
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 9/2022**

Precautionary Measure No. 505-15

**Indigenous people of the Musawas, Suniwas and Wilú Communities of the
Mayangna Sauni As Territory in the North Caribbean Coast Autonomous Region
regarding Nicaragua**

February 13, 2022

(Extension)

Original: Spanish

I. INTRODUCTION

1. On December 3, 2021, the Inter-American Commission on Human Rights (the Inter-American Commission, “the Commission” or “the IACHR”) received a request for extension of precautionary measures from the Center for Justice and Human Rights of the Atlantic Coast of Nicaragua (*Centro por la Justicia y Derechos Humanos de la Costa Atlántica de Nicaragua -CEJUDHCAN*) and the Center for Justice and International Law-CEJIL (“the representatives”) in favor of the inhabitants of the Musawas, Suniwas, and Wilú indigenous communities of the North Caribbean Coast Autonomous Region of Nicaragua (RACCN).¹ The request alleged that the inhabitants of the identified communities are the subject to threats, intimidation, and acts of violence on the Caribbean Coast in a context where land titling processes are pending due to the presence of settlers in Indigenous territories.

2. In accordance with Article 25 of the Rules of Procedure, the Commission forwarded the request for extension of precautionary measures to the State on December 27, 2021. The State responded on December 28, 2021.

3. Upon analyzing the submissions of fact and law furnished by the parties, the Commission considered that the information provided showed *prima facie* that the beneficiaries were in a serious and urgent situation, given that their rights to life and personal integrity are at serious risk. Consequently, in accordance with Article 25 of the IACHR Rules of Procedure, the Commission requests that Nicaragua: a) adopt the necessary and culturally appropriate measures to safeguard the life and personal integrity of the indigenous people of the Musawas, Suniwas, and Wilú Communities of the Mayangna Sauni As Territory in the North Caribbean Coast Autonomous Region; b) consult and agree upon the measures to be implemented with the beneficiaries and their representatives; and c) report on the actions taken to investigate the alleged facts that led to the adoption of these precautionary measures, so as to prevent such events from reoccurring.

**II. BACKGROUND: PRECAUTIONARY MEASURES AND PROVISIONAL MEASURES
CURRENTLY IN FORCE**

4. Both the Inter-American Commission and the Inter-American Court have granted precautionary measures and provisional measures regarding the situation of violence faced by inhabitants of the communities of the Miskitu Indigenous People in the Caribbean Coast Region of Nicaragua due to the presence of settlers in Indigenous territories where land titling processes are pending. On October 14, 2015, the IACHR granted precautionary measures to the members of the Esperanza, Santa Clara, Wisconsin, Francia Sirpi communities of the Miskitu Indigenous People of Wangki Twi-Tasba Raya.² On January 16, 2016, the precautionary measures were extended to

¹ The representatives sent letters signed by authorities and inhabitants of the identified communities in which the support of the representatives is expressly requested so that they request protection measures in their favor.

² IACHR, [Resolution No. 37/15, PM 505-15, Members of the “Esperanza, Santa Clara, Wisconsin, and Francia Sirpi” indigenous communities of the Miskitu people of Wangki Twi-Tasba Raya, Nicaragua](#), October 14, 2015.

members of the indigenous communities of Santa Fe, Esperanza Río Coco, San Jerónimo, Polo Paiwas, Klisnak of the Miskitu indigenous territory Wanki Li Aubra and Wiwinak of the Miskitu Li Lamni Tasbaika Kum indigenous territory.³ On August 8, 2016, the precautionary measures were further extended to members of the Naranjal and Cocal indigenous communities of the Wangki Li Aubra Indigenous Territory. The precautionary measures were also extended to identified members of the CEJUDHCAN⁴ organization. The inhabitants of the following communities continue to be protected by precautionary measures: (1) Naranjal, (2) Cocal, and (3) Polo Paiwas.

5. Having identified specific situations presenting an extreme risk for beneficiaries of precautionary measures, the IACHR requested provisional measures before the Inter-American Court in 2016, 2017, 2018, 2019, and 2021. Upon analyzing compliance with the requirements of Article 63(2) of the American Convention, the Inter-American Court granted and extended provisional measures in the “Matter of Members of the Miskitu Indigenous Peoples of the North Caribbean Coast Region.” To date, the inhabitants of the following communities are protected by provisional measures: (1) Klisnak, (2) Wisconsin, (3) Wiwinak, (4) San Jerónimo, (5) Francia Sirpi, (6) Esperanza Río Coco, (7) Esperanza Río Wawa, (8) Santa Clara, and (9) Santa Fe.⁵ Moreover, Lottie Cunningham Wrem and José Medrano Coleman are also beneficiaries of provisional measures, they are members of CEJUDHCAN and act as representatives in both the precautionary measures and the provisional measures.

III. SUMMARY OF FACTS AND ARGUMENTS PROVIDED BY THE PARTIES

1. Information alleged by the representatives

6. The inhabitants of the Musawas, Suniwas and Wilú indigenous communities belong to the Mayangna Sauni As Territory,⁶ in the North Caribbean Coast Autonomous Region of Nicaragua (RACCN). This territory is located to the southwest of the Li Lamni Tasbaika Kum Territory, to which the Wiwinak community belongs (whose inhabitants have been beneficiaries of provisional measures since 2016); and to the south of the Wanki Li Aubra Territory (to which the inhabitants of the indigenous communities Polo Paiwas, Cocal, and Naranjal belong, which are beneficiaries of precautionary measures). The representatives indicated that they had difficulties in documenting the information on the field due to the pandemic, as well as the location and the tension experienced in the communities, which limited them from submitting the information more rapidly.

