
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 17/2021**

Precautionary Measure No. 1076-18
Carlos Ramon Brenes Sánchez and his nuclear family regarding Nicaragua
February 25, 2021
Original: Spanish

I. INTRODUCTION

1. On August 29, 2018, the Inter-American Commission on Human Rights (“the Inter-American Commission,” “the Commission” or “the IACHR”), received a request for precautionary measures filed by Thelma Brenes, urging the IACHR to request that the State of Nicaragua (“the State or Nicaragua”) protect Carlos Ramon Brenes Sánchez (“the proposed beneficiary”). The request indicates that the proposed beneficiary and his relatives¹ are at risk due to a series of threats, intimidation, and harassment in the current context that Nicaragua is going through.

2. In accordance with Article 25 of the Rules of Procedure, the IACHR requested information from the State on October 18, 2018. To this date, the State has not provided a response. Subsequently, the applicant sent written communications on November 6 and 15, 2018, October 5, 2020, and January 12, 2021.

3. Upon analyzing the information available, in light of the applicable context and the findings made, the Commission considers that the information provided shows *prima facie* that the rights to life and personal integrity of Carlos Ramon Brenes Sánchez and his nuclear family are in a serious and urgent situation. Consequently, in accordance with Article 25 of the Rules of Procedure, the Commission requests that the State of Nicaragua: a) adopt the necessary measures to protect the rights to life and personal integrity of Carlos Ramon Brenes Sánchez and his nuclear family. In particular, the State must ensure that the rights of the beneficiaries are respected in accordance with the standards established by international human rights law, both by state actors and in relation to acts of risk attributable to third parties; b) consult and agree upon the measures to be adopted with the beneficiaries and their representatives; and c) report on the actions taken to investigate the alleged events that led to the adoption of this precautionary measure, so as to prevent such incidents from reoccurring.

II. CONTEXTUAL INFORMATION

4. The Commission visited Nicaragua in May 2018 and collected several testimonies on human rights violations that allegedly occurred since the beginning of a series of protests in April. Later, a report that included recommendations was published. To verify compliance with these recommendations, the Special Monitoring Mechanism for Nicaragua (MESENI) was created. It was present in the country until December 19, 2018, when the State temporarily suspended its operation. For its part, the Interdisciplinary Group of Independent Experts (GIEI) issued a report that analyzed the events that took place between April 18 and May 30, 2018, which confirmed the IACHR findings.²

5. During a presentation before the Permanent Council of the Organization of American States, the Commission shared the data collected by the MESENI, according to which from April 2018 to January 10, 2019, there were 325 deaths and over 2000 injured, 550 detained and processed, 300 health

¹ The request mainly identifies his parents, his daughter Thelma Brenes, and his brothers Fernando Brenes and Daniel Brenes.

² GIEI, Report on the acts of violence that occurred between April 18 and May 30, 2018. December 2018. Available [in Spanish] at http://gjeinicaragua.org/gjei-content/uploads/2018/12/GIEI_INFORME_DIGITAL.pdf

professionals were dismissed, and at least 144 students were expelled from the National Autonomous University of Nicaragua.³ For its 2018 Annual Report, the IACHR included Nicaragua in Chapter IV-B, in accordance with the grounds set forth in its Rules of Procedure.

6. During 2019, the Commission continued to condemn the ongoing acts of persecution, urging the State to comply with its obligations. On April 25, the Commission shared the performance report and results achieved by MESENI, and continued to monitor the country from Washington, D.C. Between February and June, the State approved the Law on Dialogue, Reconciliation and Peace, the Comprehensive Care for Victims Act and an Amnesty Law that prompted public pronouncements from the IACHR for not complying with the international standards in matters of truth, justice, reparation and guarantees of non-repetition.⁴ During the last months, the Commission continued registering serious incidents. For instance, in August it voiced its concern regarding the State's decision to cease the "Negotiating Table for Understanding and Peace," which started on February 27, 2019 between the government and the Civil Alliance for Justice and Democracy.⁵ On September 6, the IACHR reported an increased harassment against human rights defenders and persons who, despite having been released from prison, continued to be intimidated.⁶

