
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 85/2021**

Precautionary Measure No. 733-21

Miguel Ángel Mendoza Urbina and his nuclear family regarding Nicaragua

October 15, 2021

Original: Spanish

I. INTRODUCTION

1. On August 9, 2021, the Inter-American Commission on Human Rights (“the Inter-American Commission,” “the Commission” or “the IACHR”) received requests for precautionary measures filed by the Nicaraguan Center for Human Rights (CENIDH), and 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 of Miguel Ángel Mendoza Urbina and his nuclear family¹ (“the proposed beneficiaries”). According to the applicants, the proposed beneficiary has been deprived of liberty since June 21, 2021, and after his detention no official information was provided regarding his whereabouts. He is allegedly held incommunicado, as he has been prevented from contacting his relatives and his defense lawyer, who has also been denied access to his case file to provide due legal assistance. Following a visit of his wife, he purportedly continues to be held incommunicado.

2. The IACHR requested information from the State on October 5, 2021, pursuant to Article 25(5) of the Rules of Procedure. The State responded on October 6, 2021. The applicants submitted additional information on October 11, 2021.

3. Upon analyzing the submissions of fact and law provided by the parties in the context in which they take place, the Commission considers that the information presented shows *prima facie* that Miguel Ángel Mendoza Urbina and his nuclear family are in a serious and urgent situation, given that their rights to life, personal integrity, and health are at risk of irreparable harm. Consequently, the Commission requests that Nicaragua: a) adopt the necessary measures to protect the rights to life, personal integrity, and health of Miguel Ángel Mendoza Urbina and his nuclear family; b) ensure that the conditions of his detention are compatible with applicable international standards on the matter, enabling him, among other things, to have access to his relatives and defense lawyers; c) taking into account the situation presenting a risk to his life, personal integrity, and health as a result of the circumstances surrounding his current deprivation of liberty, assess the possibility of granting alternative measures to the deprivation of liberty, in accordance with its internal regulations and in light of the applicable inter-American standards; and d) report on the actions taken to investigate the alleged events that led to the adoption of this resolution, so as to prevent them from reoccurring.

II. BACKGROUND INFORMATION

4. Between May 17 and 21, 2018, the Commission visited Nicaragua and collected numerous testimonies on human rights violations committed in the framework of 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.² 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

¹ Comprised of his wife and 7-year-old daughter. Their identity is reserved for the purposes of this public resolution.

² 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.

presence on December 19, 2018.³ For its part, the Interdisciplinary Group of Independent Experts (GIEI, for its Spanish acronym) for Nicaragua issued a report that analyzed the events that took place between April 18 and May 30, 2018, confirming the IACHR findings.⁴ In its Annual Report 2018, the IACHR included Nicaragua in Chapter IV.B, in accordance with the grounds established in its Rules of Procedure.⁵

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.⁶ 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.⁷ In 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.⁸ Similarly, 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.”⁹

6. Subsequently, the Commission again included Nicaragua in Chapter IV.B of its Annual Report 2019,¹⁰ 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 over other public powers. Similarly, the Commission observed that the prolonged weakening of democratic institutions in Nicaragua has perpetuated the human rights crisis in the country and has led to structural impunity for serious human rights violations.¹¹

7. During 2020, the IACHR identified the strengthening of a fifth stage of State repression in the country, characterized by an increase in acts of surveillance, harassment, and selective repression against individuals who are believed to oppose the government.¹² Thus, in May 2020, the Commission condemned the non-compliance of its recommendations and urged the State to implement them.¹³ In October 2020, the IACHR again called on the State to immediately cease persecution of persons identified as dissidents and to reestablish

³ 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.

⁴ 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.

⁵ IACHR. [Annual Report 2018. Chapter IV.B Nicaragua](#).

⁶ 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.

⁷ 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.

⁸ 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.

⁹ 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.

¹⁰ IACHR. [Annual Report 2019. Chapter IV.B Nicaragua](#). OEA/Ser.L/V/II. Doc. 5, February 24, 2020, paras.5 and 6.

¹¹ IACHR. [Annual Report 2019. Chapter IV.B Nicaragua](#). OEA/Ser.L/V/II. Doc. 5, February 24, 2020, para. 19.

¹² 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.

¹³ 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.

democratic guarantees in Nicaragua.¹⁴ Subsequently, the Commission once again included Nicaragua in Chapter IV.B of its Annual Report 2020.¹⁵

8. In 2021, the Commission condemned the increasing acts of harassment in the country against persons identified as opponents of the Government, human rights defenders, and the independent press,¹⁶ as well as the widespread impunity and the prolonged breakdown of the rule of law that persists in Nicaragua.¹⁷ More recently, the IACHR and the Regional Office of the United Nations High Commissioner for Human Rights (OHCHR) for Central America and Dominican Republic condemned the criminal prosecution of Nicaraguan opposition leaders and urged the State to release all the persons detained in the context of the crisis.¹⁸

