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**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION 113/2021**

Precautionary Measures No. 610-21 and No. 949-21

**José Manuel Urbina Lara and Benjamín Ernesto Gutiérrez Collado regarding  
Nicaragua**  
December 31, 2021  
Original: Spanish

**I. INTRODUCTION**

1. In July and October 2021, the Inter-American Commission on Human Rights (“the Inter-American Commission,” “the Commission” or “the IACHR”) received two requests for precautionary measures filed by requesting organizations (“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 José Manuel Urbina Lara, Benjamín Ernesto Gutiérrez Collado, and the latter’s family. According to the applicants, the proposed beneficiaries, who are identified or perceived as opponents of the current Nicaraguan government, are at risk because they are deprived of liberty in severe conditions of detention and without access to health care.

2. On July 3, 2021, the IACHR received a request for a precautionary measure in favor of *José Manuel Urbina Lara* by the Nicaraguan Center for Human Rights (CENIDH). Under the terms of Article 25(5) of its Rules of Procedure, the Commission requested information from the parties on July 14, 2021, and the applicants sent information on July 21 and October 23, 2021. The Commission reiterated the request for information to the State on August 13, 2021. However, to date the State has not provided information.

3. On October 12, 2021, the IACHR received a request for a precautionary measure in favor of *Benjamín Ernesto Gutiérrez Collado* and his relatives, filed by the Human Rights Collective Nicaragua Never Again (*Colectivo de Derechos Humanos Nicaragua Nunca Más*). Thus, the Commission requested information from the parties on November 3, 2021. The State provided information on November 4, 2021, and the requesting organization submitted information on November 10, 2021.

4. 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 beneficiaries are in a serious and urgent situation, given that their rights to life, personal integrity, and health are at risk of irreparable harm. Consequently, it requests that Nicaragua: a) adopt the necessary measures to protect the rights to life, personal integrity, and health of the persons proposed as beneficiaries; b) ensure that the conditions of detention of the proposed beneficiaries are compatible with applicable international standards and that they receive access to necessary and adequate medical care; 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**

5. 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.<sup>1</sup> In order to follow up on the recommendations issued in this report, the Special Monitoring Mechanism for Nicaragua (MESENI) was created, which remained in the country until the State suspended its presence on December 19, 2018.<sup>2</sup> 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.<sup>3</sup> In its Annual Report 2018, the IACHR included Nicaragua in Chapter IV.B, in accordance with the grounds established in its Rules of Procedure.<sup>4</sup>

6. 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.<sup>5</sup> 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.<sup>6</sup> 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.<sup>7</sup> 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.”<sup>8</sup>

7. Subsequently, the Commission again included Nicaragua in Chapter IV.B of its Annual Report 2019,<sup>9</sup> 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.<sup>10</sup>

8. 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

<sup>1</sup> 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.

<sup>2</sup> 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.

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

<sup>4</sup> IACHR. [Annual Report 2018. Chapter IV.B Nicaragua](#).

<sup>5</sup> 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.

<sup>6</sup> 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.

<sup>7</sup> 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.

<sup>8</sup> 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.

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

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

against people considered to be opponents of the Government.<sup>11</sup> Thus, in May 2020, the IACHR condemned the non-compliance with its recommendations and urged the State to implement them.<sup>12</sup> 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.<sup>13</sup> Subsequently, the Commission once again included Nicaragua in Chapter IV.B of its Annual Report 2020.<sup>14</sup>

9. 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,<sup>15</sup> as well as the widespread impunity and the prolonged breakdown of the rule of law that persists in Nicaragua.<sup>16</sup> More recently, 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.<sup>17</sup> 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.<sup>18</sup> On September 10, 2021, the Commission and the OHCHR condemned the criminalization of individuals identified as political opponents in Nicaragua.<sup>19</sup>

10. 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.<sup>20</sup> More recently, on November 4, 2021, the IACHR and OHCHR expressed concern about the increasing repression against opposition figures in Nicaragua within the framework of the electoral process in the country, emphasizing the attacks against journalists.<sup>21</sup> 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

<sup>11</sup> 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.

<sup>12</sup> 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.

<sup>13</sup> 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.