7. In the Caribbean Coast of Nicaragua there are nine Mayangna indigenous territories, eight in the North Caribbean Autonomous Region (RACCN) and one in the South Caribbean Autonomous Region (RACCS),⁷ which include 78 communities that are mostly settled on the riverbanks of the largest rivers of the Caribbean Coast: Waspuk, Wawa, Uliwas or headwaters of Prinzapolka, Umrawás, Walakwás or Lakus, Bam-bana, Amak-Bocay. These communities have a coordinating body called Nation Sumu-Mayangna Government (*Gobierno de la Nación Sumu-Mayangna*). Depending on sources, the Sumu-Mayangna population could be around 20,000 people. Most of the Mayangna population is concentrated in the so-called “mining triangle” (*triángulo minero*) of the Bosawas Biosphere Reserve,

³ IACHR, [Resolution No. 2/16, PM 505-15, Miskitu Indigenous People of Wangki Twi-Tasba Raya](#), Nicaragua, January 16, 2016.

⁴ IACHR, [Resolution No. 44/16, PM 505-15, Miskitu Indigenous People of Wangki Twi-Tasba Raya, Nicaragua](#), August 8, 2016.

⁵ See the latest order of the Inter-American Court on the matter: I/A Court H.R. [Matter of Members of the Miskitu Indigenous Peoples of the North Caribbean Coast Region regarding Nicaragua](#). Extension of Provisional Measures. Order of the Inter-American Court of Human Rights of October 14, 2021 [only in Spanish].

⁶ According to the representatives, the communities that make up the Mayangna Sauni As territory are 16: (1) Pisbawas, (2) Wingpulu, (3) Suniwas, (4) Sabawas, (5) Bilwas, (6) Kibusna, (7) Kauhmakwas, (8) Panyawas, (9) Nazareth, (10) Musawas, (11) Padiwas, (12) Alal, (13) Betlehem, (14) Wilú, (15) Tuybankana and (16) Sakalwas

⁷ The representatives referred to: 1) Mayangna Sauni As (Musawas, Bonanza, RACCN); 2) Mayangna Sauni Bu (Amak, San José de Bocay, RACCN); 3) Mayangna Sauni Bas (Sikilta, Siuna, RACCN); 4) Mayangna Sauni Arungka (Ispayul Ilna, Bonanza, RACCN); 5) Mayangna Sauni Tuahka (Wasakin, Rosita, RACCN); 6) Mayangna Sauni Awastingni (Awastingni, Waspan, RACCN); 7) Mayangna Sauni Umra (Umra, Waspan, RACCN); 8) Mayangna Sauni Walakwas (Walakwas, San José de Bocay, Jinotega), and 9) Mayangna Sauni Karawala (Karawala, La Desembocadura de Río Grande, RACCS).

which is composed of three territories: Mayangna Sauni Bas, Mayangna Sauni Bu, and Mayangna Sauni As. The Reserve is also shared with Miskito communities.⁸ In 1991, Nicaragua declared Bosawás a protected area; and in 1997, Bosawás was declared a biosphere reserve by UNESCO.

8. The representatives referred to the existence of increasing levels of invasion by settlers in the Bosawás Reserve, particularly since 2010, as well as a process of environmental degradation in the area.⁹ It was indicated that between 2011 and 2014 more than 600 families of settlers were reported to have entered the area. It was also reported that in 2015, the population of settlers went from 600 people in 2010, to 885 people in July 2015. In 2014, the Indigenous Territorial Government (*Gobierno Territorial Indígena*- GTI) of the Mayangna Sauni As Territory –to which the inhabitants of the communities identified in the request for extension of precautionary measures belong– estimated that, by then, the settlers had destroyed 40% of the reserve. Despite requests to the central government for help in evicting the invaders, no response was reportedly received. The representatives indicated that since 2010 the State has been keeping a documented investigation of 339 cases of invasion and illegal titling of land by settlers in the Mayangna Sauni As and Mayangna Sauni Bas indigenous territories, in the Bosawás reserve. Each case is said to have been duly documented by the territorial governments of the area and reported to the then chief of the Police of the Mining Triangle, but the representatives reportedly did not know the reasons why the complaints were not processed.¹⁰

9. With the Law of the Communal Property Regime of the Indigenous Peoples and Ethnic Communities of the Autonomous Regions of the Atlantic Coast of Nicaragua and of the Bocay, Coco, Indio, and Maíz rivers (“Law No. 445”) in 2003, the process of demarcation and titling of the territories of the Caribbean Coast of Nicaragua began. In 2005, the leaders of the Mayangna Sauni As Territory were given the collective property title for these lands. To date, the implementation of the last phase of the process, regarding land titling remains pending, which has generated a growing conflict between Mayangna and Miskitu indigenous inhabitants and settlers, with several violent demonstrations.

