter IV.B Nicaragua.

<sup>5</sup> See in this regard: IACHR. Press Release No. 6/19. IACHR denounces the weakening of the rule of law in the face of serious human rights violations and crimes against humanity in Nicaragua. January 10, 2019; IACHR. Press Release No. 26/19. IACHR Condemns Increasing Attacks on the Press and Ongoing Human Rights Violations in Nicaragua. February 6, 2019; IACHR. Press Release No. 90/19. IACHR Condemns Continuing Acts of Repression in Nicaragua during Negotiating Table Talks. April 5, 2019.

<sup>6</sup> IACHR. Press Release No. 137/19. IACHR and OHCHR Express Concern Over the Passing of the Comprehensive Care for Victims Act in Nicaragua. June 3, 2019; IACHR. Press Release No. 145/19. IACHR Expresses Concern Over the Passing of the Amnesty Law in Nicaragua. June 12, 2019.

<sup>7</sup> IACHR. Press Release No. 220/19. IACHR Speaks Out Against Ongoing Repression in Nicaragua and Expresses Its Concern at Increased Harassment of Human Rights Defenders and People Who Have Been Released from Prison. September 6, 2019.

<sup>8</sup> IACHR. Press Release No. 297/19. IACHR Condemns Persecution of Victims of Repression in Nicaragua and Calls on State to Prevent Revictimization and Promote Truth, Justice, Reparation, and Measures of Nonrepetition. November 19, 2019.

<sup>9</sup> IACHR. Annual Report 2019. Chapter IV.B Nicaragua. OEA/Ser.L/V/II. Doc. 5, February 24, 2020, paras. 5-6.

<sup>10</sup> IACHR. Annual Report 2019. Chapter IV.B Nicaragua. OEA/Ser.L/V/II. Doc. 5, February 24, 2020, para. 19.

<sup>11</sup> IACHR. Press Release No. 80/20. Two Years into Nicaragua’s Human Rights Crisis, the IACHR Stresses its Permanent Commitment to Victims and Confirms the Consolidation of a Fifth Phase of Repression. April 18, 2020.

<sup>12</sup> IACHR. Press Release No. 113/20. Two Years After Visit to Nicaragua, IACHR Condemns Lack of Compliance with its Recommendations and Calls on the State to Urgently Implement Them. May 16, 2020.

been identified as dissidents and to reestablish the democratic guarantees in Nicaragua.<sup>13</sup> Similarly, the IACHR and its Special Rapporteurship for Freedom of Expression (SRFoE) expressed concern over the escalation of repression in Nicaragua marked by the submission to the National Assembly of two bills that seriously threaten the exercise of freedom of expression, the imposition of tax penalties against media outlets, and judicial harassment against journalists.<sup>14</sup> Subsequently, the Commission again included Nicaragua in Chapter IV.B of its Annual Report 2020.<sup>15</sup>

8. In 2021, the SRFoE and the Office of the United Nations High Commissioner for Human Rights (OHCHR) underscored that the international community has been registering, since April 2018, a climate of hostility towards the exercise of freedom of expression in the country, marked by the criminalization of protest, arbitrary detentions, the seizure and closure of independent media outlets, and the persecution and harassment of independent journalists, human rights defenders and opponents, and their exile.<sup>16</sup> According to the OHCHR and the IACHR, the year 2020 and the beginning of 2021 were marked by numerous attacks against journalists and independent media outlets, which have included repeated stigmatizing speeches by high authorities, numerous criminal cases against journalists, harassment against journalists and media outlets, raids, threats, physical attacks, among others.<sup>17</sup>

9. Between May and June 2021, the Commission has publicly identified the ongoing and increasing attacks on the press and defenders of freedom of expression in the context of the persecution against political opponents.<sup>18</sup> On August 18, 2021, the IACHR, its SRFoE, and the OHCHR reinforced their condemnation of the persecution carried out by Nicaraguan authorities against media outlets, journalists, and press workers, considering that this situation is incompatible with the protection of freedom of expression.<sup>19</sup> Moreover, on September 10, 2021, the IACHR and the OHCHR condemned the criminalization of people identified as political opponents in Nicaragua and the arbitrary detention of human rights defenders, leaders of social movements, and journalists.<sup>20</sup>

