
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 17/2022**

Precautionary Measure No. 1169-21
Lázaro Ernesto Rivas Pérez regarding Nicaragua
March 18, 2022
Original: Spanish

I. INTRODUCTION

1. On December 20, 2021, the Inter-American Commission on Human Rights (“the Inter-American Commission,” “the Commission” or “the IACHR”) received a request for precautionary measure filed by the Human Rights Collective Nicaragua Never Again (*Colectivo de Derechos Humanos Nicaragua Nunca Más*) (“the applicants”) urging the Commission to require that the State of Nicaragua (“the State” or “Nicaragua”) adopt the necessary measures to protect the rights to life, personal integrity, and health of Mr. Lázaro Ernesto Rivas Pérez (“the proposed beneficiary”). According to the request, the proposed beneficiary, who is identified or deemed to be a political opponent of the current Nicaraguan government, has been deprived of his liberty since July 29, 2020, in inadequate conditions and without health care.

2. Pursuant to Article 25(5) of its Rules of Procedure, the IACHR requested additional information from the applicants on January 19, 2022, and received the requested information on February 1, 2022. The IACHR also requested information from the State and the applicants on February 10, 2022. The State provided information on February 11, 2022, and for their part, the applicants submitted information on February 24, 2022.

3. Upon analyzing the submissions of fact and law furnished by the parties, the Commission considers that the information presented shows *prima facie* that the proposed beneficiary is in a serious and urgent situation, given that his rights to life, personal integrity, and health are at risk of irreparable harm. Accordingly, the Commission requests that Nicaragua: a) adopt the necessary measures to protect the rights to life, personal integrity, and health of Lázaro Ernesto Rivas Pérez; b) adopt the necessary measures to ensure that the conditions of detention of Mr. Lázaro Ernesto Rivas Pérez are compatible with the applicable international standards on the matter, including: i. to ensure that he is not subjected to ill-treatment, harassment, and siege within the prison; ii. to carry out an immediate, impartial, and specialized medical assessment of his current health status; and iii. to provide the proposed beneficiary with the necessary treatments and medications prescribed by the relevant health personnel; c) consult and agree upon the measures to be adopted with the persons proposed as beneficiaries and their representatives; and d) report on the actions taken to investigate the alleged facts that gave rise to the adoption of this precautionary measure, so as to prevent them from reoccurring.

II. BACKGROUND INFORMATION

4. Between May 17 and 21, 2018, the Commission visited Nicaragua and collected 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.¹ In order to follow up on the recommendations issued in this report, the Special

¹ 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.

Monitoring Mechanism for Nicaragua (MESENI) was created, which remained in the country until the State suspended its presence on December 19, 2018.² 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.³ In its Annual Report 2018, the IACHR included Nicaragua in Chapter IV.B, in accordance with the grounds established in its Rules of Procedure.⁴

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.⁵ 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.⁶ On September 2019, the IACHR reported an increase in harassment against human rights defenders and persons who, despite having been released from prison, continued to be intimidated.⁷ 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.”⁸

6. Subsequently, the Commission again included Nicaragua in Chapter IV.B of its Annual Report 2019,⁹ 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.¹⁰

7. During 2020, the IACHR identified the consolidation of a fifth stage of state repression in the country, characterized by the intensification of acts of surveillance, harassment, and selective repression against people considered to be opponents of the Government.¹¹ Thus, in May 2020, the IACHR

² 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.

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

⁴ IACHR. [Annual Report 2018](#). Chapter IV.B Nicaragua.

⁵ 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.

⁶ 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.

⁷ 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.

⁸ 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.

⁹ IACHR. [Annual Report 2019](#). Chapter IV.B Nicaragua. OEA/Ser.L/V/II. Doc. 5, February 24, 2020, paras. 5 and 6.

¹⁰ IACHR. [Annual Report 2019](#). Chapter IV.B Nicaragua. OEA/Ser.L/V/II. Doc. 5, February 24, 2020, para. 19.