10. According to the GTI Mayangna Sauni As, the invasion of settlers in their territory began in 2009 and increased rapidly in 2015 in several communities, including the community of Wilú. In February 2013, the Mayangna territorial governments reportedly requested the State to decree a state of emergency in the Mayangna communities and specifically in the Bosawás Reserve. In 2014, the president of the Mayangna Indigenous Nation considered that the invasion had become violent and stark. In 2017, the presidents of the indigenous territorial governments made public their concern

⁸ According to the representatives, together they maintain many of their traditional forms of comprehensive and sustainable management of ecosystems. The Miskitos live mainly on the banks of the Coco River; while the Mayagna live in the central zone of the reserve and the banks of some rivers, such as Waspuk and Bocay.

⁹ According to the representatives, in the 80’s, 90’s, and 2000 mestizo populations from the central and northern areas of Nicaragua entered the Bosawás Reserve with the aim of taking over the territory. The first settlements were related to the civil wars of the 1980s, as this area attracted the attention of many poor farmers of the country, loggers, ranchers, and many war veterans. Moreover, the lands near what is now the Bosawás Biosphere Reserve were offered to war veterans for settlement and agriculture.

According to the representatives, the Mayangna and Miskita communities have property regimes and land use patterns that differ significantly from those of the settlers. The indigenous peoples in Bosawás manage their lands under a collective domain, while the settlers manage it under the figure of individual private property. The representatives indicated that the Mayagna customary law regarding the use of natural resources, as well as the sustainable exploitation of fish and deer, are deeply rooted in their indigenous worldview and their relationship of respect with the natural world, in contrast to the over-exploitation of resources and the irreversible impact that settlers usually cause with their agricultural practices and cattle grazing.

¹⁰ The information available indicates that the complaints include cases of invasion and illegal titling of indigenous communal territory of 2009 and 2010. In October 2009, 284 complaints of invasions in Mayangna Sauni Bas territory were filed with the Siuna municipal police station. And in September 2010, 55 complaints of invasion of settlers in Mayangna Sauni As territory were filed in the offices of the Police station of the municipality of Bonanza. According to the press, the documentation reveals the legal situation of mestizo families in the indigenous territories, and shows that 260 of the settlers, duly identified, did not have documents of the property that they occupied. In 33 of the cases there was a deed from a notary, in seven documents of the agricultural reform, two of the settlers had only minutes, one a supplementary document, and the remaining 11 settlers did not present any document with which to support the ownership of the property in indigenous territory. In total, it was reported that 1,794 members of settler families invaded indigenous properties in the Bosawás area.

about the entry of more settlers from the Mayangna Sauni As territory in their advance towards the core of the Bosawás reserve, going so far as to announce the issuance of an emergency decree. In November 2017, a group of settlers who were usurping indigenous lands from the Mayangna Sauni As territory was located in the Wilú community sector. On that occasion, eight of the settlers were able to be detained and identified. The situation forced the GTI Mayangna Sauni As to declare a state of emergency in the 19 communities that make up their territory. As indicated, between April 2018 and January 2021, the invasion of settlers in Miskitus and Mayangna indigenous territories has left a balance of 17 indigenous people killed, 31 injured (including beatings and sexual violence), 10 missing persons, 53 new displaced families, and 37 burned or destroyed properties.

11. In March 2019, the invasion extended to the place known as “Masiwas” located on the communal property of Suniwas and Saubi. Although the indigenous authorities succeeded in the peaceful eviction of 65 settler families, two months later they returned to the place along with other settler families, adding a total of 120 in the communal properties of Suniwas, Wilú, and other communities of the Mayangna Sauni As territory. These settler families came forward heavily armed with 22 caliber rifles; 12, 16, and 20 caliber shotguns; 9mm, 25, 32, 38 and 357 caliber pistols and revolvers, AK war weapons, and hand grenade bombs. The increased invasion prompted the territorial authorities to issue a new emergency decree, requiring the state authorities to take immediate action to solve the crisis they were facing. In recent years, the greatest tension has been concentrated in the communities of Alal, Wasakin, as well as in the 3 communities: Suniwas, Musawas, and Wilú.

12. The representatives referred to alleged events that occurred between 2013 and 2021:

- On April 25, 2013, Elías Charlie Taylor was killed by settlers in the Bosawás Reserve, while patrolling his territory. He was an indigenous leader of the Musawas community who worked as a forest ranger for the Ministry of the Environment and Natural Resources in the Bosawás Reserve. He had previously received death threats from settlers because of his work and was subsequently killed for drawing the attention of a group of settlers who were cutting down trees in the Zulun area.
- On December 16, 2017, around 20 armed settlers arrived with the purpose of taking over the Wilú community and settling there. In the same act, the settlers kidnapped a teacher, who suggested them to establish a dialogue with the community members. Since there were only women in the community while the men were working on their plots, the settlers decided to go to the community school. Along the way they opened fire on the community rangers they encountered on the road. This event forced the indigenous inhabitants to remain in forced displacement in the community of Musawas, taking refuge in a school for 3 months.
- In January 2020, an armed attack was carried out by settlers in the Alal community, located south of the Wilú community and northeast of the Suniwas community. The attack involved approximately 80 armed settlers and resulted in burned houses, 4 people killed, 2 people injured and forced several people to travel for several days in fear of being killed. Upon returning, the community found 13 burned houses and looted survival goods, which has seriously affected the 79 families that make up the community. The act was attributed to a criminal gang known as the “Kukalón gang,” led by a person identified as Isabel Meneses Padilla and known as “Chabelo” or “Chavelo.” One of the gang members was arrested in February 2020, for the crimes of murder, serious injuries, arson, and illegal possession of weapons against the residents of the Alal community. He was reportedly released during the first week of June 2020.
- On November 5, 2020, N.M., a native of the Musawas community and a leader against gold mining operations and illegal loggers, was allegedly threatened with death by settlers during a meeting if he did not give up his land so that it could be occupied for mining.
- On November 13, 2020, Mr. Macario and four members of Sauni As went to bring food and provisions to members of other communities who were guarding the communal territories, which is a common practice of the Mayangna communities of Musawas, Wilú, and Suniwas, among others, to prevent new illegal occupations by settlers. The following day, November 14, 2020, the activist and four other members of the community were attacked by six settlers with firearms. Mr. NM lost his life in the incident and his body was not recovered until the following day.