10. On October 25, 2021, the IACHR published the report “Nicaragua: Concentration of Power and the Undermining of the Rule of Law,” in which it emphasized that since the beginning of the protests in April 2018 in the country, the media and journalists have faced harassment and government pressure in a context of serious deterioration in the situation of freedom of expression in recent years, which has increased in 2021 with the general election process, through arbitrary detentions and criminalization under unfounded charges by the Public Ministry.<sup>21</sup> More recently, on November 4, 2021, the IACHR and OHCHR expressed concern about the increasing repression against opposition figures in Nicaragua within

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<sup>13</sup> IACHR. Press Release No. 249/20. IACHR Calls for Persecution of People Identified as Dissidents to End and for Democratic Guarantees to be Reestablished in Nicaragua. October 10, 2020.

<sup>14</sup> IACHR. Press Release No. R246/20. The IACHR and its Office of the Special Rapporteur for Freedom of Expression express concern about new legal threats to freedom of expression and indirect measures against the media and journalists in Nicaragua. October 7, 2020.

<sup>15</sup> IACHR. Annual Report 2020. Chapter IV.B Nicaragua, February 2021, paras. 5-29.

<sup>16</sup> IACHR. Press Release No. R47/21. Joint statement by the OHCHR for Central America and the IACHR’s SRFoE on Journalist’s Day in Nicaragua. March 2, 2021.

<sup>17</sup> IACHR. Press Release No. R47/21. Joint statement by the OHCHR for Central America and the IACHR’s SRFoE on Journalist’s Day in Nicaragua. March 2, 2021.

<sup>18</sup> IACHR. Statement on Twitter. June 2, 2021 [in Spanish]; IACHR. Press Release No. 152/21. IACHR Condemns the Serious Escalation of Repression in Nicaragua. June 18, 2021.

<sup>19</sup> IACHR. Press Release 216/21. The IACHR, RFOE, and OHCHR Condemn the Repeated Attacks on Freedom of Expression in Nicaragua. August 18, 2021.

<sup>20</sup> IACHR. Press Release 238/21. IACHR, OHCHR Condemn Criminalization, Harsh Conditions of Detention, and Failure to Enforce Due Process for Individuals Who are Perceived to Be Government Critics in Nicaragua. September 10, 2021.

<sup>21</sup> IACHR. Nicaragua: Concentration of Power and the Undermining of the Rule of Law. Approved by the Inter-American Commission on Human Rights on October 25, 2021.

the framework of the electoral process in the country, emphasizing the attacks against journalists.<sup>22</sup> On November 10, 2021, the IACHR condemned the human rights violations that occurred in the framework of the elections in the country, as a result of acts of police siege, harassment, raids, threats, and arbitrary detentions against opposition leaders, human rights activists, members of civil society organizations, and journalists.<sup>23</sup> The SRFoE expressed concern over restrictions on freedom of the press in the context of the electoral day.<sup>24</sup>

### **III. SUMMARY OF FACTS AND ARGUMENTS PROVIDED BY THE PARTIES**

#### **A. Information provided by the applicants**

11. The proposed beneficiary is a journalist with 28 years of experience. She lives in Managua, Nicaragua. She has worked as a correspondent for the media outlet Univisión in two periods: from 2006 to 2012, and from 2018 to date, reporting on politics and human rights.

12. Since 2018, the proposed beneficiary has been subjected to reprisals, threats, and harassment, which have increased. On September 23, 2018, she was covering the march “We are all the voice of our political prisoners,” when she had to take shelter in a safe place with other journalists because the protesters were being attacked by police officers and paramilitary groups. The following day, a publication began to circulate through social media, where Univisión correspondents were called “terrorists” and where the car in which the proposed beneficiary was traveling with other correspondents the day before was shown. In addition, on October 11, 2018, around 11 a.m., when the proposed beneficiary was at her mother’s house, there was a truck lurking around the house, the person stopped at the gate of the property and took photos. According to the applicants, from 2018 to date, the proposed beneficiary has been subjected to acts of surveillance at her home.

