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**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION 60/2021**

Precautionary Measure No. 1191-19

Francis Valdivia Machado and her nuclear family regarding Nicaragua

(Extension)

August 7, 2021

Original: Spanish

**I. INTRODUCTION**

1. On June 23, 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 filed by the Nicaraguan Center for Human Rights (CENIDH), urging the Commission to request that the State of Nicaragua (“the State” or “Nicaragua”) protect the rights to life and personal integrity of Francis Valdivia Machado and her nuclear family.<sup>1</sup> According to the request, Francis Valdivia Machado is the president of the “Mothers of April Association” (AMA) and sister of Franco Valdivia, a young man who was killed during the protests in April 2019. In this context, she and her family are being followed, intimidated, and attacked by police officers and pro-Government individuals, in the current context of the country.

2. On July 7, 2021, the IACHR requested information from the State, pursuant to Article 25 of its Rules of Procedure. On July 9, 2021, the State reported that it did not receive the request. On July 19, 2021, the Commission forwarded the extension request to the State. The State provided a response on July 21, 2021.

3. Upon analyzing the information provided by the parties in light of the country’s context, the Commission deems that the information presented shows *prima facie* that the rights to life and personal integrity of Francis Valdivia Machado and her nuclear family are in a serious and urgent situation. Consequently, in accordance with Article 25 of the Rules of Procedure, the Commission requests that the State of Nicaragua: a) adopt the necessary measures to protect Francis Valdivia Machado’s and her nuclear family’s rights to life and personal integrity. In particular, the State must ensure that the beneficiaries’ rights are respected in accordance with the standards established by international human rights law, both by state actors and in relation to acts of risk attributable to third parties; b) consult and agree upon the measures to be adopted with the beneficiary and her representatives; and c) report on the actions taken to investigate the alleged events that led to the adoption of the precautionary measures at hand, so as to prevent them from reoccurring.

**II. BACKGROUND INFORMATION**

4. Between May 17 and 21, 2018, the Commission visited Nicaragua and collected several testimonies on human rights violations committed in the framework of the 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>2</sup> In order to follow up on the recommendations issued in this report, the

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<sup>1</sup> The request identifies as members of the nuclear family the following persons: Francisca Machado (mother of Francis Valdivia Machado), boy D.B.V. (son of Francis Valdivia Machado), girl K.N.V.M. (daughter of Franco Valdivia Machado), and Estefany Martínez (widow of Franco Valdivia and mother of K.N.V.M.)

<sup>2</sup> IACHR. [Gross Human Rights Violations in the Context of Social Protests in Nicaragua](#). OAS/Ser.L/V/II. Doc. 86. June 21, 2018, para. 1.

Special Monitoring Mechanism for Nicaragua (MESENI) was created, which remained in the country until the State suspended its presence on December 19, 2018.<sup>3</sup> For its part, the Interdisciplinary Group of Independent Experts (GIEI) for Nicaragua issued a report that analyzed the events that took place between April 18 and May 30, 2018, confirming the IACHR findings.<sup>4</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>5</sup>

5. During 2019, the Commission continued to condemn the ongoing acts of persecution, urging the State to comply with its obligations in matters related to human rights.<sup>6</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>7</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>8</sup> In the same regard, on 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>9</sup>

6. Subsequently, the Commission again included Nicaragua in Chapter IV.B of its Annual Report 2019,<sup>10</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>11</sup>

7. During 2020, the IACHR identified the strengthening of a fifth stage of State repression in the country, characterized by an increase in acts of surveillance, harassment, and selective repression against individuals who are believed to oppose the government.<sup>12</sup> Thus, in May 2020, the IACHR

<sup>3</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>4</sup> Interdisciplinary Group of Independent Experts (GIEI) for Nicaragua. [Report on the acts of violence occurred between April 18 and May 30, 2018](#). December 2018 [only in Spanish].

<sup>5</sup> IACHR. [Annual Report 2018. Chapter IV.B Nicaragua](#).