- On January 22, 2021, three indigenous forest rangers were attacked by armed settlers near the communities of Wilú and Musawas. As a result of the attack, 60-year-old D.C.F., 47-year-old P.S., and 44-year-old C.S. were injured. The latter was taken in delicate condition to Bonanza hospital. The incident occurred when a group of 30 Mayagna indigenous people were guarding the surroundings of the Wilú community. It was alleged that they were attacked by a group of more than 60 heavily armed settlers, including pistols, shotguns, and 22-caliber rifles.

13. In particular, in 2021 there were allegations of a massacre and an armed attack on inhabitants of the area:

- *"Massacre" on Kiwakumbaih hill*

14. On August 23, 2021, invading settlers massacred at least 11 Miskito and Mayangna indigenous inhabitants in the Mayangna Sauni As indigenous territory. The incident took place on the Kiwakumbaih hill, located 10 kilometers northeast of Musawas and which is commonly used by the different communities that make up the territory, as well as by inhabitants of other Miskito communities who are currently living in a situation of forced displacement. Traditionally, the hill has been used for subsistence activities such as hunting, fishing, canoe building and, recently, artisanal mining.

15. According to what was reported by the representatives, at least 5 of the inhabitants killed belonged to Miskito communities, whose residents are beneficiaries of provisional measures ordered by the Inter-American Court. From the Esperanza Rio Wawa community of the Wangki Twi Tasba Raya territory, 24-year-old J.L.P. was murdered; while from the Wiwinak community of the Li Lamni Tasbaika Kum territory, the brothers S.G.E. and B.G.E., 32 and 41 years old respectively, young J.W.S. and young K.J.G., who was repeatedly raped prior to her death, were murdered. According to the available information, the victims of the massacre were allegedly tortured, including K.J.G., who was sexually abused and also had a leg mutilated. By September 2021, the parents of the above-mentioned individuals were still seeking help to reach the location where their children's remains were found, in order to take them to their community for burial.

16. In addition to Miskitus, the massacre affected Mayangna inhabitants, including A.P.M. from the Suniwas community and A.J.H.P. from the Musawas community. In the same event, Ms. B.C.L., wife of P.M. from the Suniwas community and survivor of the massacre, was sexually abused by the attackers, in addition to being forced to witness the murder of her husband. Days before the massacre, on August 11, 2021, P.M. appeared with his wife B.C.L. at the liaison office of the GTI Mayangna Sauni As to report on the situation they were facing in the Kiwakumbaih sector of the Mayangna Sauni As territory. In response, the GTI requested on the same day the intervention of the Bonanza National Police to accompany the victims in the face of threats and the dispossession of their property by settlers.

17. According to the newspaper *Confidencial*, referred to by the representatives, a child accompanying one of the victims was forced by the settlers to witness the massacre. The boy explained to his relatives that he was forced to watch his stepfather being murdered and tortured: "He told us that his father was tied up like a crucified Christ, that they shot him in the abdomen, that he was beaten and tortured to death." He added that, prior to the attackers completing the murders, the child saw the subjects forcing the indigenous to hand over the gold they had washed. It was indicated: "They took a lot of gold from each of them and then they were killed, beaten, cut or shot." The little boy told his relatives that the attack lasted at least two hours. One of the settlers released him around five in the afternoon and told him that "now that he had seen the film (the murders), to get out of their sight." The boy purportedly walked about seven hours to reach his house. According to the representatives, multiple sources indicate that the massacre was perpetrated by a gang led by a man identified as Isabel Padilla (Chabelo or Chavelo) – also known as Isabel Meneses. According to the press, the message of the perpetrators was reportedly: "No Mayangna should come here because they will be killed."

18. Ms. F.H.P., sister of one of the murdered persons, filed a formal complaint against the settlers before the National Police of the Municipality of Bonanza, on August 30, 2021. However, the officer who took the complaint did not give her a copy of it. In the afternoon of the same day, National Police officers who arrived from Managua to Bonanza called her and took her to an office where she was allegedly subjected to intimidation to file a complaint against other Mayangna indigenous people, pointing them out as perpetrators of the massacre. She allegedly refused because she identified *mestizo* members of the criminal gang called “Chavelo Meneses and Rodolfo Aguinaga” as responsible for the crime. Moreover, indigenous community members and relatives of the direct victims made a public complaint that was taken up by multiple media outlets, emphasizing that the gang led by a man identified as Isabel Padilla (Chabelo or Chavelo) – also known as Isabel Meneses – as the person responsible for the massacre.