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

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

<sup>16</sup> 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.

<sup>17</sup> 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.

<sup>18</sup> 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.

<sup>19</sup> 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.

<sup>20</sup> 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.

<sup>21</sup> IACHR. [Press Release 292/21](#). Four days before 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.

organizations, and journalists; and urged the State to release all people arbitrarily detained in the electoral context and since the beginning of the crisis, as well as to cease attacks against political opponents.<sup>22</sup>

### III. SUMMARY OF FACTS AND ARGUMENTS

#### A. Information provided by the applicants

##### - *PM-610-21 (José Manuel Urbina Lara)*

11. The proposed beneficiary is a criminal lawyer historically identified as an opponent of the current Nicaraguan government who is deprived of his liberty in the Waswalí Penitentiary System and is being subjected to mistreatment by the prison authorities.

12. Since the 1980s, the proposed beneficiary has strongly criticized the current Nicaraguan government, being imprisoned on two occasions for his opposition to the government of the Sandinista National Liberation Front (FLSN). In addition, the proposed beneficiary actively participated in the April 2018 protests in Nicaragua. The applicants indicate that the proposed beneficiary took up the defense of several individuals identified as “political prisoners.” For these reasons, the proposed beneficiary was the victim of multiple threats and harassment by police officers and third parties during 2018 and 2019.

13. According to the request, throughout 2019, the proposed beneficiary suffered acts of harassment. In that sense, on March 20, 2019, at 3:00 p.m., an anti-riot police patrol illegally raided his property in Estelí. The following day, he detailed the reprisals to which he and his family were being subjected: the looting of his daughter’s business; imprisonment and unfair prosecution of a member of his family; theft of the weapons that he legally carried; and alteration in the invoicing of the few businesses that he had to force their closure. Subsequently, in October 2019, the National Council on Judicial Administration and Career of the Supreme Court of Justice suspended the proposed beneficiary for five years from the exercise of his profession as lawyer and notary public. That same month, the proposed beneficiary testified publicly about corruption cases in which the Supreme Court of Justice is purportedly implicated. The request indicated that there was constant police harassment in his business, the Auto Hotel “Miramar,” which increased every time he spoke publicly.

14. At the end of 2019, due to the increasing death threats and police siege against him, he was forced to move to the municipality of Estelí. However, throughout 2020, the proposed beneficiary began to be besieged with greater frequency and severity up to twice a week under surveillance by the Estelí Police. In numerous events, they invaded his property, entering by force, at any time of the day or night, without producing any legal supporting document. They handcuffed him, threw him on the floor with violence, and proceeded to search the entire place. Furthermore, on numerous occasions he was detained on the road, when he was able to leave home. According to the relatives of the proposed beneficiary, “in recent months he did not come out at all, he was cornered, threatened, and besieged.”

15. Later, on January 24, 2021, while he was on his way to the department of Jinotega, a man named Jorge Rizo was on the side of the road and requested that he give him a “lift.” The proposed beneficiary told him to get into the back of the truck, since the cabins were occupied. However, when the proposed beneficiary was driving, an unknown vehicle entered the lane and, while trying to avoid it, the van swerved and plunged into a chasm above the road. Mr. Jorge Rizzo died instantly from the impact suffered at the time of the accident. Thus, Mr. Urbina Lara called the corresponding traffic authorities and was

<sup>22</sup> IACHR. [Press Release 300/21](#). IACHR Condemns Human Rights Violations Reported During Elections in Nicaragua. November 10, 2020.

immediately transferred to the Police station. The request states that, despite the cooperation with the authorities, the absence of a criminal record, and the fact that it is a less serious crime, the proposed beneficiary remained in detention and the Public Ministry acted in an allegedly arbitrary manner because he was denied the possibility of mediation, although the victims –the relatives of the deceased person– publicly expressed their free consent to reach a mediation.