¹¹ 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.

condemned the non-compliance with its recommendations and urged the State to implement them.¹² In October 2020, the IACHR again called on the State to immediately cease persecution of persons identified as dissidents and to reestablish democratic guarantees in Nicaragua.¹³ Subsequently, the Commission once again included Nicaragua in Chapter IV.B of its Annual Report 2020.¹⁴

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,¹⁵ as well as the widespread impunity and the prolonged breakdown of the rule of law that persists in Nicaragua.¹⁶ On June 9, 2021, the IACHR and the Regional Office of the United Nations High Commissioner for Human Rights for Central America and Dominican Republic (OHCHR) condemned the criminal prosecution of Nicaraguan opposition leaders and urged the State to release all the persons detained in the context of the crisis.¹⁷ 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.¹⁸ On September 10, 2021, the Commission and the OHCHR condemned the criminalization of individuals identified as political opponents in Nicaragua.¹⁹

9. On October 25, 2021, the IACHR published the report “Concentration of Power and Weakening of the Rule of Law in Nicaragua.” In this regard, the Commission has identified acts of harassment, threats, raids, arbitrary detentions, and mistreatment against any person considered to be an opponent of the current Government, perpetrated by police and vigilante groups.²⁰ Subsequently, on November 4, 2021, the IACHR and OHCHR expressed concern about the increasing repression against opponents in Nicaragua within the framework of the electoral process in the country, emphasizing the attacks against journalists.²¹ On November 10, 2021, the IACHR condemned the human rights violations that occurred in the framework of the elections in the country, as a result of acts of police siege, harassment, raids, threats, and arbitrary detentions against opposition leaders, human rights activists, members of civil society organizations, and journalists; and urged the State to release all those arbitrarily detained in the electoral context since the beginning of the crisis, as well as to cease attacks against political opponents.²²

¹² 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.

¹³ 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.

¹⁴ IACHR. [Annual Report 2020. Chapter IV.B Nicaragua](#), February 2021, paras. 5 to 29.

¹⁵ IACHR. [Press Release No. 152/21](#). IACHR Condemns the Serious Escalation of Repression in Nicaragua. June 18, 2021.

¹⁶ 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.

¹⁷ 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.

¹⁸ IACHR. [Press Release No. 238/21](#). IACHR, OHCHR Condemn Criminalization, Harsh Conditions of Detention, and Failure to Enforce Due Process for Individuals Who are Perceived to Be Government Critics in Nicaragua. September 10, 2021; IACHR. [Press Release No. 209/21](#). IACHR Condemns the State Actions Aimed at Ending Opposition Participation in Nicaragua's Upcoming Election. August 11, 2021.

¹⁹ IACHR. [Press Release 238/21](#). IACHR, OHCHR Condemn Criminalization, Harsh Conditions of Detention, and Failure to Enforce Due Process for Individuals Who are Perceived to Be Government Critics in Nicaragua. September 10, 2021.

²⁰ IACHR. [Press Release 284/2021](#). IACHR Publishes Report on the Concentration of Power and the Weakening of the Rule of Law in Nicaragua. October 28, 2021.

²¹ IACHR. [Press Release 292/21](#). Four days ahead election day, IACHR and OHCHR condemn the lack of guarantees of rights and freedoms in the context of the electoral process in Nicaragua. November 4, 2021.

²² IACHR. [Press Release No. 300/21](#). IACHR Condemns Human Rights Violations Reported During Elections in Nicaragua. November 10, 2021.