19. The representatives questioned the investigative actions carried out. On September 8, 2021, the National Police presented the brothers A.C.L. and I.C.L. as intellectual and material authors of the massacre. The foregoing, even though both are brothers of one of the women victims of sexual violence, Ms. B.C.L., and brothers-in-law of Mr. A.P.M., who eleven days before the massacre had denounced the threats received by settlers, which were related to attempts to dispossess his property at the “*guiricería*” point (the place where his artisanal mining work was carried out). The representatives stressed that, in April 2016, it was precisely I.C.L., in his capacity as trustee of the Suniwas community, who denounced the ongoing invasion by settlers as the main problem in his community.

- *Armed assault on Kimakwas hill*

20. On October 4, 2021, settlers invaded Mayangna indigenous communities on the Kimakwas hill (known as the “black tiger”), also located in the Mayangna Sauni As territory. According to the information provided by the representatives, the indigenous M.J.M.S., R.C.S., J.C.S., E.S.F. and P.S.F. from the Wilú community, as well as the community member D.C., originally from the Awastingni community but residing in the Wilú community, were carrying out artisanal mining work in Cerro Kimakwas. In the afternoon, community member R.C.S. saw several armed men approaching and proceeded to alert the other community members of their presence, telling them: “Run, run, the settlers are coming to kill us.” Upon hearing this, the indigenous community members fled the area to hide in the depths of the forest. However, M.J.M.S. was captured by armed and hooded individuals.

21. Later, the indigenous people of the Wilú community returned to the place of the attack and found the lifeless body of M.J.M.S., a short distance from the tunnel of the artisanal mine on Kimakwas hill. The victim was barbarously murdered as his throat had been slit, one of his eyes was missing, his body had multiple bruises, and one of his legs was broken. The community members placed the victim’s body in a hammock and took him to the Wilú community to bury his remains.

22. The Mayangna Sauni As GTI spoke publicly on October 8, 2021, requesting the Presidency of the Republic to establish an instance of frank and direct dialogue in order to immediately initiate the land titling processes of their territory, as well as a request to the security institutions to dismantle and bring to justice those who continue to attack them. As the statement indicates, the purpose of the pronouncement was to enable the “relevant measures to be taken with urgent attention to safeguard the life and territory of the community members of the Mayangna Indigenous Peoples of the Mayangna Sauni As Territory.” In contrast, through press release No. 283-2021 the National Police stated, on the same date, that the death of M.J.M.S. was due to quarrels, the police also asserted that it had not taken up the complaints of the indigenous inhabitants about the participation of settlers.

2. Response from the State

23. The State indicated that it maintains its position of “non-recognition” of the Center for Justice and Human Rights of the Atlantic Coast of Nicaragua-CEJUDHCAN. According to the State, this center

calls itself the representative of the indigenous communities, whose legitimate representation corresponds to the elected authorities in the Communal and Territorial Assemblies, in accordance with Law No. 445 “Law on the Regime of Communal Property of Indigenous Peoples and Ethnic Communities of the Autonomous Regions of the Atlantic Coast of Nicaragua and of the Bocay, Coco, Indio, and Maíz Rivers.” The State also reaffirmed its rejection and condemnation of the “impertinence” of the Commission in continuing a biased campaign directed by sectors opposed to the government in order to continue its attacks in the context of the “media struggle” against Nicaragua at the international level, with the aim of maintaining “the domination of the United States of America over the peoples that submit to it.” Finally, the State indicated that the Commission “is a parallel or supranational body to those established in Nicaragua’s domestic law,” and demanded the Commission to “comply with its international obligation to respect its own regulations, treaties, and the principles of international law.”

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

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

25. 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.¹¹ Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.¹² To do this, the IACHR shall 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.¹³ 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.¹⁴ In the process of reaching a decision, in accordance with Article 25(2) of the Rules of Procedure, the Commission recalls that:

¹¹ 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.

¹² 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 regarding Guatemala](#). Provisional Measures. 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].

¹³ 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].

¹⁴ 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”](#)

- 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.

26. In analyzing these requirements, the Commission reiterates that the facts supporting a request for precautionary measures need not be proven beyond doubt. However, a minimum of detail and information is required to determine, from a *prima facie* standard of review, whether a serious and urgent situation exists.¹⁵

27. To the extent that the representatives have requested the “extension” of these precautionary measures, the Commission recalls that one of the requirements is that the alleged facts have a “factual connection” with the events that called for the initial adoption of the precautionary measures.¹⁶ In this regard, the Commission observes that this request addresses the violence experienced by inhabitants in three identified communities of the Mayangna Sauni As Territory on the North Caribbean Coast of Nicaragua (see *supra* para. 6). Such territory borders Indigenous Territories where Miskitu inhabitants from communities live, who are beneficiaries of precautionary measures, such as Polo Paiwas, Cocal, and Naranjal of the Li Lamni Tasbaika Kum Territory; and beneficiaries of provisional measures, such as Wiwinak of the Wanki Li Aubra Territory (see *supra* para. 6), in the same region of Nicaragua. The Commission even observes that there are geographical spaces shared by the Miskitu People and the Mayagna People in the recognized Bosawás Biosphere Reserve of Nicaragua (see *supra* para. 7.)