16. Thus, on January 26, 2021, the accusation against the proposed beneficiary was brought before the Jinotega Court for the crime of reckless homicide. On January 27, the proposed beneficiary participated in the initial hearing and the judge ordered his release on the grounds that the preventive measure would be periodic appearance. However, on January 28, despite the release order, the police station had not released him, and therefore, the proposed beneficiary’s lawyer requested a meeting with the judge. On that occasion, the judge informed him that she modified her court order and ordered that the pretrial detention be maintained. Then, when questioned about the reasons for the change, she answered that these were “orders from above and she only obeyed.” According to the request, during the judicial process, the law was applied in a discriminatory manner to the proposed beneficiary, without having granted any type of agreement or mediation. On March 8, Mr. Urbina Lara was sentenced to four years in prison for the crime of reckless homicide.

17. Consequently, on March 12, 2021, the proposed beneficiary was transferred to the Waswalí Penitentiary System, in the department of Matagalpa, where he was in a punishment cell, completely isolated. According to the request, since his detention in January 2021, he has not been allowed to receive visits from his family or his lawyer due to his profile as an opponent. According to information from other inmates to the relatives of the proposed beneficiary, his psychological state has seriously deteriorated, he sleeps on concrete tiles, relieves himself in a hole, and lacks a healthy diet. The proposed beneficiary suffers from high blood pressure, but his relatives are not allowed to bring him medicines. He has also presented with high fever and the flu, without receiving adequate medical attention in jail. In this regard, his relatives reported that on June 15 and 25 he presented with a low blood pressure crisis and hypoglycemia.

18. On July 27, 2021, Erick Urbina, the proposed beneficiary’s son, was going to visit his father in the Waswalí Penitentiary System. However, the director of the Penitentiary Center told him that the visit was forbidden, despite being the indicated day and visiting hours, and did not allow the entry of the package of food and toiletries he was carrying, without any justification. On September 14, 2021, again Erick Urbina went to the Waswalí Penitentiary Center, and this time he was able to visit his father. This was the second visit the proposed beneficiary received in 8 months in prison, due to the risks against his family and the ban on visits. According to his son’s testimony, the proposed beneficiary is in terrible health conditions, without receiving adequate treatment at the medical post. The applicants mentioned that the proposed beneficiary reported that there are many positive cases of COVID-19 and tuberculosis in the Waswalí Penitentiary Center.

19. In September 2021, the proposed beneficiary’s relatives also reported that he shares a cell with two men identified as “parastatal” agents. According to information received by inmates through social media, it was indicated that one of them had threatened the proposed beneficiary, when Mr. Urbina Lara, noticing a suspicious attitude of his cellmate with the prison officer, suffered threats for allegedly watching over his cellmate, who told him *“Your day will come soon.”* Similarly, on October 6, 2021, the proposed beneficiary’s sentimental partner was denied visiting him.

20. Finally, the applicants indicated that the proposed beneficiary’s children are in Costa Rica, except one.

- ***PM-949-21 (Benjamín Ernesto Gutiérrez Collado and his family members)***

21. The proposed beneficiary was part of the Mandatory Military Service in the 1980s. Later, he joined the Nicaraguan Resistance, known as “La Contra,” an armed opposition group to the FSLN, and he withdrew from that organization in 1994.

22. In 2013, Mr. Gutiérrez Collado and his wife, Noelia Lucía Cano Espinoza joined the Nicaraguan Resistance Party (PRN), which is now an ally of the FSLN. In January 2018, both were winners of the departmental elections for councilor and alternate councilor, respectively, on the part of the PRN. In this sense, Ms. Cano Espinoza already acted as Departmental Secretary of the PRN, while Mr. Gutiérrez Collado is said to hold the position of second councilor of the municipality of Masaya.

23. According to the request, with the protests of April 2018 in the country, the leadership of the PRN and FSLN agreed to carry out “counter marches,” that is, demonstrations against the protests in an attempt to sabotage them. Thus, in one of the marches held in Nandasmo, in April 2018, Ms. Cano Espinoza received the following order from the territorial manager of Masaya by the PRN: *“We are going to sneak among the people –protesters– separately, and when the FSLN counter march reaches the point of the opposition sit-in, we’re going to start throwing stones at the FSLN counter march.”* However, she refused to comply with the order, left the march, and claimed that she was in poor health. The following day, Ms. Cano Espinoza was ordered to lead the attack against the protesting population, to which she refused. Consequently, they called the proposed beneficiary, telling him that his wife was disobeying orders from the PRN-FSLN Alliance. A few hours later, the national leader of the PRN reportedly called the proposed beneficiary informing that he would receive a list of people he would “visit” and that *“he should threaten them to withdraw from the protest and if they became rebellious, he already knew what to do,”* in addition to ordering him to organize a group of sixty men as security escorts for a general, which was not accepted by the proposed beneficiary.