10. Recently, on November 20, 2021, the IACHR made a statement regretting the decision of the State of Nicaragua to denounce the Charter of the Organization of American States, on November 19, 2021, in a context of serious crisis in recent years in the country. On the occasion, the Commission reaffirmed its jurisdiction over Nicaragua and affirmed that it would continue to exercise its monitoring mandates through the Special Monitoring Mechanism for Nicaragua (MESENI), and the analysis and processing of cases, petitions, and precautionary measures.²³ On December 20, 2021, the Commission called for international solidarity so that States adopt measures for the protection of people forced to flee the country. In this sense, the main groups of people who have fled Nicaragua are human rights defenders, journalists, leaders of social movements, relatives of people deprived of liberty and people identified as political opponents.²⁴ According to data from the United Nations Refugee Agency (UNHCR), since April 2018, more than 110,000 people have been forced to flee Nicaragua.²⁵

III.SUMMARY OF FACTS AND ARGUMENTS

A. Information provided by the applicants

11. According to the request, the proposed beneficiary was a member of the opposition political party called Liberal Constitutionalist Party (PCL), and participated, together with his brother, in the protests that began in April 2018. The proposed beneficiary was an active participant in the coordination of peaceful protest actions in Santo Domingo de Chontales, collaborating with the Movimiento Campesino. In addition, Mr. Rivas Pérez attended and participated in the coordination of multiple rallies in that city. Due to his participation in the protests, the proposed beneficiary allegedly suffered threats, harassment, and persecution on social media platforms by political operators of the regime, and therefore, he was forced to flee the city for almost the entire year of 2018.

12. According to the applicants, on July 29, 2020, the proposed beneficiary was working at his transportation company located in the city of Santo Domingo de Chontales when he was detained with excessive use of force by police officers in three pickup trucks. Consequently, he was transferred to the Juigalpa Police Station, where he was held for eight days, a time period in which he was not allowed visits from his family or to receive any type of food. The proposed beneficiary was then transferred to the Cuisalá Penitentiary System in Juigalpa, Chontales. Fifteen days later he was taken to an initial hearing where he was charged with aggravated robbery and serious injury.²⁶

13. The applicants allege that the trial against Mr. Rivas Pérez began on October 22, 2020. They consider that a series of irregularities occurred during the process, emphasizing that the proposed beneficiary's lawyer was not present, instead he was assigned a public defender, and no victim was present during the process. The proposed beneficiary was found not guilty by the jury of conscience (*jurado de conciencia*) for the crime of serious injuries due to the lack of specific evidence; however, he was sentenced to seven years in prison by the Judge of the Juigalpa Court for the crime of aggravated robbery with minor injuries. He is currently being held at the Juigalpa Penitentiary.

²³ IACHR. [Press Release 312/2021](#). The IACHR Stresses Its Competent Jurisdiction Concerning Nicaragua and laments Nicaragua's Decision to Denounce the Charter of the OAS in a Context of Serious Human Rights Violations.

²⁴ IACHR. [Press Release 346/2021](#). IACHR Calls for International Solidarity, Urges States to Protect the People Who Have Been Forced to Flee from Nicaragua. December 20, 2021.

²⁵ IACHR. [Press Release 346/2021](#). IACHR Calls for International Solidarity, Urges States to Protect the People Who Have Been Forced to Flee from Nicaragua. December 20, 2021.

²⁶ According to the information provided, the brother of the proposed beneficiary was accused of the same crimes, accusations for which he was arrested, prosecuted, and sentenced.

14. According to the testimony of one of his relatives, the proposed beneficiary was subjected to cruel and inhuman treatment, as well as to constant harassment, surveillance, and psychological abuse by prison officers. In this regard, they state that the prison officers have even entered the proposed beneficiary's cell to carry out a search in which they took some of his food and damaged his personal belongings. In addition, they indicate that every time he is given food, they take him out of his cell, force him to hold "*la chupeta*" (the plastic bag in which he is given food) and take photographs of him. The applicants also state that the proposed beneficiary is constantly monitored by prison guards in his cell.

15. For their part, the applicants report that the proposed beneficiary suffers from heart conditions, low back pain, hypertension, liver problems, symptoms of kidney infection, joint pain, and weight loss; however, he has not been allowed access to medication, nor has he been allowed to leave his cell for to get out in the sun. Additionally, they state that Mr. Rivas Pérez has suffered from high fever, backache, diarrhea, and dry cough, without receiving medical attention. According to the information available, his relatives bring him medicines to treat the pain, but they are not allowed to bring them into the penitentiary. For his part, the proposed beneficiary has told the prison guards that he is sick, but they allegedly ignored him and refused to take him to see a physician. As a result, the proposed beneficiary has expressed that he is being treated with cruelty because he is the only inmate who does not have access to health care. According to the request, Mr. Rivas Pérez has not had access to medication or medical attention since his detention, a situation that purportedly aggravates his conditions and leads to the development of new ailments, affecting his physical integrity and health in general.