28. The Commission also understands that the alleged risk factors, as well as the context of this request, are similar to those assessed by both the IACHR and the Inter-American Court while the precautionary measures and provisional measures have been in force. Indeed, the Commission notes that the indigenous inhabitants of the Wangki Twi -Tasba Raya, Li Lamni Tasbaika Kum, and Wanki Li Aubra territories, to which the indigenous communities belong with protection measures ordered by the bodies of the inter-American system of human rights (IASHR), as a whole, have risk factors in common linked to the presence of settlers in their territories and in the framework of land titling processes that are still pending (see *supra* para. 9). The Commission then observes, whether because they are indigenous inhabitants, because of the geographical location of the communities, or the alleged risk factors and context, that the requirement of “factual connection” is met.

29. When analyzing if the procedural requirements are met, the Commission takes into account the context in which the alleged facts are framed in the terms of Article 25, subparagraph 6, of the Rules of Procedure. The aforementioned subparagraph indicates that “in considering the request [for precautionary measures], the Commission shall take into account its context.” In this regard, the Commission emphasizes that the Inter-American Court has had the opportunity to assess the context in which the alleged facts are framed, particularly regarding the situation of the North Caribbean Coast in the face of the presence of third parties or “settlers” in indigenous territories. Since September 1, 2016, the date on which the Inter-American Court granted the first provisional measures to protect

[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.

¹⁵ 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 regarding Nicaragua. 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.

¹⁶ I/A Court H.R., Case of Fernández Ortega *et al.* v. Mexico. Provisional Measures. Order of the Inter-American Court of Human Rights of November 23, 2010, considerandum 11.

the members of the Miskitu Indigenous People who live in the communities of Klisnak, Wisconsin, Wiwinak, San Jerónimo, and Francia Sirpi,¹⁷ the Court “took note of the context of violence in the North Caribbean Coast region of Nicaragua, as well as the worsening of the situation from 2015 to date.”¹⁸ Moreover, the Inter-American Court noted the “alleged kidnappings, murders, sexual assaults, threats, burning of houses, robberies, ambushes, and attacks on inhabitants, and, as a result, the abandonment of many communities by their inhabitants.”¹⁹ In the last order of the Inter-American Court of October 14, 2021, whereby provisional measures were extended in favor of inhabitants of the Miskitu Community of Santa Fe, the Court assessed the ongoing context by indicating that:

“[...] the serious events reported have a factual connection with the provisional measures granted on September 1 and November 23, 2016, by sharing a common source of risk, resulting from the context of violence in the North Caribbean Coast region of Nicaragua and the existing conflict with third parties or “settlers” in the framework of the claim for the ancestral territories of the Miskitu indigenous people, as well as the land titling processes that take place in that area.”²⁰

30. The Commission observes that the information provided by the representatives in their request is in line with the assessment by the Inter-American Court. In this regard, the representatives reported that, even though the indigenous peoples have title deeds to their indigenous territories, the land titling stage is still pending (see *supra* para. 9). It was stressed that this situation was going to generate conflicts between the inhabitants of the Mayangna and Miskitu Peoples with the settlers, which reportedly led to acts of violence over time (see *supra* para. 9). The foregoing is particularly relevant, considering that it has been alleged that the number of third parties or “settlers” in indigenous territories has considerably increased over time (see *supra* para. 8).

31. In this regard, the Commission notes that it was alleged that the situation related to third parties or “settlers” has become violent, with reports of murders, injuries due to beatings and sexual violence, disappearances, displaced persons, and property destruction as of January 2021 in detriment of indigenous people in the area (see *supra* para. 10). In the face of events of this nature, the representatives indicated that there was no information on the processing of the complaints filed or any response to the requested support (see *supra* para. 8).

32. Regarding the requirement of *seriousness*, the Commission considers that it has been met. At the time of making such determination, the Commission observes that the representatives have alleged particularly serious events that have occurred over time, at least since 2013, and recently at the end of 2021, which account for a situation of violence that allegedly continues over time. Among the alleged facts that show the seriousness of the situation experienced by the inhabitants of the three identified Mayangna communities, the Commission stresses the following specific events and submissions furnished by the representatives:

- The murder of a member of the Musawas community in 2013 at the hands of “settlers,” who had previously threatened him (see *supra* para. 12); and in 2017 around 20 armed “settlers” allegedly arrived in the Wilú community with the aim of settling there, for which they reportedly had: (i) kidnapped a teacher, (ii) shot members of the community who were acting as “forest keepers,” and (iii) caused the displacement of settlers from Wilú to Musawas for 3 months in search of refuge;

¹⁷ I/A Court H.R., Matter of Inhabitants of the communities of the Miskitu indigenous people of the North Caribbean Coast Region of Nicaragua. Request for Provisional Measures. Order of the Inter-American Court of Human Rights of September 1, 2016, first operative paragraph.

¹⁸ *Ibid.* Considerandum 19.

¹⁹ *Ibid.*

²⁰ I/A Court H.R. [Matter of Members of the Miskitu Indigenous Peoples of the North Caribbean Coast Region regarding Nicaragua](#). Extension of Provisional Measures. Order of the Inter-American Court of Human Rights of October 14, 2021 [only in Spanish].