24. As a result of the refusals of the proposed beneficiary and his wife, the Gutiérrez Cano family was relegated from party activities. Thus, on June 2, 2018, the 15-year-old son of a first cousin of the proposed beneficiary was assassinated. However, the president of the PRN prohibited the proposed beneficiary from going to the funeral for being *“against the Alliance.”* After the proposed beneficiary claimed this murder before the then mayor of Masaya, his wife was stripped of political office and they *“would fall from (political) grace.”* That same night, the proposed beneficiary and his wife began to receive death and jail threats through calls and messages, in which they were called traitors, *“vendepatrias”* [which means “one who sells their country”] and sworn that *“they were going to bill them (kill them).”* For this reason, his wife left the house with their children.

25. On June 23, 2018, Carolina Collado, a worker at the Masaya Mayor’s Office and first cousin of the proposed beneficiary, was assassinated, while returning from a work meeting, on her way home, when the National Police and parastatal agents began to attack with firearms the road through which she was passing and one of the shots hit her. After Carolina’s murder, the proposed beneficiary received more threats on social media and, for this reason, he also left his home.

26. According to the request, on September 15, 2018, an arrest and search warrant was issued, issued by the Tenth Judge of the Criminal Hearing District, against the proposed beneficiary, allegedly for crimes of terrorism, aggravated robbery, aggravated damage, possession and use of restricted weapons, simple kidnapping, which are reportedly commonly used against protesters. The proposed beneficiary was forcibly displaced from his home, and later judicial proceedings were closed under the Amnesty Law in June 2019.

27. However, the proposed beneficiary and his family continued to receive threats and harassment, for which reason, on February 18, 2020, Ms. Cano Espinoza traveled to Costa Rica. Thus, the proposed beneficiary moved to a safe house where he remained for several months. However, on January 13, 2021, a person who was supporting him with food apparently drugged him through food and he was detained and beaten by police officers who broke into his home and took him to the Judicial Assistance Directorate (“El Chipote”). On January 15, 2021, an appeal was filed in favor of the proposed beneficiary for illegal detention before the Court of Appeals, Criminal Chamber Two of Managua, which has not had any results to date.

28. Due to the severe beatings suffered, the proposed beneficiary has found himself in very poor health and did not receive adequate medical care. On February 19, 2021, his wife publicly stated: *“They have not allowed a specialist physician brought by the family to review and examine him. As a result of this hateful revenge, my husband has been very ill from February 9 to 15, due to the blows he received the day he was kidnapped, he is very ill, his abdomen was swollen from the blows to the gallbladder and liver [...] I don’t want him to die in jail!”*

29. During the trial for alleged crimes of drug trafficking and illegal possession of weapons, the defense of the proposed beneficiary requested a medical legal evaluation before the Thirteenth Criminal District Court of Managua Circumscription, since Mr. Gutiérrez purportedly had at least 3 broken ribs, which was authorized. However, it was never fulfilled. On March 15, 2021, the proposed beneficiary was sentenced to 14 years and 11 months in prison, through arbitrary detention and without access to due process of law. Currently, his defense continues with an appeal pending. The proposed beneficiary is deprived of liberty in the Jorge Navarro Penitentiary, without receiving medical attention to date.