7. On November 19, 2019, the Commission once again called attention to the ongoing repression, noting that "[...] the closure of democratic spaces that currently characterizes the human rights crisis in Nicaragua, [is added to the fact that] the families of people who have been deprived of liberty during this crisis are increasingly becoming the targets of state persecution in the form of surveillance and the obstruction of peaceful actions."⁷

8. During 2020, the IACHR verified the intensification of acts of surveillance, harassment, and selective repression against persons considered to be opponents of the Government and identified a fifth phase of repression in the context of the crisis, implemented since mid-2019, described as "the most intense and systematic attack on public freedoms that has occurred in the country since the beginning of the crisis".⁸ In May 2020, the IACHR noted and condemned non-compliance with its recommendations, and urgently called on the State to implement them.⁹ In October 2020, the IACHR again called for an immediate end to the acts of persecution against persons identified as opponents of the government and for the restoration of democratic guarantees in Nicaragua.¹⁰

³ IACHR, 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.

⁴ IACHR, IACHR and OHCHR Express Concern Over the Passing of the Comprehensive Care for Victims Act in Nicaragua, June 3, 2019. Available at http://www.oas.org/en/iachr/media_center/PReleases/2019/137.asp

See also: IACHR, IACHR Expresses Concern Over the Passing of the Amnesty Law in Nicaragua, June 12, 2019. Available at https://www.oas.org/en/iachr/media_center/PReleases/2019/145.asp; IACHR Considers that the Law on Dialogue, Reconciliation and Peace in Nicaragua is Incompatible with International Standards Regarding Truth, Justice and Reparation, February 1, 2019. Available at: http://www.oas.org/en/iachr/media_center/PReleases/2019/021.asp

⁵ IACHR, IACHR Expresses Concern over Nicaragua's Announcement That It Will Not Continue Dialogue and Calls on the State to Comply with Its Obligations to Guarantee and Respect Human Rights, August 6, 2019. Available at https://www.oas.org/en/iachr/media_center/PReleases/2019/194.asp

⁶ IACHR, 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. Available at https://www.oas.org/en/iachr/media_center/PReleases/2019/220.asp

⁷ IACHR, IACHR Condemns Persecution of Victims of Repression in Nicaragua and Calls on State to Prevent Revictimization and Promote Truth, Justice, Reparation, and Measures of Non-repetition, November 19, 2019. Available at https://www.oas.org/en/iachr/media_center/PReleases/2019/297.asp

⁸ IACHR, 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. Available at http://www.oas.org/en/iachr/media_center/PReleases/2020/080.asp

⁹ IACHR, 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. Available at http://www.oas.org/en/iachr/media_center/PReleases/2020/113.asp

¹⁰ IACHR, IACHR Calls for Persecution of People Identified as Dissidents to End and for Democratic Guarantees to be Reestablished in Nicaragua, October 10, 2020. Available at https://www.oas.org/en/iachr/media_center/PReleases/2020/249.asp

9. In 2021, the IACHR condemned the increased harassment in Nicaragua.¹¹ As reported to the IACHR, these acts are manifested in the deployment of police teams and civilians to surround the families' homes throughout the day to prevent these persons or their relatives from leaving, or otherwise to identify and register any person who enters or leaves the place. In other cases, they are purportedly subjected to monitoring, detentions, threats, and house searches.

III. SUMMARY OF FACTS AND ARGUMENTS PROVIDED BY THE APPLICANTS

10. The applicant noted that the events faced by the proposed beneficiary are of publicly knowledge. These events are purportedly related to his leadership within the retired military and in the population of Masaya and Carazo, for being a dissident and constant voice in Nicaraguan politics in the last 20 years, and following his complaints of corruption and violation of human rights against the current government of Nicaragua.