13. On May 14, 2021, a special report on “selective justice” in Nicaragua was published on the site “Huellas de la Impunidad,” with which the proposed beneficiary collaborates. Days later, on May 20, 2021, Ms. Delgado covered the raid on the media outlet “Confidencial.” Through a tweet, she alerted on the fact that police officers were detaining international correspondents.

14. Then, on May 24, 2021, the proposed beneficiary was summoned to the Public Ministry. The proposed beneficiary appeared, along with Guillermo Medrano and Lourdes Arróliga, former members of the Violeta Barrios de Chamorro Foundation (FVBCH). Upon arrival, the authorities told her that she should appear alone, without a lawyer. On May 26, 2021, the Public Ministry issued a statement indicating that Ms. Delgado at all times refused to testify and collaborate. On May 28, 2021, she was summoned to the Public Ministry for the second time. On that occasion, she appeared with a lawyer, but the prosecutor in charge gave her a certificate that did not include what the proposed beneficiary had said, and therefore, she refused to sign. The Public Ministry informed her that she was being investigated for “mismanagement of funds from the Violeta Barrios de Chamorro Foundation.” However, the proposed beneficiary allegedly does not work for that organization. The request indicated that her relationship with the FVBCH dates to 2005, when she won the Pedro Joaquín Chamorro award for journalistic excellence. Her link is purportedly the training in audiovisual production and professional ethics. Thus, on the same May 28, 2021, between 4:00 and 6:00 p.m., police located themselves in front of the house of Ms. Delgado’s mother.

15. On June 1, 2021, the Public Ministry reported in a press release that, in the process for the crime of laundering of money, property, assets, and others against the FVBCH, it proceeded to request precautionary measures of immigration retention, prohibition from attending certain meetings and places,

<sup>22</sup> IACHR. Press Release 292/21. Four Days Ahead of Nicaraguan Election, IACHR and OHCHR Denounce Lack of Guarantees for Rights and Liberties in the Country. November 4, 2021.

<sup>23</sup> IACHR. Press Release 300/21. IACHR Condemns Human Rights Violations Reported During Elections in Nicaragua. November 10, 2020.

<sup>24</sup> Ibidem

and prohibition from communicating with people linked to the facts investigated against María Lilly Delgado Talavera, Cristiana Chamorro, Lourdes Arróliga, and Guillermo Medrano. That same day, an arrest warrant was issued against Cristiana Chamorro in the case pursued for “abusive management, ideological misrepresentation, both in real concurrence with laundering of money, property, and assets.” In this case, María Lilly Delgado of Univisión and former workers of the FVBCH have also been charged, and two of them, Walter Gómez and Marco Antonio Fletes, are already in prison. On June 2, 2021, at 11:30 p.m., the police deployed dozens of officers from the Directorate of Special Operations and other specialties, who raided the home of presidential candidate Cristiana Chamorro, former president of the FVBCH, and left her under house arrest at home. In addition, the request states that journalists covering the raid from outside the house were violently evicted by police officers. The applicants alleged that the development of events in the case of Cristiana Chamorro may imply the subsequent detention of the proposed beneficiary.

16. On June 2, 2021, the guard of a house adjacent to the house of the proposed beneficiary’s mother informed the family that at 1:20 p.m. a woman in civilian clothes got off a motorcycle and asked him whether Ms. Delgado lives next door and asked for the telephone number of that house. On June 8, 2021, around 8:30 p.m., a white van parked in front of the proposed beneficiary’s home and remained there for approximately ten minutes. That same day, police authorities detained presidential candidates. On June 9, 2021, the proposed beneficiary spoke through its Twitter account condemning the detention of the candidates. On that occasion, a Twitter profile with a photo that included the flags of the Sandinista National Liberation Front, replied to her, *“Be careful, you’re next.”*