9. Moreover, on August 11, 2021, the Commission condemned the systematic set of state actions carried out in recent months with the aim of preventing the opposition from participating in the general elections to be held in Nicaragua in November of this year, as well as the ongoing human rights violations in this context, urging the State to cease repression against people opposed to the Government.¹⁹ On September 10, 2021, the Commission and the Regional Office of the United Nations High Commissioner for Human Rights for Central America and the Dominican Republic (OHCHR) condemned the criminalization of individuals identified as political opponents in Nicaragua.²⁰

III. SUMMARY OF FACTS AND ARGUMENTS

A. Information provided by the applicants

10. Miguel Ángel Mendoza Urbina, 51 years old, is a renowned Nicaraguan sports journalist who has a long history of covering the most important sporting events worldwide. Since 1993, he worked for numerous media in the country, and, until his detention, he was co-host of the radio sports program “Doble Play.” As of April 2018, he began to have an openly critical stance against the government, which led his political views to begin to be weighty.²¹

11. Mr. Mendoza publicly denounced that since 2018 he has been under siege, which consists of harassment, raids on his home, assaults, and theft of personal belongings, surveillance and monitoring, and other acts of intimidation. For instance, the request indicated the following alleged facts:

- In August 2018, Mendoza was declared “*persona non grata*” and expelled from the Dennis Martínez National Stadium by the administration, for publicly claiming that the said space had been used as a base for the “paramilitaries” who murdered dozens of young protesters. Given these comments, they accused him of “launching false and unfounded accusations (sic)” against the staff of the stadium and its facilities “promoting serious and dangerous effects.”

¹⁴ 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.

¹⁵ IACHR. [Annual Report 2020. Chapter IV.B Nicaragua](#), February 2021, paras. 5 to 29.

¹⁶ IACHR. [Press Release No. 152/21](#). IACHR Condemns the Serious Escalation of Repression in Nicaragua. June 18, 2021.

¹⁷ 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.

¹⁸ IACHR. [Press Release No. 145/21](#). IACHR and OHCHR Categorically Condemn Criminal Prosecution of Presidential Precandidates and Urge State of Nicaragua to Release Them Immediately. June 9, 2021; IACHR. [Press Release No. 171/21](#). Nicaragua: IACHR and OHCHR Demand an End to Arbitrary Arrests and the Release of All Individuals Detained Since the Start of the Crisis in Nicaragua. July 9, 2021.

¹⁹ IACHR. [Press Release No. 209/21](#). IACHR condemns the set of state actions that aim to put an end to the participation of the opposition in the next elections in Nicaragua. August 11, 2021 [only in Spanish].

²⁰ IACHR. [Press Release No. 238/21](#). The IACHR and OHCHR condemn criminalization, lack of due process, and serious detention conditions for people considered to be opponents in Nicaragua. September 10, 2021

²¹ Every day, through his social media (mainly Facebook, with more than 117,000 followers, and Twitter with around 27,000), he shared information about human rights violations committed by the government, and criticized the role of government officers.

- That same month, unknown persons raided the journalist's home and stole several personal items, including his personal computer and other items.
- On December 4, 2018, Mr. Mendoza and his wife were assaulted by five unknown persons, identified as "paramilitaries" linked to the Government. The events occurred when they were leaving their home for the radio program Doble Play. The unknown persons pointed the guns at them and stole their truck, their identification documents, their cell phones, and the backpack where the journalist carried his personal laptop.
- On another occasion, in 2019, when he was traveling in his vehicle, an unknown person on a motorcycle stopped next to him in the middle of the street, and broke the glass of the car. In the same way, during all these years, he was the target of multiple threats through social media.

12. On June 19, 2021, Mr. Mendoza reportedly shared a post on Facebook in which he denounced that he was receiving information warning him about threats of jail issued by supporters of the regime and "Sandinista bots." A day later, on June 20, 2021, a woman journalist, friend of his, advised him to be prepared for eventual exile because "he had already been threatened several times" and it was dangerous for him to stay in the country. On June 21, 2021, the proposed beneficiary posted a tweet stating that he believed the elections were very important. He also condemned the search of the home of journalist Carlos Fernando Chamorro. That same day, the proposed beneficiary was also detained.

13. The proposed beneficiary was not apprehended at his home. Upon receiving the warnings, he decided to leave his usual residence, not to avoid capture, but to protect his daughter, and to prevent her from witnessing how he was detained. The proposed beneficiary was detained by motorists in civilian clothes who then handed him over to the National Police on June 21, 2021, at around 9:30 p.m., when he was at a friend's house in Managua. The applicants indicated that there is no record that an arrest warrant was produced.

14. Since the proposed beneficiary left his home in his vehicle for his friend's house, he was followed by a motorcycle on which a person dressed in civilian clothes was traveling. A few minutes after the journalist arrived at his friend's house, the person who had followed him on a motorcycle parked next to his vehicle. Immediately afterwards, more motorcyclists dressed in civilian clothes arrived, who began to shout into the house: "Come out, Miguel, we already know you're there, or we'll take you out." A few minutes later, several patrols arrived, and the persons dressed in civilian clothes handed over the journalist. The patrols took Mr. Mendoza away without mentioning where they were taking him. Later, a truck arrived to take away the journalist's vehicle.