11. The proposed beneficiary was released on June 11, 2019 within the framework of Amnesty Law No. 996 approved in Nicaragua in 2019. As background information, the applicant indicated that, upon being detained in 2018, his whereabouts were unknown for approximately 7 hours. The applicant stressed that, while in detention, he was held in total isolation, without access to light and air. The applicant also reported that they did not provide him with all the necessary medications to treat his medical situation.

12. The applicant presented various questions regarding the criminal process in which the proposed beneficiary was involved and indicated that some appeals intended for resolving his legal situation following his release are pending. The applicant questioned that, at the time of his release, neither his mobile phone nor his passport was returned to him. Moreover, the proposed beneficiary was reportedly detained in 2018 while carrying his passport, as he was going through immigration procedures at the border between Nicaragua and Costa Rica, Peñas Blancas. The proposed beneficiary was traveling to Costa Rica to undergo a medical check-up for his diabetes problem.

13. Following his release, on June 19, 2019, the proposed beneficiary was threatened in a private business establishment by an officer of the Carazo mayor's office. The officer insulted him by shouting: "terrorist," "coup plotter," "son of a bitch," among other things. On that occasion, he also received threats stating that they were going to "neutralize" him when he least expects it, like they did with all terrorists and coup plotters. Between July and September 2019, the proposed beneficiary allegedly requested in writing the delivery of his passport. Subsequently, a new passport was issued to him.

14. On October 4, 2019, on a bus trip to Costa Rica, at the Peñas Blancas border post, two immigration officers and a police officer asked the proposed beneficiary to get off the bus so that they could question him. The reason why was not indicated, while he was the only passenger to whom they made such a request. The officers detained him and interrogated him at the immigration offices for an hour and a half, during which they mistreated, intimidated, and threatened him.¹² During that period, the proposed beneficiary was not allowed to communicate with his relatives, nor was he allowed access to his medicines to control his blood sugar levels. He reportedly received verbal aggression and harassment as they asked him "whether the reason for the trip was political," "whether he was carrying political propaganda or weapons," and "who was sponsoring his trip." They purportedly demanded him to give the address to which he was heading. The applicant recalled that the proposed beneficiary was

¹¹ IACHR, IACHR Condemns Growing Harassment in Nicaragua, January 6, 2021. Available at https://www.oas.org/en/IACHR/jsForm/?File=/en/iachr/media_center/PReleases/2021/002.asp

¹² The applicant indicated in a communication dated October 5, 2020 that "there was no physical abuse or violence."

traveling for family and medical reasons (diabetes, hypertension, and neuropathy). On that occasion, some personal belongings which had the colors blue and white (according to the applicant, colors “that characterize the dissident movement in Nicaragua”) were also taken from him, without giving him an explanation. The officers, in addition to questioning, searching, and withholding his belongings, allegedly alluded to risk to his physical integrity, and even his life, if he continued to publicly demonstrate as a “coup plotter” against the government.

15. On October 6, 2019, armed police reportedly appeared at the proposed beneficiary’s home on the outskirts of Jinotepe. At that time, he was not at the farm, so the police asked when he was returning from Costa Rica to Nicaragua and then left. On November 8, 2019, back at the border post between Costa Rica and Nicaragua, migration agents and Nicaraguan police detained the proposed beneficiary. He was interrogated for two hours without any reason being provided. The applicant indicates that, on this occasion, there were mistreatments and threats of re-imprisonment and against his integrity, as well as intimidation.¹³ State officers reportedly asked him intensively the reason for his trip to Costa Rica and whether he brought political propaganda. They also told him that he might go to prison again if he continued as a “coup plotter.” The proposed beneficiary was also denied access to food aimed at controlling his low blood sugar levels, which is critical in view of his diabetic condition.

16. On February 24, 2020, the proposed beneficiary visited his brother Fernando Brenes in Masaya. Half an hour after the proposed beneficiary arrived at his brother’s house, 2 pick-up vans with four policemen showed up at Fernando Brenes’ home. The police allegedly parked the two vans in front of the house for 4 hours, during which they took photos of the proposed beneficiary’s vehicle, and of the persons who entered the house or were sitting on the terrace. The proposed beneficiary and his brother have reportedly avoided any communication or confrontation with the police. Nonetheless, the officers have allegedly threatened to detain the proposed beneficiary again, and have also made threats against his life, noting that “coup plotters and terrorists receive *plomo* [lead], so you’ve been warned.”