17. Subsequently, on October 7, 2021, officers of the Public Ministry approached the proposed beneficiary’s private defense lawyer to ask him “whether he was still María Lilly’s lawyer.” On October 14, 2021, at 3:50 p.m., a tub van parked in front of her home, very similar to the one that parked on June 8 of the same year, when the presidential candidates were detained. Moreover, the proposed beneficiary’s relatives have also suffered harassment. On October 21, 2021, between 4:00 and 4:15 p.m., a woman relative of the proposed beneficiary who lives with her mother was driving the latter’s vehicle. At a traffic light, she noticed that a motorcycle with two persons approached the vehicle, pretended to take a selfie, and continued driving. Upon reaching her destination, the proposed beneficiary’s relative got out of the vehicle, entered a church, and noticed that the same motorcycle was parked in front of it.

18. The proposed beneficiary continued to carry out her journalistic work. On November 8, 2021, the proposed beneficiary gave an interview to the *France 24* channel, criticizing the electoral process in the country. Furthermore, on November 18, 2021, she participated in the program “La Regla del Pomodoro,” when she also referred to the elections of November 7 and the discrediting of that process. On October 24, 2021, the proposed beneficiary gave an interview to the *Al Punto* program, on the network Univisión. In the interview, as a correspondent for the news network, she referred to the situation of the presidential candidates and received several intimidating messages such as the following:

“You talk about candidates... don’t be lazy... let’s see, Lily, if you’re a professional... tell us to which political parties each of them belongs... say it, stop fooling (sic), you and I know that they’re criminals who violated the law... and that the weight of the law fell on them.”

“There’re no political prisoners there’s only scum, and if the gringos want them, we’ll give them to them, this type of garbage shouldn’t be in the country along with the two clowns who’re there as journalists, just as Ramos and Slim are the same media scum.”

“Pseudo journalist María Lilly Delgado is a dirty shame of conscientious journalism, she’s a liar along with the also pseudo journalist Jorge Ramos, both try to deceive international opinion with crude arguments... it’s clear that this pair of cynical liars earn a salary in a

shameful way, because they have no dignity and they don't know what Sovereignty is, because their poor minds are aligned at the service of the empire, shameless ones.”

19. On November 23, 2021, at approximately 12:30 p.m., when the proposed beneficiary was leaving her house in her vehicle, she noted that a man was parked in front of the perimeter wall of the property. Another relative, who left the house shortly after, noticed that the man, who was armed with a pistol, had positioned himself outside the house where the proposed beneficiary lived, and leaned against the wall with a vigilant attitude. This person remained in front of the house for at least 45 minutes, leaving around 1:00 p.m.

20. Lastly, it was indicated that the proposed beneficiary fears going out to the streets in the face of reprisals for the exercise of her journalistic work and that she is in fact in a situation equivalent to house arrest. It was reported that the proposed beneficiary does not have any protection measures.

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

21. The State of Nicaragua indicated that the proposed beneficiary is not at risk to her rights. The State asserted that state institutions guarantee respect for the human rights of all persons without distinction and that freedom of expression and information is a fundamental right of individuals. It was stated that this right is not absolute, as it is limited by social responsibility and the law. In the same way, according to the State, in Nicaragua there is full freedom of expression, which is evidenced by the presence of various media outlets, exercising their work without prior censorship, and there is no state policy to persecute or harass journalists. Lastly, the State mentioned that Article 32 of the American Convention on Human Rights establishes a correlation between human rights and duties with the family, the community, and humanity, so that rights are limited by the safety of all and the demands of the common interest.