<sup>6</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>7</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>8</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>9</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>10</sup> IACHR. [Annual Report 2019. Chapter IV.B Nicaragua](#). OEA/Ser.L/V/II. Doc. 5, February 24, 2020, paras. 5-6.

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

<sup>12</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.

condemned the non-compliance with its recommendations and urged the State to implement them.<sup>13</sup> In October 2020, the IACHR again called on the State to immediately cease persecution of people identified as dissidents and to reestablish democratic guarantees in Nicaragua.<sup>14</sup> Subsequently, the Commission once again included Nicaragua in Chapter IV.B of its Annual Report 2020.<sup>15</sup>

8. Recently, in 2021, the Commission condemned the intense increase of State repression against people identified as dissidents, human rights defenders, journalists, victims of human rights violations and their families,<sup>16</sup> as well as the widespread impunity and prolonged breakdown of the rule of law that persist in the country.<sup>17</sup>

### **III. PRECAUTIONARY MEASURES IN FORCE IN FAVOR OF MEMBERS OF THE MOTHERS OF APRIL ASSOCIATION (AMA)**

9. On January 15, 2020, the IACHR decided to grant precautionary measures to Elizabeth Velásquez and her nuclear family in Nicaragua. The request argued that Ms. Velásquez has lived “under constant siege” since the death of her son, and that her situation is linked to her membership in the “Mothers of April Association” (AMA). The Commission requested that Nicaragua: a) adopt the necessary measures to guarantee the rights to life and personal integrity of Elizabeth Velásquez and her nuclear family. In particular, the State must ensure that the beneficiaries’ rights are respected in accordance with the standards established by international human rights law, both by state actors and in relation to acts of risk attributable to third parties; b) consult and agree upon the measures to be adopted with the beneficiary and her representatives; and c) report on the actions taken to investigate the alleged events that led to the adoption of the precautionary measures at hand, so as to prevent them from reoccurring.<sup>18</sup>

10. On September 2, 2020, the IACHR decided to extend precautionary measures in favor of two mothers and a sister in the “Mothers of April Association” (AMA) in Nicaragua. The Commission requested that the State of Nicaragua: a) adopt the measures necessary to guarantee the rights to life and personal integrity of Josefa Esterlina Meza, Tamara Patricia Morazán Martínez, and Lizeth de los Ángeles Dávila Orozco, including their nuclear families. In particular, the State must ensure that the rights of the beneficiaries are respected in accordance with the standards established by the international human rights law, both by its actors and in relation to acts of risk attributable to third parties; b) agree on the measures to be adopted with the beneficiaries and their representatives; and c) report on the actions taken in order to investigate the alleged events that led to the adoption of this precautionary measure and, thereby, avoid their reoccurrence.<sup>19</sup>

11. Upon having granted and extended the precautionary measures, the IACHR has not received any communication from the State on the actions taken to implement these measures in favor of the current beneficiaries.

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<sup>13</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>14</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>15</sup> IACHR. [Annual Report 2020. Chapter IV.B Nicaragua](#), February 2021, para. 5-29.

<sup>16</sup> IACHR. [Press Release No. 2/21](#). IACHR Condemns Growing Harassment in Nicaragua. January 6, 2021.

<sup>17</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; IACHR. [Statement on Twitter](#). June 2, 2021 [in Spanish]; IACHR. [Press Release No. 152/21](#). IACHR Condemns the Serious Escalation of Repression in Nicaragua. June 18, 2021.

<sup>18</sup> IACHR. [Resolution 4/20. PM 1191-19. Elizabeth Velásquez and her nuclear family regarding Nicaragua](#), January 15, 2020.

<sup>19</sup> IACHR. [Resolution No. 51/20. PM 1191-19. Josefa Esterlina Meza et al. regarding Nicaragua \(Mothers and relatives of the “April’s Mothers Association”\)](#), Extension, September 2, 2020.