15. The proposed beneficiary's home was searched on June 21, 2021, around 9:30 p.m. At that time, his wife, daughter, and housemaid were at the home. A few minutes after the proposed beneficiary had left, around six police patrols arrived and parked in front of his house, surrounding it completely. Riot police, officers dressed in light blue, and persons in civilian clothes were reportedly present. The wife requested that they show her the search warrant and asked who they were looking for. The officer replied that "she already knew who they were looking for and that if she did not open the door for them, they [the police officers] were going to open it by force." Although they did not show her a warrant, out of fear and to prevent the officers from breaking down the door, she agreed to open it. Around eight officers in blue uniforms entered the house, but without identifying themselves. They searched her cell phone and that of the housemaid, to prevent them from recording the house search. In addition, an officer asked them for their phone passwords, threatening that if they did not do so, "he was going to use other extreme methods to get us to give him the password." In the same way, they threatened the housemaid, who remained standing, asking for her phone to be returned, telling her that "if she did not sit down, they would take her away as well." Subsequently, the officers reportedly searched all the rooms of the house for around two hours, taking out suitcases and reviewing all the documents they found. The wife begged the officers not to wake the girl, who was sleeping in her room, to prevent her from freaking out, but the officers searched her room anyway. The police allegedly confiscated cell phones, bills, and receipts from the house. The wife mentioned that they made her sign a document where it was noted that they were taking those goods as evidence, but they did not give her any copy thereof.

16. They did not inform the wife of the place to which her husband had been taken. They did not show her any warrant to carry out the search of her house, nor was she given any copy of the records of the searches. According to the official statement of the National Police, published on June 21, 2021, Mr. Mendoza is being investigated for carrying out acts that undermine independence, sovereignty, and self-determination, inciting foreign interference in internal affairs, requesting military interventions, using financing from foreign powers to carry out acts of terrorism and destabilization, proposing and manage economic, commercial, and financial blockades against the country and its institutions, demanding, exalting, and welcoming penalties against the State and its citizens, and injuring the supreme interests of the nation, in accordance with Article 1 of Law No. 1055 “Law on the Defense of the Rights of the People to Independence, Sovereignty, and Self-determination for Peace.”

17. On June 23, 2021, through press release No. 20-2021, the Public Ministry reported that it had submitted a request for a special hearing on constitutional guarantees to request the extension of the period of investigation and detention of the proposed beneficiary. The note reiterates the reasons why the proposed beneficiary is being investigated. It was reported that the hearing was held, without specifying a date, and that the Ministry’s request was admitted by the corresponding judicial authority, without indicating which one, and that a judicial detention was ordered against him for 90 days. Neither the family nor his legal representative were informed about the court before which the proposed beneficiary had been brought, nor of the fact that the hearing was going to take place. Therefore, they were not able to participate in it. The applicants indicated that a public defender on behalf of the proposed beneficiary had participated in the aforementioned hearing, whose identity was not made known to the family.

18. On June 24, 2021, a writ of habeas corpus (*recurso de exhibición personal*) was filed in favor of the proposed beneficiary before the Magistrates of the Criminal Chamber of the Court of Appeals, Managua District. This writ was declared inadmissible. Access to the case file was purportedly not provided.

19. The proposed beneficiary was held incommunicado from the moment of his detention, with no possibility to contact his family or lawyer. Public statements from the Public Ministry and the National Police do not mention where he was transferred after his detention, and the National Police did not inform the family about it either. Despite the lack of official information, the wife believed that he was held at the National Judicial Assistance Directorate (DAJ), “Evaristo Vásquez” Complex, known as “El Nuevo Chipote.” On June 23, 2021, she appeared before the DAJ authorities to ask whether the proposed beneficiary was there and if she could bring him food and water. At first, the riot police did not want to let her pass, but they finally agreed. At that time, they verbally informed her that he was there, but the police authorities did not allow her to see him or speak to him, nor did they give her more specific information about his condition. The police authorities also stated that she could bring him purified water, but that food and juices would not be received. They have never received solid foods from her.

20. Since June 30, 2021, they no longer receive water, as the feeding window officers indicated that they already have too much in reserve. The wife reported that on August 1 and 3, 2021, they accepted a bottle of yogurt and a bottle of electrolyte drink, respectively, but not water. During the time he has been held incommunicado, it has been unknown whether he continues in *El Nuevo Chipote*, but it was believed that he was. There is also no information indicating that the proposed beneficiary has been receiving medical care, water, or food, and his physical and emotional state could not be confirmed. In this regard, it was reported that the proposed beneficiary has a series of health ailments that may have been aggravated by the conditions of deprivation of liberty. In particular, he is prediabetic and has uric acid problems.