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

22. The mechanism of precautionary measures is part of the Commission's function of overseeing compliance with the human rights obligations established in Article 106 of the Charter of the Organization of American States, as well as in Article 18(b) of the Statute of the IACHR. The mechanism of precautionary measures is described in Article 25 of the Commission's Rules of Procedure. In accordance with that Article, the IACHR grants precautionary measures in serious and urgent situations in which these measures are necessary to avoid 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>25</sup> Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.<sup>26</sup> To do this, the IACHR shall assess the problem raised, the effectiveness of state actions to address the situation described, and how vulnerable

<sup>25</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>26</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].

the persons proposed as beneficiaries would be left in case the measures are not adopted.<sup>27</sup> Regarding their precautionary nature, these measures have the purpose of preserving legal situations while under the consideration of the IACHR. Their precautionary nature aims at protecting the rights at risk until the request 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>28</sup> In the process of reaching a decision, 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; rather, the purpose of the assessment of the information provided should be to determine *prima facie* if a serious and urgent situation exists.<sup>29</sup> In the same way, by its own mandate, the Commission is not called upon to determine any criminal liabilities of specific individuals in light of the facts alleged. Moreover, in this proceeding, it is not called upon to rule on any violation of rights enshrined in the American Convention or other applicable instruments.<sup>30</sup> The analysis performed herein relates exclusively to the requirements established in Article 25 of its Rules of Procedure, which can be resolved without making any determinations on the merits.<sup>31</sup>

<sup>27</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 8; 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].

<sup>28</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>29</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 the children and adolescents deprived of their 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>30</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 family regarding Nicaragua. April 30, 2021, para. 33 [only in Spanish].

<sup>31</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].

25. In the instant matter, the Commission observes that the alleged situation placing the proposed beneficiary at risk is framed in the current context of Nicaragua,<sup>32</sup> as well as in a repressive context towards persons considered or identified as opponents of the current Government of the country.<sup>33</sup> The foregoing is relevant inasmuch as, in March 2021, the IACHR SRFoE emphasized that the international community has been registering, since April 2018, a climate of hostility towards the exercise of freedom of expression in the country, marked by the criminalization of protest, arbitrary detentions, the seizure and closure of independent media outlets, and the persecution and harassment of independent journalists.<sup>34</sup> Similarly, in August 2021, the IACHR, its SRFoE, and the OHCHR strongly condemned the repeated acts of persecution carried out by Nicaraguan authorities against the media, journalists, and press workers registered in the context of the presidential elections of November 2021.<sup>35</sup> In this context, the Commission recalls that it has granted precautionary measures concerning journalists who have been subjected to threats, intimidation, and acts of violence allegedly attributable to State officers or third parties related to the Government, who reportedly seek that the journalists change their editorial line or stop reporting on the events that have been taking place in the country.<sup>36</sup>

26. Furthermore, the Commission notes that the proposed beneficiary, as a woman journalist, faces a noticeable risk due to gender stereotypes, historical discrimination, and prejudices related to the way she should dress and act or the roles that women should play in society.<sup>37</sup> Thus, the Commission has observed that the impact of these discriminatory practices is particularly serious in the case of women who actively exercise freedom of expression and maintain a high public profile, such as women who are journalists. These groups of women are doubly attacked for exercising freedom of expression and for their gender. By challenging sexist stereotypes that disapprove of their participation in public life, women journalists face violence and discrimination against them based on their gender, as well as differentiated forms of violence by state and non-state actors. In turn, they face lack of protection and obstacles in accessing justice, which are also differentiated from their male counterparts.<sup>38</sup>

<sup>32</sup> See in this regard: IACHR. Press Release No. 93/21. Three Years After the Start of the Human Rights Crisis in Nicaragua, IACHR Condemns Ongoing Impunity. April 19, 2021; IACHR. Press Release No. 80/20. Two Years into Nicaragua's Human Rights Crisis, the IACHR Stresses its Permanent Commitment to Victims and Confirms the Consolidation of a Fifth Phase of Repression. April 18, 2020; IACHR. Press Release No. 220/19. IACHR Speaks Out Against Ongoing Repression in Nicaragua and Expresses Its Concern at Increased Harassment of Human Rights Defenders and People Who Have Been Released from Prison. September 6, 2019.

<sup>33</sup> See in this regard: IACHR. Annual Report 2020. Chapter IV.B Nicaragua, paras. 54-77; IACHR. Press Release No. 152/21. IACHR Condemns the Serious Escalation of Repression in Nicaragua. June 18, 2021; IACHR. Press Release No. 2/21. IACHR Condemns Growing Harassment in Nicaragua. January 6, 2021.

