

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 80/2020**

Precautionary Measure No. 590-20

Juana de la Rosa Lesage Guadamuz *et al.* regarding Nicaragua
October 28, 2020

I. INTRODUCTION

1. On June 23, 2020, the Inter-American Commission on Human Rights (“the Inter-American Commission”, “the Commission” or “the IACHR”) received a request for precautionary measures presented by the *Comisión Permanente de Derechos Humanos* and the *Colectivo de Derechos Humanos Nicaragua Nunca Más*¹ (“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 and personal integrity of Juana de la Rosa Lesage Guadamuz and Roberto José Esteban (“the proposed beneficiaries”). According to the request, the proposed beneficiaries are being subjected to harassment, threats, surveillance and incidents of violence by state and parastatal actors, allegedly as a result of their children’s participation in the protests that began across the country in April 2018.

2. Pursuant to Article 25(5) of the Rules of Procedure, the IACHR requested information from the State and the applicants on July 30 and September 10, 2020. To date, no response has been received from the State. For their part, the applicants submitted additional information on August 6 and 13, 2020.

3. After analyzing the submissions of fact and law presented by the applicants, the Commission considers that the information presented demonstrates *prima facie* that Juana de la Rosa Lesage Guadamuz and Roberto José Esteban are in a serious and urgent situation, as their rights to life and personal integrity are at risk of irreparable harm. Consequently, Nicaragua is requested to: (a) adopt the necessary measures to protect the rights to life and personal integrity of Juana de la Rosa Lesage Guadamuz and Roberto José Esteban. To this end, the State must ensure that its actors respect the life and personal integrity of the beneficiaries, as well as protect their rights in relation to acts of risk that are attributable to third parties, in accordance with the standards established by international human rights law; (b) agree upon the measures to be implemented with the beneficiaries and their representatives; and, (c) report on the actions taken in order to investigate the alleged incidents that led to the adoption of this resolution with the aim of preventing their reoccurrence.

II. CONTEXT

4. The Commission became aware of the protests held during the month of April 2018 in Nicaragua in rejection of the announcement of reforms to the country’s social security system, which occurred following a protest was held in response to a fire that took place in the Indio Maíz reserve.²

5. Between May 17 and 21 of the same year, the Commission conducted a visit to the country during which it gathered numerous testimonies about human rights violations committed during the protests. Subsequently, on June 21, 2018, the IACHR published a report on the critical state of human rights in Nicaragua, noting that, according to the figures released, “the State’s repressive action has resulted in at least 212 deaths as of June 19, 1,337 injuries and 507 persons deprived of their liberty as

¹ The *Comisión Permanente de Derechos Humanos* presented its request on June 23, while the *Colectivo de Derechos Humanos Nicaragua Nunca Más* on August 12. Following the respective consultations, the IACHR decided to accumulate the two requests.

² IACHR. Press Release No. 90/18. [IACHR Expresses Concern over Deaths in the Context of Nicaraguan Protests](#). April 24, 2018.

of June 6, and hundreds of persons at risk after being victims of attacks, harassment, threats, and other forms of intimidation.”³

6. The Special Follow-up Mechanism for Nicaragua (MESENI) was established to follow up on the recommendations issued in this report. MESENI remained in the country until the State suspended its presence on December 19, 2018.⁴ For its part, the Interdisciplinary Group of Independent Experts (GIEI) of Nicaragua issued a report analyzing the events that occurred between April 18 and May 30, 2018, thereby confirming the findings of the IACHR.⁵

7. During a presentation to the Permanent Council of the Organization of American States, the Commission shared the data collected by the MESENI, according to which, from April 2018 to January 10, 2019, 325 people were killed and more than 2000 were injured, 550 were detained and prosecuted, 300 health professionals were dismissed, and at least 144 students of the National Autonomous University of Nicaragua were expelled.⁶ The IACHR included Nicaragua in Chapter IV.B of its 2018 Annual Report, pursuant to the provisions established in its Rules of Procedure.⁷

8. Throughout 2019, the Commission continued to condemn the persistence of acts of persecution, urging the State to comply with its obligations.⁸ In June, the State passed a Law on Comprehensive Care for Victims and an Amnesty Law, which were criticized for not complying with international standards on truth, justice, reparations and guarantees of non-repetition.⁹ On September 6, 2019, the IACHR denounced the intensification of harassment against human rights defenders and persons who, despite having been released from prison, continued to be intimidated.¹⁰

9. On November 19, 2019, the Commission once again called attention to the ongoing acts of repression, observing that “[...] the closing of democratic spaces as a characteristic of the human rights crisis that persists in Nicaragua, has added a growing focus of State persecution on the families of persons deprived of their liberty in the context of the crisis, through surveillance and obstruction of their peaceful actions.”¹¹

10. The Commission subsequently included Nicaragua in Chapter IV. B of its 2019 Annual Report,¹² in which it noted that the serious human rights crisis in the country continued throughout 2019, due to the de facto establishment of a state of emergency characterized by the abusive use of public forces to

³ 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.