30. According to the request, the current situation of the proposed beneficiary is critical and worrying, since he not only suffered torture and attacks by guards, but also by other communal prisoners, encouraged by prison officers. In late September 2021, the proposed beneficiary’s wife stated that:

*“Currently he has gotten sick, he has had a fever, he suffers from pain, because when he was captured, the police beat him to such a degree that they broke three ribs and his clavicle, which was never treated by a physician, so he continues to have pain because of that. In addition, he has fatty liver problems, he has post-war problems, because he was a member of the contra, he participated in the war of the eighties, currently his anxiety problem has worsened. He cannot sleep, one because of the pain caused by his THREE broken ribs, two because he lives in expectation of what his cellmates can do to him. [...]”*

31. The applicants indicated that, since his arrest, at least three different common criminals have attacked and threatened him. Therefore, such acts are said to be directed against him by prison officers. On October 6 and 26, 2021, relatives of the proposed beneficiary visited him at the Jorge Navarro Penitentiary Center. During the visits, his relatives noted him with quite low weight. Moreover, the proposed beneficiary commented that, in the first days of the month, without prior notice, prison officers fumigated the cells with the inmates inside, which caused many vomiting or nausea, without having received medical attention. In the case of the proposed beneficiary, for a long time he had symptoms of suffocation and low blood pressure. In addition, the water in the prison began to come out “dirty,” with a brown color, which caused severe diarrhea and vomiting. The proposed beneficiary also commented that days prior to the October 26 visit, his new cellmate tried to suffocate him with his hands, while Mr. Gutiérrez Collado was asleep. However, due to the intervention of other inmates, he did not achieve his mission. In addition to this, the proposed beneficiary reported that they repeatedly take him to the infirmary; however, they only take photos of him and immediately transfer him to his cell, without being evaluated by a physician. It was emphasized that the visits are permanently supervised by two custodians,

which makes open communication with the proposed beneficiary difficult. Finally, on November 6 and 7, 2021, relatives of the proposed beneficiary in Masaya were reportedly under police and parastatal siege.

## **B. Information provided by the State**

### **- PM-610-21 (Juan Manuel Urbina Lara)**

32. The Commission requested information from the State on July 14 and August 13, 2021. However, the State has not provided information to date.

### **- PM-949-21 (Benjamín Ernesto Gutiérrez Collano and his relatives)**

33. The State of Nicaragua affirmed its rejection “of the impertinence of this Commission” to continue with its manipulative campaign in accordance with the defamations of sectors opposed to the current government, perpetuating attacks in the context of “the media fight orchestrated at an international level against the State of Nicaragua.” In the same way, the State indicated that the intention of the instant request is to prevent Mr. Benjamín Ernesto Gutiérrez Collado from serving the sentence imposed by the competent courts, for having transgressed the laws before committing crimes related to drugs and carrying weapons. In this sense, it was indicated that the proposed beneficiary is not at risk.

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

34. 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.

35. 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 character, one protective and the other precautionary.<sup>23</sup> Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.<sup>24</sup> 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.<sup>25</sup> Regarding their precautionary nature, these measures have the purpose of preserving legal situations while under the consideration of the IACHR. The precautionary nature aims at

<sup>23</sup> 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.

<sup>24</sup> See in this regard: I/A Court H.R. [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#). Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, considerandum 8; I/A Court H.R. [Case of Bámaca Velásquez](#). Provisional Measures regarding Guatemala. Order of the Court of January 27, 2009, considerandum 45; I/A Court H.R. [Matter of Fernández Ortega et al.](#) Provisional Measures regarding Mexico. Order of the Court of April 30, 2009, considerandum 5; I/A Court H.R. [Matter of Milagro Sala](#). Request for Provisional Measures regarding Argentina. Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5 [only in Spanish].

<sup>25</sup> 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].

safeguarding 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.<sup>26</sup> In the process of reaching a decision, 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.

36. 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.<sup>27</sup> Similarly, the Commission recalls that, by its own mandate, it is not called upon to determine any criminal liabilities for the facts alleged. Moreover, it is not appropriate, in this proceeding, to rule on violations of rights enshrined in the American Convention or other applicable instruments.<sup>28</sup> The analysis performed herein 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.<sup>29</sup>

37. In addition to this, in the instant matter, the Commission observes that the alleged risk for the proposed beneficiaries is framed in the current context of Nicaragua,<sup>30</sup> as well as in a repressive context

<sup>26</sup> 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.

<sup>27</sup> 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.

<sup>28</sup> 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 [only in Spanish].

<sup>29</sup> 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 gravity, urgency, and the necessity to avoid irreparable damage to persons.” See in this regard: I/A Court H.R. [Matter of James et al. regarding Trinidad and Tobago](#). Provisional Measures. Order of the Inter-American Court of Human Rights of August 29, 1998, considerandum 6; I/A Court H.R. [Case of Barrios Family v. Venezuela](#). Provisional Measures. Order of the Inter-American Court of Human Rights of April 22, 2021, considerandum 2 [only in Spanish].