<sup>34</sup> Joint statement by the OHCHR for Central America and the IACHR's SRFOE on Journalist's Day in Nicaragua, March 2, 2021.

<sup>35</sup> IACHR, The IACHR, RFOE, and OHCHR Condemn the Repeated Attacks on Freedom of Expression in Nicaragua, August 18, 2021.

<sup>36</sup> See in this regard: IACHR. Resolution 82/21. Precautionary Measure No. 206-20. Jaime José Arrelano Arana regarding Nicaragua. October 12, 2021; IACHR. Resolution 70/21. Precautionary Measure No. 1061-20. Georgina Roxana Vargas Clarens regarding Nicaragua. August 28, 2021; Resolution 31/2021. Precautionary Measure No. 1606-18. Javier Iván Olivares regarding Nicaragua. (Extension), April 5, 2021; IACHR. Resolution 27/2020. Precautionary Measure No. 399/20. Eduardo Walter Montenegro Chavarría *et al.* regarding Nicaragua (Identified members of the NOTIMATV journalistic team), June 17, 2020; IACHR. Resolution 11/2020. Precautionary Measure No. 399-19. Carlos Edy Monterrey regarding Nicaragua. (Extension), February 5, 2020; IACHR. Resolution 10/2020. Precautionary Measure No. 1606-18. María Waleska Almendares Cruz *et al.* regarding Nicaragua. (Extension), February 5, 2020; IACHR. Resolution 32/2019. Precautionary Measure No. 399-19. Sergio Warren León Korea and members of his family regarding Nicaragua (General Director of "La Costeñísima" in the Autonomous Region of the South Caribbean), June 15, 2019; IACHR. Resolution 5/2019. Precautionary Measure No. 873-18. Lucía Pineda Ubau and her nuclear family regarding Nicaragua (Extension), February 11, 2019; IACHR. Resolution 96/2018. Precautionary Measure No. 698-18. Álvaro Lucio Montalván and his nuclear family regarding Nicaragua, December 29, 2018; IACHR. Resolution 90/2018. Precautionary Measure No. 873-18. Miguel Mora Barberena, Leticia Gaitán Hernández, and their families regarding Nicaragua (Journalists of 100% Noticias), December 13, 2018.

<sup>37</sup> IACHR. Women Journalists and Freedom of Expression. Discrimination and gender-based violence against women journalists for the exercise of their profession. CIDH/RELE/INF.20/18, October 31, 2018, paras. 2, 6, 28-50; IACHR. Towards Effective Integral Protection Policies for Human Rights Defenders. OEA/Ser.L/V/II. Doc. 207/17, December 29, 2017, paras. 43 and 146; IACHR. Second Report on the Situation of Human Rights Defenders in the Americas. OEA/Ser.L/V/II. Doc. 66. December 31, 2011, para. 283.

<sup>38</sup> IACHR. Women Journalists and Freedom of Expression. Discrimination and gender-based violence against women journalists for the exercise of their profession. CIDH/RELE/INF.20/18, October 31, 2018, paras. 3, 6, 28-50.

27. Taking into account the current, particular, and exceptional context of Nicaragua, the Commission herein analyzes the procedural requirements regarding the proposed beneficiary.

28. Regarding the requirement of *seriousness*, the Commission considers that it has been met. When assessing this requirement, the Commission takes into account the current context of Nicaragua, which, as detailed above, was verified and has been monitored by its MESENI, as well as the special exposure situation in which people who are still practicing independent journalism in Nicaragua find themselves.