⁴ IACHR. Press Release No. 135/18. [IACHR Launches Special Monitoring Mechanism for Nicaragua \(MESENI\)](#). June 25, 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.

⁵ GIEI Nicaragua. [Report on the violent events that took place in Nicaragua between April 18th and May 30th](#). December 2018.

⁶ IACHR. Press Release No. 6/19. [CIDH 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.

⁷ IACHR. [2018 Annual Report, Chapter IV.B Nicaragua](#).

⁸ See in this regard: IACHR. Press Release No. 6/19. [CIDH 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.

⁹ 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.

¹⁰ 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.

¹¹ 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.

¹² IACHR. [2019 Annual Report, Chapter IV.B Nicaragua](#). OEA/Ser.L/V/II. Doc. 5. February 24, 2020.

repress dissident voices against the government, the raid, closure and censorship of media outlets, the imprisonment or exile of journalists and social leaders, the suspension of civil society organizations without guarantees of due process, and the interference of and control by the Executive Branch in other branches of government. The Commission further observed that the prolonged weakening of democratic institutions in Nicaragua has led to the perpetuation of the human rights crisis in the country, as well as to a situation of structural impunity for the commission of serious human rights violations.

11. Recently, the IACHR identified the consolidation of a fifth stage of state repression in Nicaragua, characterized by the intensification of acts of surveillance, harassment and selective repression against persons considered to be opponents of the government.¹³

12. As of July 31, 2020, the repressive actions of the State have resulted in 328 people being killed, 405 health professionals being dismissed, 150 students being expelled, 90 journalists and independent media workers being exiled, 86 people remain deprived of their liberty and 103,600 Nicaraguans have fled the country.¹⁴

III. SUMMARY OF FACTS AND ARGUMENTS

1. Information provided by the applicants

13. According to the information provided by the applicants, the children of the proposed beneficiaries, Harvin, Jean Carlos and Luis Miguel Esteban Lesage, were involved in the protests that began in the country in April 2018. As part of their protest, the Esteban Lesage brothers participated in marches in the department of Carazo, in addition to composing protest songs¹⁵ and performing in the central park of the municipality of Jinotepe. As a result, they were reportedly identified as opponents of the government.

14. On July 11, 2018, in the context of the “cleanup” operation in Nicaragua, the Esteban Lesage brothers were detained and later accused of “organized crime, in conjunction with the crimes of terrorism, obstruction of public services and regular kidnapping.”¹⁶ The case against them was filed in the First District Criminal Court of the District of Managua.

15. Following the detention of her children, Ms. Lesage Guadamuz reportedly received death threats from persons close to the government: “They were shouting at me and insulting me. They told me to thank their commander for not killing my children because they were criminals. They threatened me with weapons and many times attempted to attack me at the door of my house.”

16. The children of the proposed beneficiaries spent 11 months in prison until their release on May 20, 2019.¹⁷ The information provided in the request indicates that, following the release of their children, the proposed beneficiaries began to suffer acts of intimidation, surveillance, harassment and threats from police and parapolice officers, which consist of officers stationing themselves outside of

¹³ 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.

¹⁴ IACHR. MESENI Newsletter. [Situation of Human Rights in Nicaragua, July 2020](#) (available in Spanish); IACHR. Press Release No. 249/20. [The IACHR calls for the immediate cessation of acts of persecution against persons identified as opponents of the government and the reestablishment of democratic guarantees in Nicaragua](#). October 10, 2020 (available in Spanish).

¹⁵ La Jornada Nic. “[«I love my flag », The song dedicated to the Nicaraguan flag in protest of the Ortega regime](#).” September 12, 2019 (available in Spanish).

¹⁶ La Prensa. “[Three brothers jailed by the police in Jinotepe only for supporting, with their music, protests against the regime](#).” August 3, 2018 (available in Spanish).

¹⁷ Confidential. [“Political prisoners released will fight ‘until all are freed’](#).” May 21, 2019 (available in Spanish).

their home to intimidate them and government supporters spray painting their house with the word “*plomo* [lead],” for example. Given the constant sieges and threats, the proposed beneficiaries’ children were forced to flee the country.