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#### **IV. SUMMARY OF FACTS AND ARGUMENTS PROVIDED BY THE PARTIES REGARDING THE REQUEST FOR EXTENSION**

##### **A. Information provided by the beneficiaries' representation**

12. The representation identifies Francis Valdivia Machado and Francisca Machado as the sister and mother, respectively, of Franco Valdivia Machado, a law student who was killed on April 20, 2018, while participating in the protests in Estelí. Francis Valdivia is president of the “Mothers of April Association” (AMA).

13. The representatives indicated that on April 21, 2018, at 2:00 a.m., Francisca Machado appeared at the hospital, and there she was told that Franco Valdivia Machado’s corpse was in the morgue. At 5:00 a.m., Ms. Machado received her son’s corpse, which had not been subjected to any medical report or autopsy. That same day, Francis purportedly visited the Estelí Police Department Delegation, where the authorities refused to receive her complaint. She requested that the Institute of Legal Medicine perform the corresponding autopsy. Upon the refusal, the family allegedly decided to carry out the funeral service for Franco Valdivia. At that time, the family had been constantly harassed by members of the Sandinista Youth and the National Police.

14. On April 23, 2018, Francis Valdivia reportedly insisted with the complaint until they received it. However, her brother had already been buried without having carried out any tests on his corpse. She also purportedly denounced the physician who was on duty for not complying with the medical-legal protocol to determine her brother’s cause of death. The proposed beneficiary questioned the impartiality of potential investigations. According to the request, at a certain point, her brother’s corpse was exhumed by the Institute of Legal Medicine for an autopsy. However, Franco’s sister indicated that they did not receive any copy of the results of that process or information from the police on the progress of the investigation. The family allegedly had access to a copy of the preliminary result of the autopsy, but not the official one that the Public Ministry should have given them, and the investigation has reportedly come to a “standstill.”

15. On July 15, 2018, Francis purportedly left the country for security reasons after receiving threats. On February 10, 2020, upon harassment at her mother’s house in Estelí, Francisca also left the country. The request recalls that one year after the killing of Franco Valdivia on April 20, 2019, Francisca Machado went to the cemetery to leave flowers on his grave, and she was harassed by “paramilitaries” who arrived with intimidating actions. During all this time, she was allegedly harassed by the police, paramilitaries, and government supporters who threatened them for having publicly denounced Franco’s killing.

16. On November 17, 2020, Francis Valdivia, her son D.B.V., and her mother, Francisca Machado, returned to live in Nicaragua. According to the request, that day, while Francis was queuing to go through immigration at the Augusto César Sandino airport in Managua, she was taken out of the line with her underage son and transferred to an office of the General Directorate of Migration and Immigration (*Dirección General de Migración y Extranjería*). There, they interrogated her for an hour and a half about her trip and searched her laptop and her suitcases containing personal belongings. During that time frame, they told her, “We are going to keep an eye on you because we know that you are a coup plotter and that you are a member of the ‘Mothers of April Association’.” In this process, they also asked for her telephone number “to follow up on the COVID-19 pandemic, especially during the first 15 days that people must be vigilant and under observation.” During that time, Francis allegedly received between three and five calls a day where they also asked her whether she was staying at the same

address that she had mentioned at the time of entering Nicaragua.

17. On December 12, 2020, as part of the organizational work of the AMA, Francis allegedly went to the Department of León to initiate territorial meetings with the mothers and relatives of those killed in 2018. Upon leaving the premises where the activity took place, her car was purportedly detained for approximately one hour. She was traveling with Susana López, Elis Urbina, Tamara Morazán, her mother, and her underage son. During that time, police officers reportedly searched inside the car. According to the representatives, the police officers made a call to notify: “Here we have Francis Valdivia, what do we do?” After the call, the officers allegedly let her go. On December 16, 2020, on her second territorial trip, she was detained again by police displaying a similar behavior.