29. When analyzing the seriousness of the situation faced by the proposed beneficiary, the Commission also notes that her situation is purportedly related to the events that Ms. Cristiana María Chamorro and other former workers of the FVBCH have faced. The foregoing, because as reported by the applicants, the proposed beneficiary was summoned in May 2021 along with other former workers of the FVBCH for an investigation involving this Foundation for crimes of “abusive management, ideological misrepresentation, both in real concurrence with the laundering of money, property, and assets,” and, later, she was charged with the commission of certain crimes following that investigation (see *supra* paras. 14 and 15). Similarly, in June 2021, the Public Ministry reported that, within the framework of the process, it has requested immigration retention measures, a prohibition from attending certain meetings and places, and a prohibition from communicating with related persons, which includes the proposed beneficiary (see *supra* para. 15). In the framework of this criminal proceeding, the State had already detained the former president of the FVBCH and other former workers in June 2021, the proposed beneficiary being one of the persons still at liberty (see *supra* para. 15).

30. In this regard, the Commission recalls that on June 24, 2021, it granted precautionary measures regarding Cristiana María Chamorro Barrios and other former members of the FVBCH, most of whom are currently deprived of their liberty, in view of the specific risk to their rights to life and integrity.<sup>39</sup> Subsequently, at the request of the Commission, the Inter-American Court requested provisional measures in favor of such persons. At the time of granting provisional measures on November 4, 2021, the Inter-American Court considered that they were at an extreme risk under the terms of Article 63(2) of the Convention.<sup>40</sup> On that occasion, the Inter-American Court found that, in the case of Ms. Lourdes Arróliga, a former employee of the FVBCH, although she was not deprived of liberty, she was exposed to a serious risk in the current context and given the acts of intimidation, harassment, and surveillance against her.<sup>41</sup> Subsequently, on November 22, 2021, the Inter-American Court issued a new resolution regarding provisional measures in the Matter of Juan Sebastián Chamorro *et al.*, including the former employees of the FVBCH, asserting that “the position assumed by Nicaragua, according to which there is no will to comply with what is ordered by the Court, constitutes an act of evident disrespect for the decisions of this Court, contrary to the international principle that imposes on the State the duty to abide by its conventional obligations in good faith.”<sup>42</sup>

31. In this way, either due to the Commission’s previous assessments or due to those recently made by the Inter-American Court, the persons involved in the process pursued against former FVBCH employees have been exposed to ongoing threatening events, including those who are not deprived of liberty, as is the case

<sup>39</sup> IACHR. Resolution 49/2021. Precautionary Measure No. 480-21. Cristiana María Chamorro Barrios *et al.* regarding Nicaragua. June 24, 2021.

<sup>40</sup> I/A Court H.R. Matter of Juan Sebastián Chamorro *et al.* regarding Nicaragua. Extension of Provisional Measures. Order of the Inter-American Court of Human Rights of November 4, 2021, paragraph 30.

<sup>41</sup> I/A Court H.R. Matter of Juan Sebastián Chamorro *et al.* regarding Nicaragua. Extension of Provisional Measures. Order of the Inter-American Court of Human Rights of November 4, 2021, paragraph 42.

<sup>42</sup> I/A Court H.R. [Matter of Juan Sebastián Chamorro et al. regarding Nicaragua](#). Order of the Inter-American Court of Human Rights of November 22, 2021, paragraph 38.

of Ms. Lourdes Arróliga. Although such events were aimed at other persons, not at the proposed beneficiary, the Commission takes them into account as background information and to contextualize the situation that Ms. María Lilly Delgado Talavera currently faces.

32. In addition, the Commission notes that the applicants have reported that the proposed beneficiary has been subjected to acts of harassment and intimidation, which have increased in 2021, because of her work as a journalist and her association with the FVBCH. Thus, on June 8, 2021, the day presidential candidates were detained, a truck parked in front of the proposed beneficiary's house (see *supra* para. 16). Then, on June 9, 2021, she received threats on her Twitter account reading: "Be careful, you're next" (see *supra* para. 16). On October 24, 2021, in an interview on the Univisión network, the proposed beneficiary received more intimidating messages, in which they attacked her journalistic work and discredited the detained candidates (see *supra* para. 18). More recently, on November 23, 2021, an armed man was posted on the wall of the property of the proposed beneficiary's mother for at least 45 minutes, while she was there (see *supra* para. 19). It was reported that the proposed beneficiary is being watched at her home and is not able to leave due to the fear she purportedly lives with, having described her situation as practically "house arrest."