17. Between August 17 and 30, 2020, the national police reportedly appeared armed, 4 times, at the residence of the proposed beneficiary in Carazo. As he was not at the farm, the police asked the farm workers whether the proposed beneficiary had weapons at his home. On September 10, 2020, the proposed beneficiary purportedly visited his brother Fernando Brenes again in Masaya. The police reportedly appeared in a pick-up and four motorcycles with hooded civilians. Once again, the police allegedly took photos of the vehicle and of the persons in the house. Moreover, they purportedly threatened him by saying “be careful on the way back to Carazo, there is danger around.” The applicant attached photos.

18. Between September 11 and 13, 2020, the police reportedly appeared daily at Fernando Brenes’ home. A patrol or van and four motorcycles reportedly showed up for 2 to 4 hours a day. On November 2, 2020, the proposed beneficiary asked his brother Daniel Brenes to clean and paint the family graves in the Monimbó cemetery, where two daughters of the proposed beneficiary have been allegedly buried. That day, “the civil and police contingent” was purportedly present. The brother of the proposed beneficiary allegedly painted the graves in blue (according to the applicants, a color used by “dissidence” in Nicaragua). When realizing the color that he was using to paint the graves, 4 persons dressed in civilian clothes approached him in an intimidating way and allegedly started videorecording, took photos, and called the police. Daniel Brenes purportedly avoided any kind of confrontation. The civilians shouted: “Do you know that for doing that you and your brother can go to prison again?,” and “Do you want your brother to be arrested again?” The applicant recalled that Daniel Brenes was also detained in 2019, when he was beaten by police officers, who stripped him naked, and subsequently, a week later, let him go without his belongings. That year, they allegedly told him they had done that to teach him and

¹³ The applicant indicated in a communication dated October 5, 2020 that “there was no physical abuse or violence.”

his brother not to be “terrorists” and that if they saw him involved in “those things” again, everything would be worse for them.

19. Lastly, the applicant emphasized that the proposed beneficiary will be an object of interest in 2021, as this is an electoral year.

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

20. The mechanism of precautionary measures is part of the Commission’s function of overseeing Member States compliance with the human rights obligations set forth in Article 106 of the Charter of the Organization of American States. These general oversight functions are established in Article 41 (b) of the American Convention on Human Rights, as well as in Article 18 (b) of the IACHR’s Statute. The mechanism of precautionary measures is set forth in Article 25 of the Commission’s Rules of Procedure. In accordance with that Article, the Commission grants precautionary measures in serious and urgent situations in which these measures are necessary to avoid irreparable harm to persons.

21. The Inter-American Commission and the Inter-American Court of Human Rights (“the Inter-American Court” or “I/A Court H.R.”) have established repeatedly that precautionary and provisional measures have a dual nature, both protective and precautionary. Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights. Regarding their precautionary nature, these measures have the purpose of preserving a legal situation while it is being considered by the IACHR. Their precautionary nature aims to safeguard 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 the decision on the merits and, thus, prevent the alleged rights from being violated, a situation that may adversely affect the useful effect (*effet utile*) of the final decision. In this regard, precautionary or provisional measures allow the State concerned to comply with the final decision and, if necessary, implement the ordered reparations. For such purposes, in accordance with 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 impact on rights which, due to their nature, would not be susceptible to reparation, restoration or adequate compensation.

22. The Commission recalls that the alleged facts that motivate a request for precautionary measures need not be proven beyond doubt; rather, the information provided should be assessed from a *prima facie* standard.¹⁴ Similarly, the Commission recalls that, by its own mandate, it is not called upon to make any determinations on the criminal liabilities of the persons involved in the matter at hand. Similarly, the analysis is carried out exclusively based on the requirements of Article 25 of the IACHR Rules of Procedure, which can be assessed without making determinations on the merits.