18. At the beginning of January 2021, Francis purportedly visited members of the AMA in the Department of Jinotega. On that trip, she was allegedly detained again by police officers. The request indicates that Francis feels that there is permanent surveillance towards her when she moves through the different territories. On this occasion, one of the police officers allegedly said as a direct threat to Francis: “See you in the major leagues.” During the three trips to the territories, Francis reportedly traveled in rented vehicles (one per trip), with different drivers, and therefore, they presume she is being monitored through specialized mechanisms.

19. For the first two months since her return to Nicaragua, Francis allegedly had to move into three different houses to avoid being identified and besieged. According to the request, officers parked in front of the house where only Francis, her youngest son, and her partner live. However, despite the moves, the representatives indicated that they were always able to locate her.

20. More recently, the representatives referred to the following alleged facts:

- As from April 13, 2021, from the early hours of the morning, a national police patrol with several officers parked in front of the school where Francis’s son studies. About two months before, the police also arrived, parked, and left. However, the police have resumed such actions since Monday, April 12, 2021, when Francis appeared publicly at a press conference held by the AMA in which the association asserted that they still demand justice for the killing of their relatives.
- On April 15, 2021, while moving through the Central American University sector, Francis was photographed by several police officers who were at the scene.
- On April 19, 2021, at approximately 4:45 p.m., Francis, her mother, her son, and her niece took a taxi in the Central American University sector for the transport terminal Mercado Mayoreo. The family noticed that a motorcyclist was chasing them. Upon arriving at the terminal, they took an inter-municipal transport at 4:45 p.m. and from that moment they lost track of the motorcyclist.
- In the afternoon of the third anniversary of Franco Valdivia’s death (April 20, 2021), his relatives had scheduled a mass at the Estelí Cathedral. However, as from 3:00 p.m., paramilitaries arrived to besiege the church, and therefore, its authorities decided to close it for security reasons. The relatives decided to commemorate the date at Francisca Machado’s house in Estelí. However, the house was surrounded by police officers. The representatives identified a truck without license plates and several parastate officers. The first person to be attacked and detained was Marcos Silva, a friend of Franco’s, who was in front of the house. Police officers grabbed him by the throat and put him on a patrol. He was not refusing, but an officer kept holding him by the throat. Marcos’s girlfriend tried to defend him, and the police also detained her and violently placed into the same patrol.
- Estefany Martínez, Franco Valdivia’s widow and mother of his daughter, also wanted to defend Marcos, but an officer dragged her for half a block and told her: “That’s how I wanted to catch you, you just pretend to be brave.” Then, they threw her into the trunk of the police patrol, and

the officer on board told her: “Today you’ll have a long night, I’ll take care of that,” and another officer hit her with a gun on her head. In view of this situation, Francisca Machado came out to yell at them and ask why they were harassing her house and demand that they release the detainees. Several officers beat her severely, including the head of Public Security. Francisca denounced: “...He bent me totally backwards and I felt like he was killing me.”

- Francis came to her mother’s defense, and then they beat her and dragged her, saying: “We are taking you.” Francis reported that they dragged her for more than a block. As she indicated, they bent her hand, handcuffed her, and on the way to the police station they beat her and threatened to “take revenge for everything they were doing.”
- When they arrived at the police station, the police officers asked them their names and personal information, and then they told the two women to strip naked and do squats. According to the request, this occurred in an office where there were two male and two female police officers. The office had the door open. As some of the officers went in and out, they took photos of them. Francis reported that one of these officers groped her. Later, they were transferred to detention cells where someone took more photos of them. At that moment, the deputy police commissioner came in and asked Francis Valdivia what she was doing there, and told her that she talked a lot and that she should have stayed abroad.
- All the detainees denounced that the Police Commissioner threatened them by saying that “one bullet solves everything” and “whoever goes to the war ends up dead.” They were released that night. In the case of Francis, they indicated that she was being investigated. The police prowled and monitored the house all night.
- From these events, in subsequent days, photographs began to circulate through WhatsApp groups of the Estelí National Police, where they identify the address of each of the detainees. The photographs corresponded to those taken at the police station at the time of detention.
- Francisca Machado reported that, since April 20, 2021, national police patrols are circulating every day, very frequently. Paramilitaries purportedly move around by her home at night.
- Estefany Martínez mentioned that her daughter has a difficult trauma. Furthermore, at her workplace, they told her not to go to work for several days, because they fear reprisals against them.
- As of June 8, 2021, two police officers traveling by car were watching in front of Francis Valdivia’s house. Therefore, she decided to move in search of safety and tranquility.

