

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 31/2021**

Precautionary Measure No. 1606-18

Javier Iván Olivares regarding Nicaragua

April 5, 2021

(Extension)

Original: Spanish

I. INTRODUCTION

1. On November 6, 2020, the Inter-American Commission on Human Rights (“the Inter-American Commission,” “the Commission” or “the IACHR”) received a request for an extension of precautionary measures in favor of Javier Iván Olivares (“the proposed beneficiary”), and information was provided on the beneficiaries’ situation in the matter at hand. According to the information received, the proposed beneficiary is at risk due to his journalistic work for “Confidencial” in Nicaragua, as are the rest of the beneficiaries. In this regard, information was provided on the situation of the beneficiaries of precautionary measures through Resolution 91/2018 and 10/2020 within the framework of the PM-1606-18 folder.

2. The IACHR requested information from the parties on October 7, 2020. On November 6, 2020, the beneficiaries’ representation submitted additional information and requested that the IACHR extend the precautionary measures at hand to Javier Iván Olivares. On November 18, 2020, the IACHR requested the State its observations. The representation submitted additional information on December 18, 2020. To date, the State has provided no information.

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 rights to the life and personal integrity of Javier Iván Olivares 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 guarantee the life and personal integrity of the person identified herein. To this end, the State must both ensure that state actors respect the life and personal integrity of the beneficiaries in accordance with the standards established by international human rights law, and protect their rights in relation to acts of risk that are attributable to third parties; b) adopt the necessary measures so that the beneficiary can carry out his journalistic work without being subject to acts of intimidation, threats or other acts of violence in the exercise thereof. This includes the adoption of measures to protect right to freedom of expression of the members of the identified media outlet; c) consult and agree upon the measures to be adopted with an identified person and his representatives; and d) report on the actions taken to investigate the alleged events that led to the adoption of the precautionary measures at hand, so as to prevent them from reoccurring.

II. BACKGROUND 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 publishing a Report that included recommendations. To verify compliance with these recommendations, the Special Monitoring Mechanism for Nicaragua (MESENI) was created, which 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 analyzing the events that took place between April

18 and May 30, 2018, confirming the findings of the IACHR.¹ 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.

5. During 2019, the Commission continued to condemn the ongoing acts of persecution, urging the State to comply with its obligations. On April 25, 2019, the Commission shared the findings and results achieved by MESENI, which continued monitoring the country from Washington, D.C. In June, the State approved a Comprehensive Care for Victims Act and an Amnesty Act, both of which drew criticism for not complying with the international standards in terms of truth, justice, reparation and guarantees of non-repetition.² During the last months, the Commission continued receiving reports of serious incidents. In August, for instance, it expressed its concern regarding the State's decision to end the "Negotiating Table for Understanding and Peace," which was initiated on February 27, 2019 between the government and the Civil Alliance for Justice and Democracy.³ On September 6, the IACHR reported an increase in harassment against human rights defenders and persons who, despite having been released from prison, continued to be intimidated.⁴

6. On November 19, 2019, 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."⁵ On October 10, 2020, the Commission called on the State to immediately end acts of persecution against persons identified as opponents of the government and to reestablish democratic guarantees in Nicaragua.⁶ On January 6, 2021, the IACHR condemned the intensification of harassment in Nicaragua.⁷

7. In March 2021, the Special Rapporteurship for Freedom of Expression of the IACHR and the OHCHR highlighted 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 arrest, the confiscation and closure of independent media, the persecution and harassment of independent journalists, human rights defenders and opponents, and their exile.⁸ According to the Special Rapporteurship for Freedom of Expression, 2020 and the beginning of 2021 were marked by numerous attacks against journalists and independent media, which have included recurrent stigmatizing speeches by high authorities, numerous criminal cases against journalists, and harassment

¹ GIEI, Report on the acts of violence that occurred between April 18 and May 30, 2018. December 2018. Available [in Spanish] at http://gieinicaragua.org/giei-content/uploads/2018/12/GIEI_INFORME_DIGITAL.pdf

² 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

³ IACHR, IACHR expresses its concern at the announcement by the State of Nicaragua not to continue with the 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

⁴ IACHR, IACHR denounces the persistence of repression and expresses its concern over increased harassment against human rights defenders and those released from prison in Nicaragua, September 6, 2019. Available at https://www.oas.org/en/iachr/media_center/PReleases/2019/220.asp

⁵ IACHR, IACHR condemns persecution of victims of repression in Nicaragua and calls on the State to avoid re-victimization and to 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