16. In addition to the health problems previously mentioned, the proposed beneficiary is reportedly in overcrowding living conditions and is likely to be repeatedly infected with COVID-19 due to the precarious conditions of detention. In this regard, the applicants state that the proposed beneficiary has shown symptoms related to COVID-19.

17. Recently, the relatives of the proposed beneficiary visited the penitentiary in the second half of January, expressing their concern at finding the proposed beneficiary "in poor conditions" due to the mistreatment, siege, and harassment he constantly suffers, in addition they allege that "he loses track of time, asking illogical questions," which suggests exhaustion and psychological problems. They also indicated that his health status is critical as he has presented "severe diarrhea, severe pain in his body, flu, high fever." In addition, Mr. Rivas Pérez reportedly stated that he continued to suffer from health problems, such as kidney infection, joint pain, weight loss, back pain, and that he had difficulty getting up because his legs and soles were numb, making it difficult to relieve himself. He also alleges that he sleeps on the floor of the cell and that the food provided in the penitentiary is unhealthy.

18. Furthermore, the relatives of the proposed beneficiary have stated that, at the time of the visits, the prison officers treat them differently, force them to move away from other people, and even take photos and videos of them, as they are permanently monitored. In addition, they have been purportedly denied their visitation rights on multiple occasions, as happened on December 24 and 31, 2021. In this regard, the applicants state that, due to the short time they have, as well as the siege they suffer during the visits, the proposed beneficiary's relatives do not have further information about his current status. They allege to be unaware of the origin of his serious health conditions, since he does not have a medical diagnosis and therefore is not receiving any medical attention.

B. Information provided by the State

19. The State advert that it rejects the allegations made by the applicants "because of the malicious insistence of those who attempt, with false information, to continue their smear campaign against [its] Government, to create instability and affect popular governance." In addition, the State regrets that the Commission assesses "alleged urgent and serious situations that do not exist," considering that the purpose of those who request such assessments is to avoid punishment for violating the law.

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

20. The precautionary measures mechanism is part of the Commission's function of overseeing 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 18(b) of the Statute of the IACHR, while 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.

21. The Inter-American Commission and the Inter-American Court of Human Rights ("the Inter-American Court" or "I/A Court H.R.") have established repeatedly that precautionary and provisional measures have a dual nature, protective and precautionary.²⁷ Regarding the protective nature, these measures seek to avoid irreparable harm and preserve the exercise of human rights.²⁸ To this end, the Commission should assess the problem raised, the effectiveness of State actions to address the situation described, and the vulnerability to which the persons proposed as beneficiaries would be exposed if the measures are not adopted.²⁹ Regarding their precautionary nature, these measures have the purpose of preserving legal situations while under the consideration of the IACHR. They aim to safeguard 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.³⁰ Regarding the process of decision making, according to Article 25(2) of its 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.

²⁷ 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. Resolution of July 6, 2009, considerandum 16.

²⁸ 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. Resolution of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5.

²⁹ 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].

³⁰ 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.

22. In analyzing these 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.³¹ Similarly, the Commission recalls that, by its own mandate, it is not called upon to determine any criminal liabilities for the alleged facts. Moreover, it is not appropriate, in this proceeding, to rule on violations of rights enshrined in the American Convention or other applicable instruments,³² nor to determine whether the criminal conviction violates such international instruments. The following analysis relates exclusively to the requirements set forth in Article 25 of the Rules of Procedure, which can be resolved without making any determinations on the merits.³³