17. On June 19, 2020, in the early hours of the morning, Ms. Lesage Guadamuz reportedly heard noises at the front door of her house. After these noises, a former officer of the Jinotepe Mayor’s Office allegedly ordered that shots be fired at the home, while shouting insults against the Esteban Lesage family. Thus, parastatal actors allegedly carried out five detonations against the home of the proposed beneficiaries.¹⁸ Some of the projectiles struck the walls and the main door of the house, while some of the remains of the projectiles embedded themselves in the structure of the building and some were found on the street. According to the applicants, the intention of the actors in generating these noises was to make the proposed beneficiaries come closer to the door of the house so that one of the shots would hit them. However, upon hearing the noises the proposed beneficiaries did not leave their room. In addition, Ms. Lesage Guadamuz was able to identify that the vehicle in which the actors transported themselves was the same one used to regularly monitor and harass them.

18. In this regard, the proposed beneficiaries filed a complaint with the National Police. Consequently, on the morning of June 19, two police officers came to the scene. When they asked the neighbours which house the shots had been fired against, the neighbours replied that it was the Lesage brothers’ house, to which one of the police officers replied “*Get on the motorcycle because we don’t get involved with those people.*” According to the applicants, to date, the National Police has not carried out any investigation into the matter.

19. Later, in the early morning of July 8, parastatal actors were reportedly parked in front of the proposed beneficiaries’ house. Mortars were fired into the air from the entrance of the house and some firearms were simultaneously detonated in the air. According to the proposed beneficiary: “the police and parastatal actors are cruel to the mothers who lost their children, making fun of the mothers who have children in exile and they give the impression that they are in charge and that they possess the weapons, that if we are not with them, they are going to fire bullets at us. We will be assaulted or will disappear.”

20. Later, on July 19, a protest was held in Jinotepe by supporters of the government, during which parastatal actors, while shouting insults, shot five rounds at the front door of the proposed beneficiaries’ house.

21. The applicants state that officers of the National Police constantly station themselves in front of the proposed beneficiaries’ home, intimidating them and watching over them.

2. Information provided by the State

22. The Commission requested information from the State on July 30 and September 10, 2020, but has not received a response to date.

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

23. The precautionary measures mechanism is part of the Commission’s functions of overseeing Member State compliance with the human rights obligations established in Article 106 of the Charter of

¹⁸ La Prensa. “[«They came with the intention of killing us,» denounces the couple Esteban Lesage and accuses the Ortega regime of the attack](#)” June 22, 2020 (available in Spanish); Stereo Romance. “[Parents of the Esteban Lesage brothers denounce to the CPDH that their house was shot at last week](#).” June 22, 2020 (available in Spanish).

the Organization of American States (“OAS”). These general functions are set forth in Article 41(b) of the American Convention on Human Rights, as well as in Article 18(b) of the Statute of the IACHR. Moreover, the precautionary measures mechanism is enshrined in Article 25 of the Rules of Procedure, by which the Commission grants precautionary measures in serious and urgent situations, where such measures are necessary to prevent irreparable harm.

24. 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, one being protective and the other being precautionary. Regarding their protective nature, these measures seek to avoid irreparable harm and to protect the exercise of human rights. With regards to their precautionary nature, these measures have the purpose of preserving legal situations while the bodies of the Inter-American System analyze a petition or case. Their objective 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 *effet utile* of the final decision. In this regard, precautionary or provisional measures allow the State concerned to comply with the final decision and if necessary, implement the ordered reparations. For such purposes, according to Article 25.2 of the Rules of Procedure, the Commission considers that:

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

25. When analyzing the requirements established in Article 25 of the Rules of Procedure, the Commission is only called upon to determine whether there is a serious and urgent situation of irreparable harm to the human rights of the proposed beneficiaries. The Commission reiterates that the facts supporting a request for precautionary measures need not be proven beyond doubt, rather the purpose of the assessment of the information provided should be to determine *prima facie* if a serious and urgent situation exists.¹⁹

26. The Commission considers that the requirement of seriousness has been met. When evaluating this requirement, the Commission takes into account the current context of Nicaragua, which has been confirmed by the Commission and which is being monitored by the MESENI, as well as the special situation of vulnerability of persons who have demonstrated against the government’s repressive actions.²⁰

27. Within this context, according to the information provided, the risk faced by the proposed beneficiaries is directly related to the fact that they are the parents of individuals who have been

¹⁹ See in this regard: I/A Court H.R. [Matter of Residents of the Communities of the Miskitu Indigenous People of the North Caribbean Coast Region with respect to Nicaragua](#). Extension of Provisional Measures. Order of the Inter-American Court of Human Rights of August 23, 2018, Considerandum 13; I/A Court H.R. [Matter of the children and adolescents deprived of their liberty in the “Complexo do Tatuapé” of the Fundação CASA](#). Request for extension of precautionary measures. Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of July 4, 2006. Considerandum 23.