⁶ 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

⁷ IACHR, IACHR Condemns Growing Harassment in Nicaragua, January 6, 2021. Available at http://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media_center/preleases/2021/002.asp

⁸ IACHR, Joint statement by the OHCHR for Central America and the IACHR's SRFOE on Journalist's Day in Nicaragua, March 2, 2021. Available at <http://www.oas.org/en/iachr/expression/showarticle.asp?artID=1195&IID=1>

of journalists and the media, raids, threats, physical attacks, inter alia.⁹

III. SUMMARY OF FACTS AND ARGUMENTS PROVIDED BY THE REPRESENTATION WITH REGARD TO THE EXTENSION REQUEST

8. The representation referred to Nicaragua's current context and the situation of freedom of expression in the country. Moreover, information was provided on the situation of the beneficiaries and the proposed beneficiary as independent journalists or members of the "Confidencial" media outlet, detailing the alleged facts they faced. What follows are the representation's allegations:

- *Carlos Fernando Chamorro and Desiree Elizondo Cabrera*

9. Carlos Fernando and Desiree Elizondo returned to the country on November 25, 2019. A week upon their return, the police established a "checkpoint" one kilometer away from their house, on the only access road, where they both live in Managua. Every time they left their house in a vehicle, they were detained at the checkpoint, requesting their identification documents and those of the vehicle. The police checkpoint was set up every two days during a week, after which it was suspended.

10. Approximately in the second half of January 2020, an employee of the "Confidencial" newsroom privately told Carlos Fernando Chamorro that an intelligence agent of the anti-drug police, a relative of his wife, had tried to recruit him and his wife to carry out espionage work against Mr. Chamorro, his wife Desiree Elizondo, and the "Confidencial" team. Specifically, this intelligence agent allegedly requested the "Confidencial" worker information on where they worked, who they met with, what activities they carried out, how they financed their work. They reportedly refused to do espionage work.

11. Between February and October 2020, Carlos Fernando reportedly received more than 20 threats on social media, of different types of aggressiveness from people, most of them with anonymous identities, who accused him of being a "coup leader" and "terrorist," and referring to imprisonment, exile or physical elimination. The representation indicated that it does not have pictures of the threats given that the beneficiary has deleted them all.

12. In October 2020, a police checkpoint was again established at an entrance to the Reparto, consisting of a permanent police patrol and several motorized vehicles, which were maintained and rotated in 24-hour shifts. Their objective was to monitor the departure of all vehicles, and in particular, that of Carlos Fernando's cousin, Juan Sebastián Chamorro, Executive Director of the Civic Alliance for Justice and Democracy, and that of the beneficiary and his wife. Every time they left, they were detained for the check-up, which sometimes lasted more than five minutes, for no reason.

13. On December 14, 2020, the date which marked the second anniversary of the police occupation of the editorial office of "Confidencial," Carlos Fernando Chamorro, Desiree Elizondo, and other beneficiaries of the precautionary measures at hand (*Arlen Cerda, Juan Carlos Bow and Franklin Villavicencio*) went to the facilities of "Confidencial" at around 10 a.m. with the purpose of holding a press conference to publicly demand the return of the occupied facilities. In addition, they were accompanied by Vilma Núñez de Escorcía, Georgina Ruiz and other members of the Nicaraguan Center for Human Rights (CENIDH).

14. During the press conference, Carlos Fernando recalled that from the first day of the occupation, he, his wife, and Confidencial workers presented themselves in front of the National Police to demand an explanation for the occupation of the newspaper and the fact that the police had violently assaulted them.

⁹ Ibid.

He was grateful for the support received from those who helped to ensure that his journalistic activities were not interrupted. At that precise moment, four police patrols with the initials DOEP pulled up in front of the building. Almost 30 members of the anti-riot forces descended heavily armed with shields. They ordered them to leave the place.

15. The riot police surrounded them from behind and shoved them to try to put an end to the “symbolic act” taking place, forming a human fence that gradually imposed itself, and forcing the participants to leave the alley that leads to the “Confidencial” facilities, which only has one exit. Despite this, Carlos Fernando Chamorro and the participants continued expressing themselves.

16. On December 15, 2020, at 10 a.m., Desiree Elizondo Cabrera left her residential house in her vehicle. Approximately one kilometer away from the checkpoint, she was followed by a motorcyclist dressed in civilian clothes and wearing a dark helmet that covered his face. The motorcyclist followed her for approximately 10.6 km, and then was gone. Considering that the police keep at least one patrol outside the residence, the representation considered that the police officers located at the entrance of the residence could have instructed the motorized vehicle to follow her.