23. In this matter, the Commission notes that the alleged situation placing the proposed beneficiary at risk is framed in the current context of Nicaragua,³⁴ as well as in a context particularly hostile towards people who are considered, perceived, or identified as opponents of the government,³⁵ which has also intensified over time.³⁶ In this sense, the request alleged that Mr. Lázaro Ernesto Rivas Pérez, had participated actively in the protests against the current government, and therefore had been identified as a political opponent. Considering this, the Commission notes that, since July 29, 2020, the proposed beneficiary has been deprived of his liberty under inadequate conditions and without access to health care to address his health problems. Similarly, the Commission has assessed in other precautionary measures that the situation of the proposed beneficiaries is not an isolated situation, but is allegedly part of a context of detentions and criminalization of human rights defenders and opponents.³⁷ The IACHR has also granted several precautionary measures to persons deprived of liberty in Nicaragua due to their detention conditions.³⁸ In this context, in its report on “Persons Deprived of Liberty in Nicaragua,” the IACHR has gathered testimonies that show practices in line with the allegations in this request.

³¹ 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.

³² IACHR. [Resolution 2/2015](#). Precautionary Measure No. 455-13. Matter of Nestora Salgado regarding Mexico. January 28, 2015, para. 14; IACHR. [Resolution 37/2021](#). Precautionary Measure No. 96-21. Gustavo Adolfo Mendoza Beteta and family regarding Nicaragua. April 30, 2021, para. 33.

³³ In this regard, the Court has indicated that “[it] cannot, in a provisional measure, consider the merits of any arguments pertinent to issues other than those which relate strictly to the extreme seriousness, 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].

³⁴ See in this regard: IACHR. [Press Release No. 93/21](#). Three Years After the Start of the Human Rights Crisis in Nicaragua, IACHR Condemns Ongoing Impunity. April 19, 2021; IACHR. [Press Release No. 80/20](#). Two Years into Nicaragua’s Human Rights Crisis, the IACHR Stresses its Permanent Commitment to Victims and Confirms the Consolidation of a Fifth Phase of Repression. April 18, 2020; IACHR. [Press Release No. 220/19](#). IACHR Speaks Out Against Ongoing Repression in Nicaragua and Expresses Its Concern at Increased Harassment of Human Rights Defenders and People Who Have Been Released from Prison. September 6, 2019.

³⁵ See in this regard: IACHR. [Annual Report 2020](#). Chapter IV.B Nicaragua, paras. 54-77; IACHR. [Press Release No. 152/21](#). IACHR Condemns the Serious Escalation of Repression in Nicaragua. June 18, 2021; IACHR. [Press Release No. 2/21](#). IACHR Condemns Growing Harassment in Nicaragua. January 6, 2021.

³⁶ See in this regard: 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; IACHR. [Annual Report 2020](#). Chapter IV.B Nicaragua, paras. 46 to 52.

³⁷ See in this regard: IACHR. [Resolution 33/2020](#). Precautionary Measure No. 205-21. Kevin Roberto Solís regarding Nicaragua. April 22, 2021; IACHR. [Resolution 82/2020](#). Precautionary Measure No. 489-20. Maycol Antonio Arce and 40 other persons deprived of their liberty, regarding Nicaragua. November 2, 2020; IACHR. [Resolution 62/2019](#). Precautionary Measure No. 1105-19. Amaya Coppens et al. regarding Nicaragua. December 24, 2019.

³⁸ See in this regard: IACHR. [Resolution 37/2021](#). Precautionary Measure No. 96-21. Gustavo Adolfo Mendoza Beteta and family regarding Nicaragua. April 30, 2021; IACHR. [Resolution 82/2020](#). Precautionary Measure No. 489-20. Maycol Antonio Arce and 40 other persons deprived of their liberty, regarding Nicaragua. November 2, 2020; IACHR. [Resolution 62/2019](#). Precautionary Measure No. 1105-19. Amaya Coppens et al. regarding Nicaragua. December 24, 2019.