- The largest number of heavily armed third parties or “settlers” has concentrated, since 2019, among other communities, in those with respect to which the extension of precautionary measures is requested: Suniwas, Musawas and Wilú (see *supra* para. 11);
- In 2020, there were armed attacks against members of the Sauni As Territory, which allegedly led to the death of a member of the Musawas community (see *supra* para. 12);
- In 2021, an armed attack was reported, with pistols, shotguns, and 22 caliber rifles, attributed to more than 60 “settlers” in the vicinity of Wilú and Musawas, which resulted in Mayagna injuries. It was indicated that the attack occurred when a group of 30 Mayagna indigenous people were safeguarding the surroundings of the Wilú community;
- More recently, it was reported that in August 2021 armed “settlers” violently attacked and murdered Miskitus and Mayagnas, including women and children, in an area common to both towns, and near the Musawas community (see *supra* paras. 14 and 17). In addition to the impact on the beneficiaries of provisional measures in the Esperanza Rio Wawa and Wiwinak communities (see *supra* para. 15), what was described as a “massacre” had an impact on members of the Suniwas and Musawas Community. One of the survivors of the Suniwas Community indicated that she was a victim of sexual abuse by the “settlers” and was forced to watch the murder of her husband;
- In October 2021, inhabitants of the Wilú community were attacked by armed “settlers,” one of whom was “brutally” murdered. According to the representatives, after finding the body, it was identified that his throat had been slashed, one of his eyes was missing, the body had multiple bruise marks, and his leg was broken as well.

33. The Commission expresses its extreme concern about the serious and intense violence that is shown by the facts alleged by the representatives in the context of violence assessed by the Inter-American Court in provisional measures in force. The Commission observes that the third parties or “settlers” are reportedly heavily armed and seek to seize indigenous lands that have been in a land titling process for years. The factual elements indicate that over time not only have there been threats against indigenous people who are the proposed beneficiaries, but also that they have materialized over time. Only in August and October 2021, the Commission notes that there were violent events against Mayagnas, including violent deaths. The Commission also observes that, despite the domestic complaints, the representatives have raised questions about the lack of investigation on the acts of violence. Moreover, it was alleged that the national authorities have not investigated a criminal gang that is allegedly present in the area, which is made up of “*mestizos*,” who were reportedly identified by one of the relatives of the victims of the recent violence (see *supra* paras. 18 and 19).

34. The Commission considers it important to recall that indigenous peoples have a special and intrinsic relationship with the territory where they live, which can be manifested in many ways depending on the people in question and its specific circumstances.²¹ The Inter-American Court has indicated that “[i]ndigenous people, by virtue of their very existence, have the right to live freely in their own territories; [since] the close relationship that indigenous people maintain with the land must be acknowledged and understood as the fundamental basis of their culture, spiritual life, wholeness, and economic survival.”²² In addition, the Commission considers that the lack of free access to many areas of the territory of an indigenous people can prevent the use and enjoyment of their territory in accordance with their culture,²³ as well as the effective control over it.²⁴ This can expose them to precarious living conditions or greater vulnerability, by not being able to carry out their

²¹ I/A Court H.R. Case of Pueblo Indígena Kichwa de Sarayaku v. Ecuador. Merits and reparations. Judgment of June 27, 2012. Series C No. 245, para. 148.

²² I/A Court H.R. Case of the Mayagna (Sumo) Awá Tingni Community v. Nicaragua. Merits, Reparations, and Costs. Judgment of August 31, 2001. Series C No. 79, para. 149.

²³ I/A Court H.R. Case of the Afro-descendant communities displaced from the Cacarica River Basin (Operation Génesis) v. Colombia. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 20, 2013. Series C No. 270, para. 354.

²⁴ I/A Court H.R. Case of the Garífuna Community of Punta Piedra and its members v. Honduras. Preliminary Objections, Merits, Reparations, and Costs. Judgment of October 8, 2015. Series C No. 304, para. 233; and Inter-American Court. Case of the Saramaka People v. Suriname. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 28, 2007. Series C No. 172, paras. 115 and 194(c).

physical and cultural livelihood activities, as well as subjecting them to situations of “extreme vulnerability.”²⁵

35. After requesting information from the State, the Commission notes that the alleged facts were not questioned, and no elements were presented in order to identify the actions taken by the national authorities in light of the seriousness of the alleged situation. In this regard, the State limited itself to questioning the CEJUDHCAN representation and the IACHR (see *supra* para. 23), based on previously raised objections, throughout the time both the precautionary measures and the provisional measures before the Inter-American Court have been in force.

36. Regarding the questioning of representativeness, the Commission recalls that Article 25, subparagraph 6(c), establishes that “[i]n considering the request [for precautionary measures], the Commission shall take into account [...] the consent of the potential beneficiaries when the request is filed by a third party unless the absence of consent is justified.” In this regard, the Commission notes that the request for extension of precautionary measures was filed by organizations that provided communications from the authorities and inhabitants of the identified Mayangna communities, whereby they expressly requested support in the request for protection measures in their favor (see *supra* footnote 1).