- *Elmer Rivas*

17. Upon his return in November 2019, his work as a street journalist has reportedly been threatened by espionage and “shock forces” of the Government, he has been photographed, and his data circulates by information channels of groups related to the Government of Nicaragua.

18. In August 2020, a police patrol surrounded the hotel where he was staying in Ocotol, Nueva Segovia, while motorists photographed him and followed him for covering a special report on the Coronavirus in that region of the country. On October 12, 2020, a call was made to the conventional number of his in-laws’ house in the city of Managua, asking for his wife, pretending to be the media outlet “Nicaragua Investiga.” Elmer’s mother-in-law confirmed that she lived there, and when she returned to answer, they had hung up. Elmer contacted the director of the media outlet and she denied having called, which is why they believe that those who called are people related to the government who were seeking to identify his residence. His in-laws’ house is next door to Elmer and his wife’s house.

- *Yader Luna Garcia*

19. It was indicated that he continues to receive threats. He was allegedly told via text message: “We know where you are and where you live...”. He has no evidence given that he decided to change his cell phone. He is allegedly exposed to possible incidents for exercising independent journalism within the media outlet.

- *Ever Antonio Chávez*

20. Mr. Chávez is in charge of delivering the editions of “Confidencial” to the subscribers. In July 2019, the magazines were seized. He has received threats via WhatsApp from an unknown number who threatened to go to his house, saying obscenities and taunts, but he does not have that evidence. On July 1, 2020 he received a message via Facebook from an unknown profile at 6:41 p.m. saying: “GET YOUR COFFINS READY, WE ARE GOING TO BURY YOU. WE ARE GOING TO SCREW YOUR WOMEN.”

21. Moreover, in September and October 2020, paramilitaries on motorcycles arrived at his house at night, illuminated the house in the dark, and then withdrew. He indicated that he is allegedly overcharged for water service. As a result, he filed a complaint, and during the second half of October 2020, the Nicaraguan Water and Sewage Company (ENACAL) arrived to inspect his house and took photographs,

which he found unusual.

- *Juan Carlos Bow*

22. In April 2020, his publications were classified as “fake news” or “tendentious” by Alberto Mora in his program *Revista en Vivo*, broadcast on Channel 4 of Television (*Canal 4 de Televisión*), which was identified by the representation as pro-government.

- *Ismael López*

23. Mr. López worked at “Confidencial” from June to November 2019. For the past three months, he has been working in independent journalism at the newspaper “La Prensa,” dedicated to investigative journalism. On September 17, 2020, a Police patrol parked in front of his house in Residencial Las Mercedes, in Managua. He did not leave the house or open the door, and after three hours they left. The police officers did not utter a word, they just parked and smoked a few cigarettes. That same day, he learned from other independent media colleagues that the same had been done to them.

- *Enrique Gasteazoro*

24. It was indicated that he has been carrying out his activities as General Manager of “Confidencial” and has left the country.

- *Pedro Molina*

25. He has allegedly left the country and still works for “Confidencial.” Most threats have taken place on social media through Twitter. They reproduce threats related to the regime, referring to “death” and jail. The representation provided various examples.¹⁰

26. Currently, his parents live in his house in Estelí, and it is located next to a house owned by the State where offices of the Supreme Electoral Council operate. Some of the persons who work in those offices, particularly a security guard, are hostile towards his family. The guard purportedly constantly walks around with his weapon and a threatening attitude, and has occasionally shouted political digs and threats to those who oppose the government. One time, he tried to communicate with their housekeeper.

27. In 2019, Pedro’s sister went to visit their parents. While they were on the porch of the house, the guard of the Supreme Electoral Council, who had previously had verbal exchanges with the sister, came out and pretended to be talking to someone else as he walked in front of the house, with a gun on his belt. The guard began to shout: “I am not afraid of those damned ‘puchitos,’ I can tear them all up.” This same guard was allegedly linked to “paramilitary” groups in Estelí and security guards of various State institutions. On the other hand, it was reported that on Molina’s birthday in 2020, he received a video that someone had posted where a “fan” accused him of being a drug addict and said that he was “always partying and drinking,” pretending to discredit his work. At some point, the police parked in front of the family home where he used to live and where one of his brothers now resides.