24. Along those lines, the Commission recalls that, in relation to persons deprived of liberty in general, the State is in a special position of guarantor that implies the duty to respect their life, integrity, health and other human rights, inasmuch as prison authorities exercise strong control or command over the persons in their custody.³⁹ This is due to the unique relationship and interaction of subordination between the person deprived of liberty and the State, characterized by the particular intensity with which the State can regulate their rights and obligations, and by the very circumstances of imprisonment, where prisoners are prevented from satisfying on their own a series of basic needs that are essential for the development of a dignified life.⁴⁰ More specifically, and in light of the facts described by the applicants, the Commission recalls that the Inter-American Court has indicated that the State must ensure that a person is detained in conditions that respect their human dignity, that the manner and method of exercising the measure does not subject them to distress or hardship that exceeds the unavoidable level of suffering inherent in detention and that, given the practical demands of imprisonment, their health and well-being are adequately ensured.⁴¹

25. Taking into account the particular context of Nicaragua and the situation of deprivation of liberty of the proposed beneficiary, the Commission shall analyze the procedural requirements regarding Mr. Lázaro Ernesto Rivas Pérez.

26. As regards the requirement of seriousness, the Commission considers that it has been met. When assessing these requirements, the IACHR observes that the situation placing the proposed beneficiary at risk is reportedly related to his profile as a person identified or perceived as an opponent of the current government. In addition, the Commission notes that the proposed beneficiary has been detained since July 2020, in inadequate detention conditions, suffering from harassment and siege in prison and without receiving the necessary health care.

27. The Commission notes that the detention of the proposed beneficiary has been preceded by a series of acts against him when he was identified as an opponent of the current Nicaraguan government, a situation that shows the seriousness of the allegations raised. In particular, the applicants have reported that Mr. Rivas Pérez was a member of the Liberal Constitutionalist Party (PCL) and suffered threats and harassment during 2018 by government officers, even having to travel outside the city, given his participation in the rallies and his collaboration with civic social protest movements such as the Movimiento Campesino (see *supra* para. 11).

28. For its part, the Commission notes that the proposed beneficiary has allegedly been deprived of liberty since July 29, 2020, after having been accused, prosecuted, and sentenced for the crime of aggravated robbery. It was noted that the proposed beneficiary is reportedly in poor detention conditions at Juigalpa Penitentiary, Chontales (see *supra* paras. 12 and 13). Despite suffering from several health problems such as heart disease, low back pain, hypertension, liver problems, symptoms of kidney infection, joint pain, and weight loss, he is not allowed to have access to health care or medication to treat his conditions, even though he requested medical services to the guards of the prison (see *supra* para. 15). Recently, his family reported that he was suffering from severe pain, diarrhea, fever, difficulties in fulfilling his physiological needs, and even symptoms related to COVID-19. Furthermore, it was reported that his

³⁹ See in this regard: 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.

⁴⁰ IACHR. Report on the Human Rights of Persons Deprived of Liberty in the Americas. OEA/Ser.L/V/II. Doc. 64. December 31, 2011. Paras. 49-50.

⁴¹ I/A Court HR. *Matter of seventeen persons deprived of liberty regarding Nicaragua*. Provisional Measures. Adoption of Urgent Measures. Order of the President of the Inter-American Court of Human Rights of May 21, 2019 [only in Spanish]. Considerandum 23.

mental health is deteriorated, with psychological exhaustion and impairments (see *supra* paras. 16 and 17).

29. In addition, the Commission also notes that, since his detention, the proposed beneficiary has been subjected to cruel and inhuman treatment, constant harassment, and psychological abuse by prison officers. For instance, they purportedly take photographs of him holding a bag with his food and even enter his cell to make searches by stripping him of food and damaging his personal belongings. Moreover, it is reported that the proposed beneficiary is constantly monitored by the guards in his cell (see *supra* para.14).

30. The IACHR emphasizes that the seriousness of the allegations in the request is also observed due to the impact on the relatives of the proposed beneficiary. They are also reportedly subjected to harassment and siege during their visits to the penitentiary, as they are constantly supervised by the penitentiary officers, who reportedly take photographs and videos of them. In addition, it was reported that they have sometimes been denied visits to Mr. Rivas Pérez (see *supra* para. 18).