23. As a preliminary matter, the IACHR indicates that it is not within its powers, in this proceeding, to rule on the compatibility, in light of the Convention, of the judicial processes in which the proposed

¹⁴ For instance, in relation to provisional measures, the Inter-American Court has considered that this standard requires a minimum of detail and information that allow for the *prima facie* assessment of an extremely serious and urgent situation. IACHR, Matter of Children and adolescents 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.

beneficiary is involved in Nicaragua. Given the substantive analysis that is required, the Commission recalls that such allegations can be assessed as part of an eventual petition or case. In this sense, on this occasion, the analysis is carried out exclusively regarding the requirements of Article 25 of the Rules of Procedure.

24. When analyzing the requirement of seriousness, the Commission takes into account that the proposed beneficiary exercises “leadership within the retired military and in the population of Masaya and Carazo” in the current context of Nicaragua. The proposed beneficiary is identified “for being a dissident and constant voice in the last 20 years in Nicaraguan politics,” particularly following the events of April 2018. According to the applicant, the proposed beneficiary is currently an “object of interest” in 2021, as this is an electoral year in the country. In this particular situation, the Commission observes that the proposed beneficiary has been facing various events against him, having been deprived of his liberty in 2018 and subsequently released in 2019. Although it is not appropriate to analyze the compatibility of that detention in light of the Convention, the Commission does take into account, as background information, the conditions of detention faced by the proposed beneficiary as someone deprived of his liberty. In particular, the Commission recalls that when proposed beneficiary was detained at the hands of police officers, his whereabouts remained unknown for approximately 7 hours. He was allegedly held in conditions of total isolation, without access to light and air, and it was reported that state officers did not provide him with all the medications he needed to treat his medical condition. Such events are especially serious and reflect a hostile attitude from the police officers against the proposed beneficiary at a time when he depended on the State’s care while in their custody.

25. Upon being released in 2019, the Commission notes that the proposed beneficiary has continued to face events of risk, presumably at the hands of police officers, who allegedly constantly monitor his movements, both inside and outside the country. Recent facts show that his relatives have also been exposed to such events due to their closeness and filial relationship with the proposed beneficiary. Thus, between 2019 and 2020, the Commission has been informed of the following events: i) statements that sought to discredit him as a “terrorist” or “coup leader” by labeling him as an “opponent” of the Nicaraguan government; ii) in the migration posts of Nicaragua, he has been subjected to special search of his belongings and control by Nicaraguan immigration agents, and he has been prevented from accessing food and medicines to manage his health condition during periods of immigration detention; iii) migration agents at such times have sought to know the reasons for his displacements outside the country, having made threats and calling him “coup plotter”; iv) monitoring for various periods of time by police personnel during his trips to his relatives’ homes; v) in February 2020, police officers appeared at the house of the proposed beneficiary’s brother and threatened him, telling him that “coup plotters and terrorists receive *plomo* [lead], so you’ve been warned,” and on September 10, 2020, police officers threatened him again, by telling him: “be careful on the way back to Carazo, there is danger around.” The applicant attached photos; vi) police officers purportedly take photos of the cars and persons close to the proposed beneficiary, as well as ask questions to obtain information on the proposed beneficiary; and vii) in September 2020, a brother of the proposed beneficiary was allegedly the target of intimidating messages from civilians while he was in the cemetery and painted the graves of relatives in blue, a color that is reportedly identified as being from the opposition in the country. The civilians shouted: “Do you know that for doing that you and your brother can go to prison again?”, and “Do you want your brother to be arrested again?”