<sup>30</sup> 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.

towards people considered as opponents of the Government.<sup>31</sup> In 2020, the MESENI has identified the intensification of patterns of human rights violations consisting of surveillance, harassment and selective repression of social and political leaders, human rights defenders, journalists and press workers; as well as against any person identified as opposition.<sup>32</sup> In this sense, it is noted that the alleged situations faced by the proposed beneficiaries are not isolated events but are consistent with the context observed in Nicaragua of the practice of detentions and criminalization of human rights defenders and opponents.<sup>33</sup>

38. Along these lines, the IACHR has also granted several precautionary measures to persons deprived of liberty in Nicaragua.<sup>34</sup> 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.

39. 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 and personal integrity, inasmuch as prison authorities exercise a strong control or command over the persons in their custody.<sup>35</sup> 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.<sup>36</sup> 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 are compatible with respect for 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, his health and well-being are adequately ensured.<sup>37</sup>

40. Taking into account the aforementioned context of Nicaragua, the Commission will proceed to analyze the procedural requirements regarding Messrs. José Manuel Urbina Lara and Benjamín Ernesto Gutiérrez Collado.

<sup>31</sup> 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.

<sup>32</sup> 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.

<sup>33</sup> 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.

<sup>34</sup> See in this regard: IACHR. [Resolution 95/21](#). Precautionary Measure No. 444-20 Denis Antonio García Jirón and Carmen Jirón regarding Nicaragua November 27, 2021; [Resolution 82/2021](#). Precautionary Measure No. 206-20. Jaime José Arellano Arana regarding Nicaragua October 12, 2021; [Resolution 49/2021](#). Precautionary Measure No. 480-21. Cristiana María Chamorro Barrios *et al.* regarding Nicaragua. June 24, 2021; 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.

<sup>35</sup> 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.

<sup>36</sup> 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.

<sup>37</sup> I/A Court H.R. *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.

41. With regard to the requirement of *seriousness*, the Commission considers that it has been met. When assessing this requirement, the Commission observes that the threatening situations faced by the proposed beneficiaries are allegedly related to their profiles as persons identified or perceived as opponents. In the specific matter, the Commission observes that the proposed beneficiaries have been detained since January 2021, have been in poor detention conditions, have suffered acts of threats and violence in prison, and have not received the necessary medical attention.

42. The Commission notes that the detention was preceded by a series of acts against the proposed beneficiaries, which demonstrates the seriousness of the allegations before them, who are identified as opponents of the current Nicaraguan government. Thus, the applicants have reported that Mr. Urbina Lara has suffered harassment and siege by police officers in 2018 and 2019, who even invaded his property without producing any document, given his participation in the civic protests of 2018 and his performance as lawyer defending detained political opponents (vid. *supra* para. 12). The applicants have also reported that Mr. Gutiérrez Collado and his next of kin have suffered acts of harassment and threats, due to his and his wife's refusal to comply with orders from the PRN, which is said to be part of an alliance with the FSLN, the government party (see *supra* paras. 23 to 26).

43. Regarding Mr. Urbina Lara, it was emphasized that he had been detained since January 24, 2021, after a car accident, in which a man who was in the vehicle of the proposed beneficiary died (vid. *supra* para. 15). So far, he has only received visits on two occasions, because in general they have not allowed him to receive visits from his family or his lawyer given his profile (vid. *supra* para. 17). Moreover, the proposed beneficiary is said to be in terrible detention conditions in the Waswalí Penitentiary System (vid. *supra* paras. 17 and 18). Despite suffering from high blood pressure and having suffered two attacks of low blood pressure and hypoglycemia in June 2021, they do not allow him to enter his medicine or offer him medical care (vid. *supra* para. 17). More recently, in September 2021, fellow inmates of the proposed beneficiary informed his family that he was threatened with death by a cellmate, who told him that "*Your day will come soon*" (see *supra* para. 19).