¹⁰ Juan Carlos Ortega, son of Daniel Ortega and Rosario Murillo, on January 1, 2020, at 3:51 p.m.: “Dude, find something to do. Realize how mediocre you can be like this, without nothing to do... you are quite a cry-baby doll.” From “el cuervo” (“the crow”) Twitter account, on June 17: “What a shit-eating and ignorant motherfuckers, know the history of that political organization that was the real one that liberated Nicaragua after 45 years of true dictatorship. If these cowards had lived that, they would not be alive.” Also on Twitter, from the “Ciudadano Republicano” (“Republican Citizen”) account on July 11, 2020: “Molina, you are Ridiculous, a part of the insignificant 9%, scribbler clown with your forced and graceless caricatures paid by the MRS and the Chamorros. You fool nobody, douchebag, we already know that you are part of the Sandinista dictatorial gear, you will end up smashed stinking toad.” On July 20, from another account: “With the Gene (referring to the National Guard, repressive organ of Anastasio Somoza’s dictatorship) you would be dead pal.”

- *Juan Carlos Ampié*

28. He allegedly left the country, but still works for “Confidencial.” He has kept receiving frequent messages containing threats and insults seeking to intimidate him and denigrate his role in the humorous segment that is broadcast on “Esta Semana,” called “*La Última Mirada News*.” The videos of each program can be found on YouTube, and the messages are in the comments section on that platform. The representation referred to the messages received.¹¹

- *Néstor Arce*

29. In August 2019, he stopped working for “Confidencial.” He left the country early in 2019, returning in December 2019. Since May 2020, he is one of the founders and members of the new media outlet “Divergentes.” Around September 2020, a Political Secretary of the Sandinista National Liberation Front (FSLN) stated that “clandestine meetings of the ‘coup plotters’ are held in the house of the ‘fat guy’ (referring to Nestor)”. As a journalist, Néstor continued to be exposed to eventual incidents regarding his safety as director of “Divergentes.” As such, he is involved in the multimedia production of the team (reports, investigations); therefore, his name always appears in the production credits for “Divergentes” material.

- *Carlos Herrera*

30. In March 2020, he stopped working for “Confidencial” and became a founding member of “Divergentes,” where he currently works. As a professional photographer now for Divergentes, he continues to be exposed to incidents that could affect his safety.

¹¹ Regarding the program aired on May 3, 2020, posted online on May 6, 2020, titled: “The speech of the coronavirus commander, in *La Última Mirada News*” in the context of the public appearance of Daniel Ortega to minimize impact of the coronavirus pandemic in Nicaragua, “007 07” writes: “*Mr. Ultima Mirada, if you are honest and love Nicaragua, close this channel, it is the best thing you can do, you're pathetic, you don't deserve being called Nicaraguan, if you dislike the government so much why don't you leave the country to go where you feel comfortable and stop exposing your ignorance and stupidity, do yourself a favor and close this channel...*”. Regarding the Program aired on May 24, 2020, posted online on May 26, 2020: “The Mathematics of the Commander and The Punished General in *La Última Mirada News*” in the context of the presentation of misleading statistics to hide the true impact of the COVID-19, it is written: “*Sandinino would send you to the grave if he were alive.*”. Regarding the program aired on August 2, 2020, posted online on August 3, titled: “The tale of the incendiary candles by Comrade Rosario, in *La Última Mirada News*” in the context of the Rosario Murillo’s statements whereby she assured that the fire in the La Sangre de Cristo chapel in the Managua cathedral was caused by an “accident” with a candle and a curtain, someone writes: “*Funny child, if this is a small sample of Sandinista power, imagine tomorrow or in the future in all the independent media, that includes the Catholic churches, of course it will be the real terror.*”. Regarding the program aired on August 23, 2020, posted online on August 27, 2020: “The size of the lie, and a real conversation between Sandinistas” on the comment regarding the leaking of a talk between two FSLN senior officials, criticizing Ortega and Murillo, a message indicates: “*Ampie, blue opponent (tranqueros) terrorists. And Pedro Gonzalez threatens: “But then he will never leave the hell he pulls towards, I want to see dead, peropiraña.*”. Regarding the Program aired on August 30, 2020, posted online on September 2, titled: “The psychedelic shield, the elections of Cosep and the Vanguardia ambassador, in *La Última Mirada News*,” referring to the manipulation of the national symbols, and the Taiwanese diplomacy acquiescence with Ortega and Murillo. Sergio Antonio Putoy Martínez tells him: “*This comedian is one of the cheapest that the Nicaraguan opposition has, death to this dog enemy of peace...*”. Regarding the Program broadcast on September 27, 2020, posted online on September 29, 2020, titled: “Ortega foreign agent for Korea, Venezuela, Cuba and Russia, in *La Última Mirada News*” in which it is mentioned the law that creates the figure of “foreign agents” to criminalize civil society for receiving international cooperation and the fact that Ortega defends the interests of countries that agree [with] him, it is written: “*This is what the Yankees told you to say, go and drink with Trump.*” And it is also written: “*Your little program is about to end, keep laughing, it will be over soon, keep it up.*” Another message reads: “*I thought I was watching a serious program, but it is nothing more than rampant vulgarity led by a gross, graceless clown. Who pays him?; “I want to see this brat after passing [the] law on slander.*” Regarding the Program broadcast on October 18, 2020, posted online on October 20, 2020, titled: “Walmaro, the singer and a policeman from Murillo in the Vatican, in *La Última Mirada News*” in the context of the approval of the Law of Foreign Agents, it is written: “*Only poor, groundless comments, your tongue will be useless in the coffin when you leave this earthly plane.*”. Lastly, regarding the program broadcast on October 25, 2020, posted online on October 27, 2020, titled: “The lie without legs, the hate rosary and ‘Jeanine Añez’ Nica in *La Última Mirada News*”, in the context of Ortega’s denial regarding the existence of torture and the so-called “political prisoners” and the OAS resolution, it is written: “Don Juan Carlos Ampie, if you continue with your news of mockery, they will soon shut you down, later don't you go around crying and blaming the dictatorship like you never have.”