21. It was indicated that the proposed beneficiary’s wife was threatened during the search of her home, and was interrogated by state authorities on June 23, 2021, when she appeared at the DAJ facilities. They asked her about the family’s financial support, then about Mr. Mendoza’s vehicle, whether it belonged to him, if he was still paying for it, and if he had the documents. They also asked her with whom Mr. Mendoza met and if he

met with groups. The wife answered the questions, but felt very intimidated and fearful at the time. Moreover, it was indicated that, since she is also an independent journalist, reprisals may be taken against her. Furthermore, the proposed beneficiary's daughter is said to have been affected in her physical, mental, and emotional health, and is allegedly receiving frequent psychological care to cope with the situation.

22. Upon 72 days of complete isolation and non-awareness of Miguel Mendoza's official whereabouts, the wife was able to visit her husband for 30 minutes on September 1, 2021, at the Judicial Assistance Directorate. According to what she told the applicants, they notified her of the possibility of carrying out the visit orally and very hastily. The various changes in visiting hours were interpreted by the wife as an attempt to wear her down. The applicants referred to a heavy police presence on the premises, with officers from all police units (line officers, officers from the Directorate of Special Operations (DOEP), and custodial officers from the police complex). Upon entering, the wife was extensively searched and photographed on several occasions. In addition, there were three male officers inside the room. One of them carried a professional video camera, another a cell phone, and the third one a photographic camera. All three made use of the recording devices throughout the visit, and therefore, there was no space for privacy during the encounter. According to the applicants, the proposed beneficiary was physically unrecognizable, he had lost around 15 pounds and looked very pale, with long, unkempt hair and beard.

23. During the visit, the proposed beneficiary reportedly indicated that he was initially totally incommunicado for several weeks in a solitary confinement cell. Later, another prisoner, the student leader Lester Alemán, was taken to the same cell. He described that the cell is totally closed, instead of bars it has a security door that only has a small hole in the upper part that can be opened and closed from the outside. He also reported that the light is always on and that he was interrogated continuously, several times a day at any time of the day. Regarding food, Mr. Mendoza has allegedly not received any of the food that she brought him. They feed him once or twice a day, depending on the officer on duty, and do not let him go out, but take the food to his cell. As for his health, the proposed beneficiary had a relapse due to his diabetes, and he was treated with some pills with no name on them, and therefore, they did not know what they were. The officers allegedly medicated the proposed beneficiary with sleeping pills. Following the visit, they purportedly did not allow the delivery of the diabetes medication that the proposed beneficiary takes regularly. When the wife approached the DAJ window, the officers allegedly told her that "the passage of medication for Miguel Mendoza is not allowed," and they do not accept it.

24. The trusted lawyer has submitted three briefs requesting the physical assessment of Miguel Mendoza, which were not resolved by the judge.²² To date, the wife has not been informed when she will be able to visit or communicate with her husband again, and neither she nor his lawyer have been able to contact him. The applicants indicated that the discretionary granting of a single visit, under extremely restrictive conditions and without certainty as to when the next one may be allowed, does not end the solitary confinement in which the State continues to hold Mr. Mendoza. Given the proposed beneficiary's conditions of detention, the applicants considered that the proposed beneficiary is being subjected to acts of torture and other cruel, inhuman, and degrading treatment.

25. On August 31, 2021, the Public Ministry made the indictment against Mr. Mendoza official through a public statement. Neither his family nor his defense lawyer were notified of the indictment, nor were they able

²² According to the applicants, on August 30, 2021, within the framework of the preliminary hearing, the 10th Criminal District Judge required ex officio that Legal Medicine conduct a physical assessment of the accused. On September 6, 2021, Miguel Mendoza's file was loaned to the defense lawyer, and it was learned that, apparently, a Legal Medicine report had been produced which states that the proposed beneficiary indicated that he was well, that was being medicated for in the Judicial Assistance facilities for his type 2 diabetes and arterial hypertension, that he had been detected elevated uric acid, and that he was being sent a treatment of metformin 850 mg, and losartan 100 mg daily. However, the request indicated that his lawyers are unaware of the conditions under which this evaluation was carried out and whether they refer to the real situation in which Mr. Mendoza finds himself, and whether indeed he is having access to the ordered medication and the required medical care, complying with all international standards on the matter.

to participate in the preliminary hearing that, according to the aforementioned statement, was held that same day. As stated therein, he is accused of being the alleged perpetrator of the crime of conspiracy to undermine national integrity in accordance with Articles 410 and 412 of the Criminal Code. During the said hearing, the judge (neither his name nor the court he heads is specified) admitted the charges against him, ordered the complex processing of the case, and imposed the pretrial detention measure on the proposed beneficiary.

26. The initial hearing was held on September 6 at the premises of the DAJ instead of at the corresponding judiciary seat. The Tenth Criminal District Judge of Managua heard the case. On that occasion, the proposed beneficiary's private defender was allowed access, but according to what he told the applicants, he was not even allowed to meet privately with his client, either before or after the hearing. According to the statement from the Public Ministry, the judicial authority admitted the charge of conspiracy to undermine the national integrity against Mr. Mendoza, decided to maintain the complex processing of the case, as well as the preventive detention measure imposed in the preliminary hearing, and referred the case to trial. To date, neither his family nor his legal representation have learned whether the date on which the oral and public trial hearing will take place has been defined. The applicants questioned the charges.