44. Regarding Mr. Gutiérrez Collado, it was noted that he was detained on January 13, 2021, under violence by police officers (vid. *supra* para. 27). Although he has suffered severe beatings during his detention, he has not been offered medical attention to date, even after a judicial authorization for a medical evaluation (vid. *supra* para. 29). Due to the above, he is reportedly in a critical health situation, with a swollen abdomen and at least three broken ribs (vid. *supra* paras. 28 and 30). Recently, in October 2021, he had diarrhea and vomiting, since the water in the prison began to turn brown due to being dirty (vid. *supra* para. 31). Moreover, the proposed beneficiary has suffered threats and attacks by prison officers and other inmates, and on October 26, during a visit from a relative, he reported that his cellmate had tried to suffocate him (see *supra* para. 31).

45. The Commission emphasizes that the seriousness of the applicants' allegations is also observed by the impact of the facts described on the next of kin of the proposed beneficiaries. In this sense, the children of Mr. Urbina Lara, except one, are allegedly abroad, as well as the wife of Mr. Gutiérrez Collado, due to the threats and harassment of state and parastatal agents in recent years (vid. *supra* paras. 20 and 27). In addition, the applicants indicated that the health situation of the proposed beneficiaries in the Waswalí Penitentiary System and the Jorge Navarro Penitentiary Center are serious. However, they have not received medical attention to date. The foregoing is even more worrying because it is indicated that acts of violence and death threats in prison have been by state authorities, as well as by cellmates encouraged by prison officers (vid. *supra* paras. 19 and 31).

46. Having requested information from the State in the terms of Article 25 of the Rules of Procedure, the Commission regrets the lack of response regarding Mr. Urbina Lara. This does not make it possible to

verify that the situation alleged by the applicants has been mitigated or that measures have been adopted to safeguard the rights of the proposed beneficiary. For its part, the Commission takes note of the response received regarding Mr. Gutiérrez Collado. However, the Commission notes that, beyond stating that the proposed beneficiary is not at risk and that he is serving a sentence in accordance with the law, the State did not provide information with specific and detailed elements to disprove what was alleged by the applicants, or to assess that the alleged situation was mitigated. In this regard, the State did not indicate the conditions of detention of the proposed beneficiary, or the measures implemented to safeguard his right to health.

47. In view of the foregoing, the Commission considers, from a *prima facie* standard and in the current context of Nicaragua, that the rights to life, personal integrity, and health of the persons proposed as beneficiaries are at serious risk.

48. Regarding the requirement of *urgency*, the Commission considers that it has been fulfilled, since the facts described suggest that the proposed beneficiaries face an imminent risk of being exposed to a greater impact on their rights, as well as in view of the profile of the proposed beneficiaries, who are also deprived of liberty. At the time of making such assessments, the Commission notes that more than 11 months have elapsed since the arrest of the proposed beneficiaries, who are purportedly in serious health conditions without receiving medical attention. In addition, given the lack of protection measures on the part of the state authorities, especially when they are reportedly responsible for the alleged situations presenting a risk, the Commission does not have specific or detailed information provided by the State to assess the actions that are being allegedly taken to address the risk faced the proposed beneficiaries.

49. As it pertains to the *requirement* of irreparable harm, the Commission finds that it is met, since the possible impact on the rights to life and personal integrity constitutes the maximum situation of irreparability.

## **V. BENEFICIARIES**

50. The Commission declares as proposed beneficiaries José Manuel Urbina Lara, Benjamín Ernesto Gutiérrez Collado, and the latter's nuclear family, as long as they are in Nicaragua.

## **VI. DECISION**

51. 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 the persons proposed as beneficiaries;
- b) ensure that the conditions of detention of the proposed beneficiaries are compatible with applicable international standards and that they receive access to necessary and adequate medical care;
- 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.

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

53. 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 safeguarded under the applicable instruments.

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

55. Approved on December 31, 2021, by Antonia Urrejola Noguera, President; Julissa Mantilla Falcón, First Vice-President; Flávia Piovesan, Second Vice-President; Margarete May Macaulay; Esmeralda Arosemena de Troitiño; and Joel Hernández García, members of the IACHR.

Maria Claudia Pulido  
Assistant Executive Secretary