- *Maynor Salazar*

31. He stopped working for “Confidencial” in April 2020. In May 2020, he became a founding member of “Divergentes,” where he now works. It was indicated that, although the intensity of police harassment has decreased, he is still exposed to risks. For example, unknown persons recently intercepted a call from Costa Rica to Nicaragua. A colleague called him by conventional means and someone else answered, posing as a relative of Salazar, and asked the colleague to wait while he looked for him. Salazar never received the call and his colleague got tired of waiting so he hung up. This happened multiple times on the same day. The situation is similar to that of July and December 2018, when people calling him from abroad could not reach him at all.

- *Wilfredo Miranda*

32. He left Nicaragua in January 2019 and returned on November 25, 2019. In April 2020, he stopped working for “Confidencial.” In May 2020, he became a founding member of “Divergentes,” where he now works. Since his return, he has been the target of defamatory content on social media. For example, a post on Facebook from March 20, 2020, stated: “*Hey you, the idiot saying that my morning was in a pickup van, fuck you.*” On June 19, 2020, another account referred to him as a: “*pants-shitting baby.*”

33. The house of his parents, Wilfredo Miranda Zavala and Carmen Aburto Sandino, in the city of Nandaime of the department of Granada, is allegedly under constant police surveillance by about three members of the Directorate of Special Operations accompanied by four police officers dressed in blue clothing. Since 2020, the police usually drop by every two or three days to take pictures. They appeared again on October 18, 2020. They returned on October 21, stating that they would arrest his parents. They appeared two more times over the following days, stating that the setup of a police checkpoint in front of the house was part of routine activities. He is purportedly still exposed due to the investigative journalism and reports that are part of his work at “Divergentes.”

- *Other beneficiaries*

34. Regarding *Arlen Patricia Cerda Miranda, Franklin Villavicencio, Francisco Leonel Gutiérrez Rojas, Waleska Almendarez Cruz, Claudia Lorena Tijerino Sarria, Ivette Munguía, and Marlon José Torres Sandoval*, it was stated that they remain exposed in the current context of Nicaragua.

- *Javier Iván Olivares*

35. Mr. Olivares returned to Nicaragua on November 29, 2019. Since then, he has remained in the country, working for “Confidencial,” exposed to the risks involved in independent journalism. The proposed beneficiary has received some “warnings” from friends and family with ties to the government regarding his work. They stated that he was at risk of possible attacks against his physical integrity for the exercise of journalism. He is well-known in his neighborhood, as people know about his work as a journalist, which allegedly poses a risk to him. In August 2020, a member of the Sandinista National Liberation Front (the governing party in the country) told his brother that he was being followed.

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

36. 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.

37. 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. 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 under consideration 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, to implement the ordered reparations. For purposes of decision making, and 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.