31. Having requested information from the State under the terms of Article 25 of the Rules of Procedure, the Commission takes note of the response received. However, the Commission notes that, beyond expressing, in a generalized manner, its rejection of the allegations raised in the request, the State did not provide information with concrete and detailed elements that dispute the facts alleged by the applicants, or that allow to assess that the alleged situation was mitigated. In this regard, the State did not report on the detention conditions of the proposed beneficiary or on the measures implemented to safeguard his rights, particularly the health care he is reportedly receiving. The information that the State could have provided was relevant to the extent that the family members of the proposed beneficiary only have limited access to it and do not know what his current health status is, beyond the conditions referred to by the proposed beneficiary.

32. On this occasion, the Commission notes with concern the situation of Mr Lázaro Ernesto Rivas Pérez, who is deprived of his liberty, suffering from illnesses and various health problems, without a medical assessment or access to medications. In addition, it notes that the proposed beneficiary is being subjected to ill-treatment, harassment, and siege by prison officers, a situation that is also suffered by his relatives during their visits to Mr. Rivas Pérez. Thus, the IACHR highlights the seriousness of the allegations raised regarding the threatening situation of the proposed beneficiary, which also allegedly directly involves state agents. Considering such context and the facts presented, the Commission notes that the risk of the proposed beneficiary is serious. Taking into account that the proposed beneficiary is currently deprived of liberty, without access to medical services or that he has had no medical assessment regarding his health issues, it not only implies a serious risk to his health, but also has irreparable repercussions on his physical integrity and even on his life.

33. In view of the foregoing, the Commission considers, from a *prima facie* standard and in the context that Nicaragua is going through, that the rights to life, personal integrity and health of Lázaro Ernesto Rivas Pérez are at serious risk.

34. As for the requirement of urgency, the Commission considers that it has been met, since, if the described situation continues, the proposed beneficiary is likely to be exposed to a greater imminent violation of his rights. In addition, the Commission notes that, given his status as a detainee, coupled with the lack of access to health care and his health status, these circumstances prevent his relatives and representatives from being able to intervene in time and ensure that his detention and health conditions are adequate, thus requiring immediate action. Therefore, the Commission takes into account that almost

2 years have passed since the arrest of the proposed beneficiary, who is allegedly in a critical state of health without a medical assessment. In addition, the Commission does not have specific information from the State to assess the actions that are reportedly being taken to address the alleged risk faced by the proposed beneficiary.

35. Regarding the requirement of irreparable harm, the Commission considers that it has been met, since the possible impact on the rights to life, personal integrity, and health, by their very nature, constitutes the maximum situation of irreparability.

V. BENEFICIARIES

36. The Commission declares Lázaro Ernesto Rivas Pérez as beneficiary, who is duly identified in this procedure.

VI. DECISION

37. 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 Lázaro Ernesto Rivas Pérez;
- b) adopt the necessary measures to ensure that the conditions of detention of Mr. Lázaro Ernesto Rivas Pérez are compatible with the applicable international standards on the matter, including:
 - i. to ensure that he is not subjected to ill-treatment, harassment, and siege within the prison;
 - ii. to carry out an immediate, impartial, and specialized medical assessment of his current health status; and
 - iii. to provide the proposed beneficiary with the necessary treatments and medications prescribed by the relevant health personnel;
- c) consult and agree upon the measures to be adopted with the persons proposed as beneficiaries and their representatives; and
- d) report on the actions taken to investigate the alleged facts that gave rise to the adoption of this precautionary measure, so as to prevent them from reoccurring.

38. 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 requested and to update that information periodically.

39. 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.

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

41. Approved on March 18, 2022, by Julissa Mantilla Falcón, President; Edgar Stuardo Ralón Orellana, First Vice-President; Margarete May Macaulay, Second Vice-President; Esmeralda Arosemena de Troitiño; Joel Hernández García; Roberta Clarke; and Carlos Bernal Pulido, members of the IACHR.

Marisol Blanchard
Assistant Executive Secretary