²⁰ 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.

released from prison and are thus considered to be opponents of the government. In this sense, although the applicants noted that the proposed beneficiaries have been living under constant surveillance since their children were released from prison in May 2019, the facts reported demonstrate an intensification of the risk suffered, given that the alleged perpetrators have gone from threats and surveillance operations to attempts on the lives and personal integrity of the proposed beneficiaries by attacking their home with explosives on two occasions.

28. Furthermore, it is worth emphasizing the increase in police presence, as reported by the applicants, and the alleged participation or complicity of State actors, which suggests that the risk has recently intensified. In view of these factors, and bearing in mind the known context with respect to people who oppose the government and who have been released from prison, including their family members, the Commission understands that the situation at issue suggests the possible materialization of threats to the rights to life and personal integrity of the proposed beneficiaries.

29. In view of the situation analyzed above, the Commission regrets the lack of response from the State, after having requested its observations on the present request. While the foregoing is insufficient per se to justify the granting of a precautionary measure, it nonetheless prevents the Commission from obtaining information from the State party regarding the situation of the proposed beneficiaries. Given the lack of response from the State, the Commission does not have elements that would allow it to distort the applicants' allegations or to identify information on measures actually adopted by the State to mitigate the alleged situation of risk of the proposed beneficiaries. Furthermore, although it is not the Commission's responsibility to determine the perpetrators of the risk events, nor whether they are attributable to State actors, at the time of reviewing this request, consideration is given to the seriousness of the potential involvement of State actors, as alleged by the applicants, since this would place the proposed beneficiaries in a situation of vulnerability.

30. Based on the foregoing, the Commission concludes that the information provided by the applicants, reviewed in the context previously outlined, is sufficient to establish from a prima facie standard that the rights to life and personal integrity of Juana de la Rosa Lesage Guadamuz and Roberto José Esteban are at serious risk.

31. Regarding the requirement of urgency, the Commission considers that it has been met, since the facts described suggest that the situation of risk is liable to continue and be exacerbated over time, to the extent that, in light of the imminent materialization of the risk and above all, the absence of implemented protection schemes, it is immediately necessary to adopt measures to safeguard the rights to life and personal integrity of the proposed beneficiaries. At the time of making such assessments, the Commission emphasizes that the level of risk faced by the proposed beneficiaries has been increasing since April 2018 to date, nothing that no information has been presented which demonstrates that the risk factors identified have been duly mitigated. In the same sense, as noted above, the Commission does not have specific information provided by the State that would allow it to assess actions that may have been taken to address the alleged risk situation.

32. As for the requirement of irreparable harm, the Commission considers that it has been met, insofar as the potential impact on the rights to life and personal integrity of the proposed beneficiaries constitutes the maximum situation of irreparability.

V. BENEFICIARIES

33. The Commission hereby declares that the beneficiaries of this precautionary measure are Juana de la Rosa Lesage Guadamuz and Roberto José Esteban, who have been duly accredited in the present procedure.

VI. DECISION

34. The Inter-American Commission on Human Rights concludes that the present matter meets prima facie the requirements of seriousness, urgency and irreparable harm contained in Article 25 of its Rules of Procedure. Consequently, the State of Nicaragua is required to:

- a) adopt the necessary measures to protect the rights to life and personal integrity of Juana de la Rosa Lesage Guadamuz and Roberto José Esteban. To this end, the State must ensure that its actors respect the life and personal integrity of the beneficiaries, as well as protect their rights in relation to acts of risk that are attributable to third parties, in accordance with the standards established by international human rights law;
- b) agree upon the measures to be implemented with the beneficiaries and their representatives; and,
- c) report on the actions taken in order to investigate the alleged incidents that led to the adoption of this resolution with the aim of preventing their reoccurrence.

35. The Commission requests the State of Nicaragua to inform, within a period of 15 days from the date of this resolution, on the adoption of the precautionary measures requested and to update such information periodically.

36. 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 prejudgment of any violation of the rights protected in the applicable instruments.

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

38. Approved on October 28, 2020 by: Joel Hernández García, President; Antonia Urrejola Noguera, First Vice-President; Flávia Piovesan, Second Vice-President; Margarette May Macaulay; Esmeralda Arosemena de Troitiño; and, Julissa Mantilla Falcón, members of the IACHR.

María Claudia Pulido
Acting Executive Secretary