38. The Commission recalls 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.¹²

39. As a preliminary matter, the Commission recalls that, in 2018, it granted precautionary measures in favor of Carlos Fernando Chamorro, Desiree Elizondo, Wilfredo Miranda Aburto, Néstor Arce, Manyor Salazar, Enrique Gasteazoro, Pedro Molina, Arlen Cerda, Juan Carlos Ampié, Elmer Rivas, Franklin Villavicencio, Ricardo Salgado, Leonel Gutiérrez, Carlos Herrera and Yader Luna and their nuclear families.¹³ Subsequently, in 2020, the IACHR decided to extend the precautionary measures in favor of María Waleska Almendarez Cruz, Marlon José Torres Sandoval, Ever Antonio Chávez, Claudia Lorena Tijerino Sarria, María Ivette Munguía Argeñal, Ismael López Ocampo, and Juan Carlos Bow.¹⁴ According to the information provided to the Commission at the time of granting or extending such precautionary measures, the beneficiaries, as independent journalists or members of the media outlet “Confidencial” – or other media belonging to Mr. Chamorro–, were subjected to threats, harassment, surveillance, and attacks in the current context of the country.

40. Taking the above into account, the Commission recalls that a requirement for the extension of precautionary measures is that the facts alleged in the extension request have a “factual connection” with

¹² In this regard, for instance, referring to provisional measures, the Inter-American Court has indicated that a minimum of detail and information is required to make a *prima facie* assessment on whether an extremely serious and urgent situation exists. 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.

¹³ IACHR, Resolution 91/2018, PM-1606-18, Carlos Fernando Chamorro Barrios et al. regarding Nicaragua (Workers of the “Confidencial”), December 21, 2018. Available [in Spanish] at <http://www.oas.org/es/cidh/decisiones/pdf/2018/91-18MC1060-18-NI.pdf>

¹⁴ IACHR, Resolution 10/2020, PM-1606-18, María Waleska Almendarez Cruz et al. regarding Nicaragua, February 5, 2020 (Extension). Available at https://www.oas.org/en/iachr/decisions/pdf/2020/res_10-20_mc_1606-18_ni_en.pdf

the events that justified the initial adoption of the precautionary measures.¹⁵ In this regard, the Commission notes that the proposed beneficiary identified himself as an employee of “Confidencial” currently working in the country upon having returned in November 2019. Then, when evaluating the criterion of “factual connection,” the Commission considers that the proposed beneficiary is part of the media directed by Mr. Chamorro and was allegedly exposed to the same risk factors as the rest of the beneficiaries, both for working in such media and for the independent journalistic work that he purportedly carries out. In that sense, either for being part of Mr. Chamorro’s media or for similar risk factors to those who are reportedly exposed due to their independent journalistic work, the Commission understands that the factual connection requirement is met in this matter.

41. When analyzing the requirement of seriousness, the Commission notes that the alleged facts are framed in a context of repression towards independent journalistic activity in Nicaragua.¹⁶ In that context, the Commission recalls that it has granted precautionary measures to journalists who were subjected to threats, intimidation and acts of violence that the applicants attributed to state agents or third parties that are reportedly related to the government, presumably aiming to change their editorial line or stop informing about the events that have been happening in the country, such as Miguel Mora Barberena, director of the media outlet “Canal 100% Noticias,” his wife, Verónica Chávez, journalist and executive director of the channel, and Leticia Gaitán Hernández, host and journalist therein¹⁷; Alvaro Lucio Montalván, owner of the independent media outlet called “Radio Mi Voz”¹⁸; Lucía Pineda and her family, Main Press Officer of “100% Noticias”¹⁹; and Mr. Sergio Warren León of radio station “La Costeñísima.” Similarly, at the time, the Inter-American Court granted provisional measures in favor of Miguel Mora and Lucía Pineda while they were deprived of their liberty.²⁰

42. Regarding this request, the Commission notes that the proposed beneficiary, as a member of “Confidencial” under Mr. Carlos Chamorro, continues to face various risk events consistent with those that motivated the granting of precautionary measures in 2018, as well as their extension in 2020. As previously assessed in 2020, the beneficiaries currently continue working in precarious conditions, having lost access to their main facilities and much of their equipment. In addition, they are allegedly subjected to surveillance, threats, intimidation, and acts of violence by persons related to the government or state agents over time. They are also reportedly being discredited before Nicaraguan society and characterized as “media terrorists,” which allegedly seeks to undermine credibility to their journalistic work. Such events have purportedly led to serious limitations for their activities, with some of their members even being forced to leave the country.

43. Despite the granting of the precautionary measures, and based on the information received from the representation during the follow-up, the Commission lacks the elements to conclude that the assessed situation has changed or has been duly mitigated as part of the proper implementation of these measures.

¹⁵ In this regard, see: IACHR, Resolution 10/17, Precautionary Measure No. 393-15 Detainees in “Punta Coco” regarding Panama, March 22, 2017, para. 28; and I/A Court H.R., *Fernández Ortega et al. regarding Mexico*. Resolution of Provisional Measures of November 23, 2010, considerandum 19.