37. Regarding the objections to the Commission’s actions, Article 25 of the IACHR Rules of Procedure establishes that it shall grant precautionary measures upon verifying compliance with the three procedural requirements. In this sense, the analysis is limited to the verification of such requirements without any considerations on the merits. Moreover, understanding the State’s objections regarding the principle of complementarity of the inter-American system, the Commission considers it pertinent to recall that, in effect, the State, through its domestic authorities, is primarily responsible for protecting the human rights of the persons under its jurisdiction; in this regard, the nature of international jurisdiction is “auxiliary” or “complementary,” without replacing it.²⁶ However, the Commission considers that invoking the principle of complementarity to support that the adoption of precautionary measures is unwarranted requires that the State concerned satisfy the burden of proving that the applicants are no longer in the situation established in Article 25 of the Rules of Procedure, in the sense that the measures adopted by the State have had a substantive impact in reducing or mitigating the risk, in such a way that there no longer exists a situation that meets the requirements of seriousness and urgency that calls for international intervention to prevent irreparable harm.²⁷

38. In this matter, the Commission notes that the State did not submit any type of information on the measures adopted in this regard. The Commission observes that, according to the representatives, the alleged threatening events have been brought to the attention of the national authorities, such as the National Police (see *supra* paras. 16 and 19). However, the State has not submitted information indicating, for example, whether protection measures were adopted in favor of the proposed beneficiaries, or an explanation of the facts alleged by the representatives, particularly as regards the status of the investigations that have been initiated. Given that the State did not provide any information, the Commission does not have information from it that would allow to conclude that the alleged risk has diminished or is duly mitigated.

²⁵ I/A Court H.R. Case of the Afro-descendant communities displaced from the Cacarica River Basin (Operation Génesis) v. Colombia. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 20, 2013. Series C No. 270, para. 354.

²⁶ See, *inter alia*: IACHR, *Francisco Javier Barraza Gómez regarding Mexico* (PM-209-14), Resolution of August 15, 2017, para. 22. Available [in Spanish] at <http://www.oas.org/es/cidh/decisiones/cautelares.asp>; IACHR, *Paulina Mateo Chic regarding Guatemala* (PM 782-17), Resolution of December 1, 2017, para. 34; available [in Spanish] at <http://www.oas.org/es/cidh/decisiones/pdf/2017/49-17MC782-17-GU.pdf>; and IACHR, *Santiago Maldonado regarding Argentina* (PM 564-2017), Resolution of August 22, 2017, para. 16. Available [in Spanish] at <http://www.oas.org/es/cidh/decisiones/pdf/2017/32-17MC564-17-AR.pdf>

²⁷ *Ibid.*

39. Based on the foregoing, taking into account the specific characteristics of this matter, the Commission upholds that all the elements submitted by the representatives and not disproved by the State, from the *prima facie* standard applicable to the mechanism of precautionary measures, are sufficient to consider that the rights to life and integrity of the proposed beneficiaries are at risk.

40. Regarding the requirement of *urgency*, the Commission notes that it has been met given the imminent materialization of the possible impact on the life and integrity of the proposed beneficiaries. In this regard, the Commission takes into account that the facts presented are indicators of the need to adopt urgent measures to implement and strengthen through immediate measures, both the necessary individual protection details, and those of a collective nature in favor of the proposed beneficiaries, as well as adopting the corresponding consultation measures. The foregoing has the aim of preventing new threatening events from materializing, including fatal consequences, as it has been reported.

41. Regarding the requirement of *irreparable harm*, the Commission considers that it has been met, since the potential impact on the rights to life and personal integrity constitutes the maximum situation of irreparability.

V. BENEFICIARIES

42. The Commission declares as beneficiaries the inhabitants of the Musawas, Suniwas, and Wilú communities of the Mayangna Sauni As Territory, in the North Caribbean Coast Autonomous Region of Nicaragua. The Commission finds that the inhabitants can be identified in the terms of Article 25, subparagraphs 3, 4, and 6(b), of the Rules of Procedure.

VI. DECISION

43. In view of the aforementioned background, the IACHR considers that this matter meets *prima facie* the requirements of seriousness, urgency, and irreparable harm set forth in Article 25 of the Rules of Procedure. Consequently, it requests that Nicaragua:

- a) adopt the necessary and culturally appropriate measures to safeguard the life and personal integrity of the indigenous people of the Musawas, Suniwas, and Wilú Communities of the Mayangna Sauni As Territory in the North Caribbean Coast Autonomous Region;
- b) consult and agree upon the measures to be implemented with the beneficiaries and their representatives; and
- c) report on the actions taken to investigate the alleged facts that led to the adoption of these precautionary measures, so as to prevent such events from reoccurring.

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

45. The Commission emphasizes that, pursuant to Article 25(8) of the Commission's Rules of Procedure, the granting of precautionary measures and their adoption by the State shall not constitute a prejudgment on the possible violation of any right protected by the American Convention or other applicable instruments.

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

47. Approved on February 13, 2022, by Julissa Mantilla Falcón, President; Margarette May Macaulay, First Vice-President; Esmeralda Arosemena de Troitiño, Second Vice-President; Joel Hernández García; Edgar Stuardo Ralón Orellana; Roberta Clarke; and Carlos Bernal Pulido, members of the IACHR.

Maria Claudia Pulido
Assistant Executive Secretary