27. Lastly, the wife told the applicants that a couple of days after visiting her husband, on September 2, 2021, she received strong threats through Facebook's private messaging service. Among other things, the threats indicate that her 7-year-old daughter is going to disappear. The message received read that "that coup dog (referring to Miguel) will come out of jail dead, and we have you under surveillance, you'll soon receive a surprise, you'll cry blood for your bastard daughter when she disappears... FSLN." In addition, the message was accompanied by a photograph that the beneficiary decided not to open. The profile of the person who sent the message allegedly belongs to a Sandinista militant woman who works in the mayor's office of Tipitapa. The wife reported that, those same days, her neighbors warned her that they had noticed that unknown persons were driving motorcycles around her house, passing by all the time. The wife indicated that she found it extremely strange that the same motorcycles were passing by all the time, exactly the same days that she had received the threats.

B. Information provided by the State

28. On October 6, 2021, the State indicated that the proposed beneficiary and his nuclear family are not in a situation presenting a risk to their lives, physical or psychological integrity, or health. Similarly, the State expressed its "resounding rejection and condemnation" of the request for precautionary measures. It was indicated that "it continues to insistently act as a sounding board in favor of adverse sectors [...] [to] the legally constituted government, in a permanent campaign to discredit [...] national authorities." The State indicated that the IACHR is subject to the United States of America, seeking to favor adverse sectors and adopting partial and unilateral measures aimed at achieving personal interests. Lastly, the State demanded that the IACHR adhere strictly to serving in good faith the true defense of human rights and cease to use precautionary measures as an "instrument of unilateral and subjective pressure" for the State and the Nicaraguan people.

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

29. The precautionary measures mechanism is part of the Commission's function of overseeing compliance with human rights obligations, as established in Article 106 of the Charter of the Organization of American States. These general oversight functions are established in Article 18(b) of the Statute of the IACHR. The precautionary measures mechanism is described in Article 25 of the Rules of Procedure of the Commission. In accordance with that Article, the Commission grants precautionary measures in serious and urgent situations in which these measures are necessary to avoid an irreparable harm.

30. 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.²³ Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.²⁴ To do this, it is necessary to assess the problem raised, the effectiveness of state actions to address the situation described, and how vulnerable the persons proposed as beneficiaries would be left in case the measures are not adopted.²⁵ Regarding their precautionary nature, these measures have the purpose of preserving legal situations while under the consideration of the IACHR. The object and purpose of precautionary measures is to preserve the rights at risk until the petition pending before the inter-American system is resolved. Their object and purpose are to ensure the integrity and effectiveness of an eventual decision on the merits and, thus, avoid any further infringement of the rights at issue, a situation that may adversely affect the useful effect (*effet utile*) of the final decision. In this regard, precautionary or provisional measures enable the State concerned to comply with the final decision and, if necessary, to implement the ordered reparations.²⁶ In the process of reaching a decision, and according to Article 25(2) of the Rules of Procedure, the Commission considers that:

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

31. In analyzing those requirements, the Commission reiterates that the facts supporting a request for precautionary measures need not be proven beyond doubt. The information provided should be assessed from a *prima facie* standard of review to determine whether a serious and urgent situation exists.²⁷ Similarly, the Commission recalls that, according to its mandate, it is not called upon to make determinations on the criminal liability of the persons proposed as beneficiaries, nor to establish through this mechanism any violation of their rights, given that this analysis should be carried out in a petition or case. The Commission will only analyze

²³ 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.

²⁴ 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].

²⁵ See in this regard: I/A Court H.R. [Matter of Milagro Sala](#). Request for Provisional Measures regarding Argentina. Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5 [only in Spanish]; I/A Court H.R. [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#). Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, considerandum 9; I/A Court H.R. [Matter of the Criminal Institute of Plácido de Sá Carvalho](#). Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of February 13, 2017, considerandum 6 [only in Spanish].

²⁶ 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.

²⁷ See in this regard: I/A Court H.R. [Matter of Members of the Miskitu Indigenous Peoples of the North Caribbean Coast regarding Nicaragua](#). Extension of Provisional Measures. Order of the Inter-American Court of Human Rights of August 23, 2018, considerandum 13 [only in Spanish]; I/A Court H.R. [Matter of Children Deprived of Liberty in the “Complexo do Tatuapé” of the Fundação CASA](#). Request for extension of provisional measures. Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of July 4, 2006, considerandum 23.

whether the persons proposed as beneficiaries are at risk pursuant to Article 25 of the Rules of Procedure, which can be resolved without making any determinations on the merits.²⁸