¹⁶ IACHR, Nicaragua: Must stop reprisals against journalists, say human rights experts, August 26, 2019. Available at <http://www.oas.org/en/iachr/expression/showarticle.asp?artID=1152&IID=1>

¹⁷ IACHR, Resolution 90/2018. PM 873-18. Miguel Mora Barberena, Leticia Gaitán Hernández and their families regarding Nicaragua (Journalists of 100% Noticias), December 13, 2018. Available [in Spanish] at <http://www.oas.org/es/cidh/decisiones/pdf/2018/90-18MC873-18-NI.pdf>

¹⁸ IACHR, Resolution 96/2018. PM 698-18. Álvaro Lucio Montalván and his nuclear family regarding Nicaragua, December 29, 2018. Available [in Spanish] at <http://www.oas.org/es/cidh/decisiones/pdf/2018/96-18MC698-18-NI.pdf>

¹⁹ IACHR, Resolution 5/2019. PM 873-18. Lucía Pineda Ubau and her nuclear family regarding Nicaragua (Extension), February 11, 2019. Available [in Spanish] at <http://www.oas.org/es/cidh/decisiones/pdf/2019/5-19MC873-18-NI.pdf>

²⁰ I/A Court H.R. Matter of seventeen persons deprived of liberty regarding Nicaragua. Provisional Measures. Adoption of Urgent Provisional Measures. Order of the President of the Inter-American Court of Human Rights of May 21, 2019. Available [in Spanish] at http://www.corteidh.or.cr/docs/medidas/diecisiete_personas_se_01.pdf. Subsequently, the measures were lifted. I/A Court H.R. Matter of seventeen persons deprived of liberty regarding Nicaragua. Provisional Measures. Order of the Inter-American Court of Human Rights of October 14, 2019. Available [in Spanish] at http://www.corteidh.or.cr/docs/medidas/diecisiete_personas_se_02.pdf

On the contrary, the information provided by the representation suggests that the risk factors remain. Although the representation presented more detailed information regarding certain beneficiaries over others, the Commission understands that there is a common risk that remains due to their independent journalism activities, and that is specific to the situation of certain beneficiaries who are members of “Confidential.” For instance, the Commission observes that on December 14, 2020, Mr. Chamorro, along with other beneficiaries, reportedly held a public event to demand their return to the facilities. As a result, they were subjected to intimidation by heavily armed police officers who ordered them to leave and shoved them away.

44. In the Commission’s opinion, the specific situation of the proposed beneficiary, as both a member of “Confidential” and an independent journalist in Nicaragua, falls into the general repressive context for freedom of expression identified by the IACHR in the country. Furthermore, it also falls into the particular situation experienced by members of independent media such as “Confidential.” In this sense, the information available in the request for extension indicates that the beneficiaries of these precautionary measures have continued to be the targets of risk events, such as threats, harassment or surveillance by persons identified as police officers, which have even extended to their families. Although the information provided focuses on specific beneficiaries, the Commission understands that, as independent journalists or members of Mr. Chamorro’s media outlets, they continue to be exposed to the risk factors previously assessed in the precautionary measures of 2018 and the extension of 2020.

45. Based on the above, it is reasonable for the Commission to understand that Mr. Olivares, as an employee of “Confidential,” is exposed to the same risk factors involved in the exercise of independent journalism and the activities carried out by that media outlet. Thus, the Commission notes that the proposed beneficiary has been “warned” by friends and family in government positions regarding his work as a journalist. Similarly, he is purportedly known in his neighborhood, as in August 2020 it was reported that he was under surveillance by the Sandinista National Liberation Front, the current party in the Nicaraguan government. In the view of the Commission, the situation placing the beneficiaries and the proposed beneficiary at risk is likely to worsen as they continue to carry out their independent journalistic work and in the absence of protective measures in their favor to protect their rights.

46. The Commission regrets the lack of response from the State of Nicaragua after having requested its comments on the request for extension. Although the State’s lack of response does not imply *per se* the granting of the precautionary measures, it prevent the Commission from obtaining information on its part regarding the situation of the proposed beneficiary. Hence, it is not possible to disprove the allegations of the applicants or identify information on measures taken by the authorities to mitigate the alleged risk. On another note, although it is not for the Commission to determine the perpetrators of the events of risk, or if these are attributable to state actors from Nicaragua, at the time of assessing this request the IACHR does take into account the seriousness of the possible participation of State actors, according to the allegations furnished, as this would place the proposed beneficiary in a situation of greater vulnerability.