26. These alleged events reflect that hostility by police officers has continued even following his release. The Commission observes that the proposed beneficiary has been subjected to strict and close surveillance, which has also been extended to his closest relatives. In addition, there have continued to be death threats against him, directly attributed to police officers. Insofar as there reportedly exists a context aimed at discredit him and his family members, it is observed that even civilians have recently carried out intimidating acts towards a brother of the proposed beneficiary. Therefore, understanding

the seriousness of the events that the proposed beneficiary has been facing over time, at least in the 2018-2020 period, for the Commission there are elements sufficient to indicate that such events have continued to occur. In making this assessment, the Commission notes that no protection measures have been implemented in favor of the proposed beneficiary, even though the reported events have been allegedly of public knowledge, as indicated by the applicant.

27. Having requested information from the State under the terms of Article 25.5, the Commission has not received any type of response from it. The lack of response from the State precludes the Commission from knowing the measures adopted to address the situation of the proposed beneficiary, to dispute the facts, or to explain how the alleged risk has been mitigated. In any event, the Commission notes that the State has not disputed what the applicant has reported, nor has it provided any arguments in this regard.

28. In view of the circumstances, the Commission considers that from the applicable *prima facie* standard, and in the context that the State of Nicaragua is going through, it is sufficiently accredited that the rights to life and personal integrity of Carlos Ramon Brenes Sánchez and his nuclear family are at serious risk. Based on the elements of risk exposed, the Commission considers that this situation also extends to his nuclear family, whose members purportedly share the sources of risk both because of their filial relationship with the proposed beneficiary and for the events they have faced along with him in Nicaragua.

29. With regard to the requirement of urgency, the Commission considers that it is met, given that the facts described suggest an ongoing risk which is likely to continue and be exacerbated over time, so that in the face of the risk imminently coming to fruition it is necessary to immediately take measures to safeguard their rights to life and personal integrity. At the time of making such assessments, the Commission observes that the proposed beneficiary does not have any type of protection measure, the events of risk have been attributed to state officers, who until 2019 had the proposed beneficiary in their custody, and despite being at liberty, he has been purportedly subjected to surveillance and intimidation by such officers over time.

30. As regards the requirement of irreparable harm, the Commission considers that it is met, since the possible impact on the rights to life and personal integrity, due to their own nature, constitutes the maximum situation of irreparability.

IV. BENEFICIARIES

31. The Commission declares that the beneficiary is Mr. Carlos Ramon Brenes Sánchez, who is duly identified in this proceeding. Furthermore, the IACHR considers as beneficiaries the members of his nuclear family, who are susceptible to identification under the terms of Article 25.3 of the Rules of Procedure.

V. DECISION

32. The Commission considers that this matter meets *prima facie* the requirements of seriousness, urgency and irreparable harm contained in Article 25 of its Rules of Procedure. Consequently, the Commission requests that the State of Nicaragua:

- a) adopt the necessary measures to protect the rights to life and personal integrity of Carlos Ramon Brenes Sánchez and his nuclear family. In particular, the State must ensure that the rights of the beneficiaries are respected in accordance with the standards established by international human rights law, both by state actors and in relation to acts of risk attributable to third parties;

- b) consult and agree upon the measures to be adopted with the beneficiaries and their representatives; and
- c) report on the actions taken to investigate the alleged events that led to the adoption of this precautionary measure, so as to prevent such incidents from reoccurring.

33. The Commission also requests that the Government of Nicaragua kindly inform the Commission, within a period of 15 days, as from the date of this communication, regarding the adoption of the precautionary measures that have been agreed upon and to periodically update this information.

34. The Commission emphasizes that, pursuant to Article 25(8) of the Commission's Rules of Procedure, the granting of precautionary measures and their adoption by the State do not constitute prejudgment regarding the possible violation of the rights protected in the American Convention on Human Rights and other applicable instruments.

35. The Commission instructs the Executive Secretariat of the IACHR to notify this resolution to the State of Nicaragua and the representatives.

36. Approved on February 25, 2021 by: Joel Hernández, President; Antonia Urrejola Noguera, First Vice-President; Flávia Piovesan, Second Vice-President; Margarette May Macaulay, Esmeralda Arosemena de Troitiño, Edgar Stuardo Ralón Orellana and Julissa Mantilla Falcón, members of the IACHR.

María Claudia Pulido
Acting Executive Secretary