32. In the matter at hand, the Commission observes that the alleged situations placing the proposed beneficiaries at risk are framed in the current context of Nicaragua,²⁹ as well as in the special exposure situation in which the persons labeled as “dissidents” and people who have demonstrated against the government’s actions find themselves.³⁰ In this same sense, as observed by the IACHR through its monitoring functions, it is emphasized that the situation of the proposed beneficiaries is not an isolated one, but rather is part of a practice of arbitrary detentions, criminalization of opponents and human rights defenders, and the subsequent lack of adequate medical care for persons deprived of liberty for political reasons.³¹

33. Considering that the proposed beneficiary was identified as a journalist, the Inter-American Commission also recalls that its Special Rapporteurship for Freedom of Expression and the Regional Office of the United Nations High Commissioner for Human Rights for Central America and the Dominican Republic (OHCHR) strongly condemned the growing repeated acts of intimidation by Nicaraguan authorities against the media, journalists, and press workers registered in the framework of the presidential elections of November 2021.³²

34. Based on the previous contextual elements, the Commission will herein analyze compliance with the procedural requirements regarding the proposed beneficiary and his nuclear family.

35. In analyzing the requirement of *seriousness*, the Commission identifies that the proposed beneficiary is a “sports journalist” with a long history and co-host of the radio sports program “Doble Play.” In the framework of his work as a journalist, the information available indicates that he has had an openly critical stance against the current government of the country, and his opinions have had weight in Nicaraguan society (see *supra* para. 10). This situation has reportedly led to him being identified as an “opposition” person and being the subject of various events, at least since 2018, such as harassment, threats, armed attacks, among others (see *supra* para. 11). In the current context of the country, and prior to his detention, the proposed beneficiary had allegedly publicly stated his stance regarding the importance of the general elections in the country, as well as his condemnation of events faced by other journalists, such as journalist Carlos Fernando Chamorro, also a beneficiary of precautionary measures (see *supra* para. 12). The previous assessments are

²⁸ 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, 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].

²⁹ See in this regard: 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.

³⁰ 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; I/A Court H.R. [Matter of Juan Sebastián Chamorro et al. regarding Nicaragua](#). Provisional Measures regarding Nicaragua. Order of the Inter-American Court of Human Rights of June 24, 2021, para. 24.

³¹ IACHR. [Gross Human Rights Violations in the Context of Social Protests in Nicaragua](#). OEA/Ser.L/V/II. Doc. 86. June 21, 2018; 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, p. 194; IACHR. [Persons Deprived of Liberty in Nicaragua in connection with the Human Rights Crisis that Began on April 18, 2018](#). OEA/Ser.L/V/II. Doc. 287. October 5, 2020, para. 5; IACHR. [Annual Report 2020](#). Chapter IV.B Nicaragua, February 2021, para. 154.

³² IACHR. [Press Release No. 216/21](#). The IACHR, its SRFOE and OACNUDH condemn the repeated attacks on freedom of expression in Nicaragua. August 18, 2021.

especially relevant as the general elections of November 2021 approach and the opposition has demanded spaces for democratic participation.

36. In this proceeding, it has not been a matter of dispute that the proposed beneficiary has been held since June 21, 2021 and subjected to a criminal process that has been questioned by the applicants. The Commission recalls that, as he is deprived of his liberty, the State is in a special position of guarantor that implies the duty to respect his life and personal integrity, insofar as prison authorities exercise strong control or command over the persons in their custody.³³ Regarding the detention of the proposed beneficiary and his current conditions, the Commission understands that the proposed beneficiary has faced the following alleged facts that reflect the seriousness of the situation he faces:

- Detention of the proposed beneficiary by “motorists dressed in civilian clothes” on June 21, 2021, then being handed over to the National Police (see *supra* paras. 13 and 14). This is, they were not detained by the National Police, but by third parties who have purportedly acted in coordination with the said institution.
- Following the detention of the proposed beneficiary, the police did not inform his family of the place to which he would be transferred (see *supra* paras. 14 and 16).
- The search of the proposed beneficiary’s house was carried out without any warrant, and under threats from unidentified police personnel, taking personal elements of the proposed beneficiary’s family without providing a copy of the record of the “searches” (see *supra* paras. 15 and 16).
- Refusal by the State to inform in a timely manner the official place of detention of the proposed beneficiary, despite the actions carried out by the relatives and trusted lawyers (see *supra* para. 19).
- Holding of non-public hearings on dates that were unknown for relatives and trusted lawyers, who were not informed of them. Nor was there information on the identity of the public defender assigned to the proposed beneficiary (see *supra* para. 17).
- Refusal by the State to receive food, accepting only liquids, and without confirming whether they were actually delivered to the proposed beneficiary (see *supra* paras. 19 and 20).
- Lack of official information from the State that indicates that medical care is being provided to him based on his health condition (see *supra* para. 20).
- Impossibility for family members and trusted lawyers to be able to access in a timely manner the criminal file that has been opened, or to meet with the proposed beneficiary to coordinate in private, which is relevant so that they can duly undertake the appropriate actions (see *supra* paras. 18 and 26).
- Isolation from his relatives and trusted lawyers (see *supra* para. 19). This isolation has been maintained, even after a 30-minute visit with the wife on September 1, 2021 (see *supra* para. 22), while subsequently, it is unknown whether any other personal visit will be scheduled.