47. The Commission particularly notes that no detailed or concrete information has been provided on the actions initiated to investigate the alleged events of risk which at the time motivated the granting of these precautionary measures in 2018 or the extension thereof in 2020. Thus, the Commission does not identify any substantive progress in the identification or punishment of those purportedly responsible for the events of risk, which is a relevant aspect at the time of establishing the risk that the proposed beneficiaries allegedly currently face and the possibilities that they occur again, especially considering the

impact it would have on the exercise of their right to freedom of expression in the current Nicaraguan context.²¹

48. In view of the above, the Commission considers, based on the applicable *prima facie* standard and on Nicaragua's current context, that it is sufficiently proven that the rights to life and personal integrity of the person proposed as beneficiary are at serious risk. Consequently, the Commission considers that the seriousness requirement is met.

49. 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 connected with the proposed beneficiary's journalistic work. Therefore, in view of the risk imminently coming to fruition, it is necessary to immediately adopt measures to safeguard his rights to life and personal integrity, as well as guarantees for the exercise of his right to freedom of expression. In this regard, the Commission recalls that, following the last resolution of 2020, the State has not provided any type of response.

50. 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 constitutes the maximum situation of irreparability. The Commission emphasizes its concern in view of the fact that the described situation is reportedly aimed at intimidating and thereby silencing the proposed beneficiary, and hindering the exercise of his journalistic work, directly impacting the exercise of his right to freedom of expression, which in turn is allegedly having a frightening effect on other persons trying to express themselves freely in the current context.

51. Lastly, the Commission observes that some beneficiaries have fled the country and continue to work for "Confidencial," while others stopped working for "Confidencial" and founded the media outlet "Divergentes," where they allegedly currently work as independent journalists in the country. Regarding the first group, the Commission requests that the beneficiaries' representation provide further details in future communications with a view to understanding their particular situation, insofar as they have fled the country and have not specified how long they have been abroad. In particular, provide details on their legal status outside the country or an early eventual return date to Nicaraguan territory, among others.

52. Regarding the second group, the Commission understands that as long as they continue to carry out independent journalistic work in the country, this time from "Divergentes," the situation placing them at risk continues, particularly given that specific information has been furnished on the events to which they have been recently subjected in the country. In this regard, for instance, it has been reported that, in the case of Néstor Arce, his meetings were classified as "coup plotter" clandestine meetings (September 2020); in the case of Maynor Salazar, the interception of a call from Costa Rica to Nicaragua was reported; and in the case of Wilfredo Miranda, he has been subjected to messages that seek to discredit him, while his parents have also been subjected to police siege at their home (October 2020).

IV. BENEFICIARY

53. The Commission declares Javier Iván Olivares as beneficiary, who is duly identified in this proceeding.

V. DECISION

²¹ See in this regard: IACHR, Silenced Zones: Highly Dangerous Areas for the Exercise of Freedom of Expression, 2017, para. 261. Available at http://www.oas.org/en/iachr/expression/docs/publications/zonas_silenciadas_eng.pdf; *J/A Court H.R., Case of Vélez Restrepo and Family v. Colombia*. Preliminary objection, merits, reparations and costs. Judgment of September 3, 2012, Series C No. 248, para. 215.

54. The Inter-American Commission on Human Rights 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 guarantee the life and personal integrity of the person identified herein. For this purpose, the State must both ensure that state actors respect the life and personal integrity of the beneficiaries in accordance with the standards established by international human rights law, and protect their rights in relation to acts of risk that are attributable to third parties;

b) adopt the necessary measures so that the beneficiary can carry out his journalistic work without being subject to acts of intimidation, threats or other acts of violence in the exercise thereof. This includes the adoption of measures to protect the right to freedom of expression of the members of the identified media outlet;

c) consult and agree upon the measures to be adopted with an identified person and his representatives; and

d) report on the actions taken to investigate the alleged events that led to the adoption of the precautionary measures at hand, so as to prevent them from reoccurring.

55. 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.

56. The Commission stresses 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 a prejudgment regarding the possible violation of the rights protected in the American Convention and other applicable instruments.

57. The Commission instructs its Secretariat to notify this resolution to the State of Nicaragua and the representatives.

58. Approved on April 5, 2021 by: Antonia Urrejola, President; Julissa Mantilla, First Vice-President; Flávia Piovesan, Second Vice-President; Margarette May Macaulay, Esmeralda Arosemena de Troitiño, Joel Hernández García and Edgar Stuardo Ralón Orellana, members of the IACHR.

María Claudia Pulido
Acting Executive Secretary