33. It should be noted that her family has been also affected by the siege to the proposed beneficiary. In this regard, as indicated, the house of the proposed beneficiary's mother is constantly being watched (see *supra* para. 12). It was also reported that on November 23, 2021, an armed person appeared outside her home, where her relatives were also present (see *supra* para. 19). In addition, on October 21, 2021, a relative of the proposed beneficiary noticed that a motorcycle followed her when she left the proposed beneficiary's house for her destination (see *supra* para. 17).

34. Upon requesting information from the State pursuant to Article 25 of its Rules of Procedure, the Commission takes note of its response, which indicates that it guarantees and protects the human rights of all persons without any distinction. However, the Commission notes that the State did not provide information with sufficient specific and detailed elements to disprove the applicants' submissions, or to consider that the alleged situation was mitigated. Thus, the information provided does not refer to the specific situation of María Lilly Delgado Talavera, and therefore, from the applicable *prima facie* standard, it is not possible to disprove the risk. In its assessment, the Commission takes into account that given that the proposed beneficiary is an independent journalist, her situation allegedly involves risk factors similar to those that the Commission had the opportunity to assess in precautionary measures currently in force. Considering that the proposed beneficiary continues to carry out her activities as a journalist (see *supra* para. 18) and given the lack of information to disprove the alleged facts, the Commission considers it worrisome the lack of information from the State on what measures it has adopted to address the alleged situation.

35. In these circumstances, from the applicable *prima facie* standard, the Commission finds that it is sufficiently proven that there exists a situation presenting a serious risk to the rights to life and personal integrity of María Lilly Delgado Talavera in the current context of the country. The said situation, besides seriously affecting the proposed beneficiary's exercise of freedom of expression, in a context such as that of the State, is also likely to have an impact on the right of Nicaraguan society to be informed, which is essential for the effectiveness of a democratic state.

36. Regarding 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, in such a way that, given the imminent materialization of the risk and the lack of protection measures implemented, the situation calls for the immediate adoption of measures to safeguard the rights to life and personal integrity of the proposed beneficiary. In this sense, the Commission notes that the threatening events that Ms. Delgado has

been facing have increased from April 2018 to date, being more intense as of mid-2021. In this sense, there are also no sufficient assessment elements to indicate that the identified risk factors have been duly mitigated. Thus, for instance, the State has not reported on protection measures implemented or actions aimed at protecting the rights of the proposed beneficiary.

37. Regarding the requirement of *irreparable harm*, the Commission upholds 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.

#### **V. BENEFICIARIES**

38. The Commission declares as beneficiary Ms. María Lilly Delgado Talavera, who is duly identified in this proceeding.

#### **VI. DECISION**

39. 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 Nicaragua:

- a) adopt the necessary measures, with a gender approach, to protect the rights to life and personal integrity of María Lilly Delgado Talavera. To this end, the State must both ensure that state actors respect the life and personal integrity of the beneficiary, as well as protect her rights in relation to acts of risk that are attributable to third parties, in accordance with the standards established by international human rights law;
- b) adopt the necessary measures so that María Lilly Delgado Talavera can carry out her activities as an independent journalist without being subjected to acts of violence, intimidation, threats, or harassment in the exercise of her work. The foregoing includes the adoption of measures so that she can duly exercise her right to freedom of expression;
- 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 them from reoccurring.

40. The Commission requests that the State of Nicaragua report, within a period of 15 days from the day following notification of this resolution, on the adoption of the required precautionary measures and to update that information periodically.

41. 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 safeguarded under the applicable instruments.

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

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43. Approved on December 8, 2021, by: Antonia Urrejola Noguera, President; Julisa Mantilla Falcón, First Vice President; Flávia Piovesan, Second Vice President; Margarete May Macaulay, Esmeralda Arosemena de Troitiño and Joel Hernández García, members of the IACHR.

Tania Reneaum Panszi  
Executive Secretary