³³ See in this regard: I/A Court H.R. Matter of Juan Sebastián Chamorro et al. regarding Nicaragua. Provisional Measures regarding Nicaragua. Order of the Inter-American Court of Human Rights of June 24, 2021, para. 38; I/A Court H.R. Case of Mendoza et al. v. Argentina. Preliminary Objections, Merits and Reparations. Judgment of May 14, 2013, Series C No. 260, para. 188; IACHR. Report on the Human Rights of Persons Deprived of Liberty in the Americas. OEA/Ser.L/V/II. Doc. 64. December 31, 2011; para. 49.

- Strong surveillance of the proposed beneficiary by police personnel while he met with his wife on September 1, 2021, which was recorded by various police officers, and therefore, a space of privacy was not allowed during the visit (see *supra* para. 22).

37. The previous elements show a series of indications of an intention to keep the proposed beneficiary completely isolated from public opinion, controlled under severe custody conditions implemented by the State described by the applicants as “torture” or other cruel, inhuman, or degrading acts, and without the possibility of having any contact with the rest of Nicaraguan society. Thus, for instance, preventing the proposed beneficiary from continuing with his work as a journalist in Nicaragua in the current context and in the face of the upcoming general elections of 2021. With regard to the foregoing, the Commission notes that the lack of access by family members and lawyers to persons deprived of liberty may increase their vulnerability, inasmuch as they remain defenseless in the face of potential incidents or circumstances placing their rights to life, personal integrity, and health at risk.³⁴ In the same sense, the Inter-American Court has considered that “prolonged isolation and coercive solitary confinement represent, by themselves, forms of cruel and inhuman treatment, harmful to the mental and moral integrity of the person and to the right to respect that every detainee has, due to the inherent dignity of the human being.”³⁵

38. The Commission takes note of the information provided by the State upon requesting information under the terms of Article 25 of the Rules of Procedure. In this regard, it is observed that the State questioned the work of the IACHR within the framework of the precautionary measures mechanism, indicated in general terms that the proposed beneficiaries are not at risk, and asked the IACHR to cease its actions. The IACHR recalls that, in this proceeding, it is only called upon to assess the requirements of seriousness, urgency, and irreparable harm established in Article 25 of the Rules of Procedure. The IACHR acts in the exercise of its mandate with a view to identifying whether these requirements are met or not, and requesting that the State concerned adopt the necessary measures to protect the rights of the persons involved. The Commission recalls that precautionary measures are part of the duty of prevention that the States have, in such a way that, upon becoming aware of a situation presenting a risk, they are obliged to adopt the necessary measures which, reasonably judged, are sufficient to protect the rights of the beneficiaries. Should they not take such measures, the State would fail to comply with an international obligation and, if such risk materializes, it may be held internationally responsible. In this regard, the Inter-American Court indicated in the *Case of Velásquez Paiz et al. v. Guatemala of 2015* the following:

“[...] In this regard, the Court clarifies that, in order to establish a breach of the duty to prevent violations of the rights to life and personal integrity, it must be verified that: i) the state authorities knew, or should have known, of the existence of a real and immediate risk to the life and/or personal integrity of a given individual or group of individuals, and that ii) such authorities did not adopt the necessary measures within the scope of their powers that, judged reasonably, could be expected to prevent or avoid such a risk. [...]”³⁶

39. In this regard, in its *Report No. 35/17 of Case 12.713 on José Rusbel Lara et al. in Colombia*, the Commission ruled on the murder of a beneficiary of precautionary measures and indicated that:

“[...] there was a special duty to protect him, since he was the beneficiary of precautionary measures granted by the IACHR. Regarding the role of precautionary measures within the preventive duties of the State, the Commission has considered that the granting of precautionary measures allows the State to be aware of a situation presenting a risk and, therefore, there is a special duty to protection aimed at avoiding the foreseeable action of

³⁴ IACHR. Resolution 49/2021. Precautionary Measure No. 150-19. 480-21. Cristiana María Chamorro Barrios *et al.* regarding Nicaragua. June 24, 2021, para. 29; see also: I/A Court H.R. *Matter of Juan Sebastián Chamorro et al. regarding Nicaragua*. Provisional Measures regarding Nicaragua. Order of the Inter-American Court of Human Rights of June 24, 2021, para. 36.

³⁵ I/A Court H.R. *Matter of Juan Sebastián Chamorro et al. regarding Nicaragua*. Provisional Measures regarding Nicaragua. Order of the Inter-American Court of Human Rights of June 24, 2021, para. 36.

³⁶ I/A Court H.R. *Case of Velásquez Paiz et al. v. Guatemala*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 19, 2015. Series C No. 307. Paragraph 109

actors who play a part in it, in such a way that the effective implementation of the measures constitutes a reasonable means of prevention in order to preclude the materialization of the risk.”³⁷

40. Thus, the IACHR is called upon to assess what measures were implemented by the State in light of the situation alleged by the applicants. Inasmuch as the State submits updated, specific, and detailed information on the situation of the proposed beneficiaries, the IACHR will have more elements to properly assess whether or not the requirements of Article 25 of the Rules of Procedure are being met. The lack of specific information from the State prevents the IACHR from properly assessing what actions were taken. In the matter at hand, the State only provided general allegations, and did not submit specific information on the proposed beneficiaries, for instance, regarding the conditions of detention; whether medical care was being provided and the results obtained; whether measures were adopted in response to the alleged incommunicado detention; whether relatives or lawyers have continuous contact with the proposed beneficiary; or whether liabilities were determined for the alleged events so as to prevent them from reoccurring. Given the lack of specific, up-to-date, and detailed observations from the State, the Commission observes that the applicants’ allegations were not disproved. The foregoing is especially worrying given that the proposed beneficiary is in the custody of the State, and such information should be officially available and in the hands of the penitentiary or judicial authorities, as appropriate.

41. Taking the foregoing into account, the Commission considers that from the *prima facie* standard and in the context of Nicaragua, it is sufficiently proven that the rights to life, personal integrity, and health of Miguel Ángel Mendoza Urbina are at serious risk. 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. In the same way, the Commission considers that his wife and his daughter are facing the same risk to their rights to life and personal integrity, in view of possible reprisals against them for the questions they have been making in defense of Mr. Mendoza’s rights (see *supra* paras. 15 and 27). Furthermore, the Commission takes into account the nature of the threats received that reveal intentions to attack them, as well as the presence of unknown persons near their domicile in the last month.

42. With regard to the requirement of *urgency*, the Commission deems that it is met, given that if they remain in the situation described, the proposed beneficiaries are likely to be imminently exposed to a greater impact on their rights. Despite various appeals filed with the judicial authorities, the situation placing the proposed beneficiary at risk has not been addressed (see *supra* paras. 18 and 24). In this regard, as previously indicated, the Commission lacks concrete or detailed information from the State to assess any actions purportedly taken to address the alleged risk faced by the proposed beneficiary. On the contrary, the information provided by the applicants, following the recent visit of the wife to the proposed beneficiary on September 1, shows the impacts on his rights that the proposed beneficiary is facing (see *supra* para. 23).

43. As it pertains to the requirement of *irreparable harm*, the Commission finds that it is met, since the possible impact on the rights to life and personal integrity constitutes the maximum situation of irreparability. The Commission emphasizes its concern given that the described situation is reportedly aimed at intimidating and thereby silencing the proposed beneficiary, 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.

44. Lastly, insofar as this matter bears factual similarities with previous matters in the current Nicaraguan context, such as the *Matter of Ana Margarita Vijil Gurdíán et al. in Nicaragua*,³⁸ and taking into account the conditions in which the proposed beneficiary is currently held, which severely impacts his rights to life,

³⁷ IACHR, *Merits Report No. 35/17, José Rusbel Lara et al. (Colombia)*, March 21, 2017, para. 157

³⁸ IACHR, *Resolution No. 71/21. PM 593-21, 665-21, 680-21. Ana Margarita Vijil Gurdíán et al. regarding Nicaragua*. August 30, 2021.

personal integrity, and health, the Commission requests that the State assess the possibility of granting alternative measures to deprivation of liberty, taking into account the particular situation of the proposed beneficiary with a view to protecting such rights, and in response to the assessments made in this resolution in light of the available information.

V. BENEFICIARIES

45. The Commission declares Miguel Ángel Mendoza Urbina, his wife, and his 7-year-old daughter as beneficiaries. All these persons are duly identified in this procedure.

VI. DECISION

46. 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 to protect the rights to life, personal integrity, and health of Miguel Ángel Mendoza Urbina and his nuclear family;
- b) ensure that the conditions of his detention are compatible with applicable international standards on the matter, enabling him, among other things, to have access to his relatives and defense lawyers;
- c) taking into account the situation presenting a risk to his life, personal integrity, and health as a result of the circumstances surrounding his current deprivation of liberty, assess the possibility of granting alternative measures to the deprivation of liberty, in accordance with its internal regulations and in light of the applicable inter-American standards; and
- d) report on the actions taken to investigate the alleged events that led to the adoption of this resolution, so as to prevent them from reoccurring.

47. The Commission requests that the State of Nicaragua report, within 15 days as from the day after the notification of this resolution, on the adoption of the precautionary measures granted and to regularly update this information.

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

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

50. Approved on October 15, 2021, by: Antonia Urrejola Noguera, President; Julissa Mantilla Falcón, First Vice President; Flávia Piovesan, Second Vice President; Margarette May Macaulay; Esmeralda Arosemena de Troitiño; and, Joel Hernández García; members of the IACHR.

Tania Reneaum Panszi
Executive Secretary