21. Lastly, the representatives stressed that for two consecutive years, Francisca Machado frequently visited the municipal cemetery to bring flowers to her son. In such visits, she was allegedly persecuted by supporters of the Sandinista National Liberation Front (FSLN). However, in recent months such supporters have prevented her from accessing the cemetery and the very place where her son’s remains are. In December 2019, upon leaving the initial education prom of Franco’s daughter, they were allegedly chased by a police patrol that took Franco’s friends into custody. On that occasion, Francisca was told that they were not detaining her because she was with the girl. Otherwise, she too would have been detained. The representatives indicated that Francisca has been the victim of persecution by armed men who travel in a Hilux pickup without license plates, as well as permanent surveillance of two motorized vehicles that park on one side of the street where she was living. According to the information provided, many FSLN sympathizers live in Francisca’s neighborhood, including a councilor from the Estelí Mayor’s Office, who recently installed security cameras in the direction of Ms. Machado’s home to maintain permanent surveillance and control. On the 23<sup>rd</sup> of each month, Francisca purportedly offers a religious ceremony in memory of her son, in which they are always harassed and besieged by police officers, paramilitaries, and government supporters, to the extent of persecuting those who accompany her at that moment.

## **B. Response from the State**

22. The State requested that the extension be not admitted and that it be closed. The State indicated that it respects the rights of individuals, as established in its Constitution and in international human rights instruments. The State stressed that it works to strengthen the human rights of all Nicaraguans without any type of distinction, and implements actions to protect their rights. Regarding the situation of the proposed beneficiaries, the State indicated that they are not in any situation presenting a risk to their rights. The State emphasized that there is no persecution, threats, harassment, or siege by state institutions. The State further indicated that, in the face of isolated situations, it has institutional legal and administrative mechanisms for such situations, considering citizen security as one of the main guidelines for the inhabitants' comprehensive development. Lastly, the State indicated that these are times of peace and democracy. It was indicated that the allegations in the request are "absolutely subjective" accusations lacking sufficient evidence to show an imminent and real risk to their rights.

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

23. The precautionary measures mechanism is part of the Commission's function of overseeing compliance with human rights obligations, as established in Article 106 of the Charter of the Organization of American States. These general oversight functions are established in Article 18 (b) of the Statute of the IACHR, and 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.

24. 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.<sup>20</sup> Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.<sup>21</sup> To do this, the IACHR shall assess the problem raised, the effectiveness of state actions to address the situation described, and how vulnerable the persons proposed as beneficiaries would be left in case the measures are not adopted.<sup>22</sup> Regarding their precautionary nature, these measures have the purpose of preserving legal situations while under the consideration of the IACHR. The purpose of precautionary measures is to preserve the rights at risk until the petition pending before the inter-American system is resolved. Their object and purpose are to ensure the integrity and effectiveness of an eventual decision on the merits and, thus, avoid any further infringement of the rights at issue, a situation that may adversely affect the useful effect (*effet utile*) of the final decision. In this regard, precautionary or provisional measures enable the State concerned to comply with the final decision and, if necessary, to implement the ordered reparations.<sup>23</sup> In the process of reaching a decision, and according to Article 25(2) of the Rules of Procedure, the Commission considers that:

- a) "serious situation" refers to a grave impact that an action or omission can have on a protected right or on

<sup>20</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>21</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>22</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].

<sup>23</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.

- 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 those requirements, the Commission reiterates that the facts supporting a request for precautionary measures need not be proven beyond doubt. The information provided should be assessed from a *prima facie* standard of review to determine whether a serious and urgent situation exists.<sup>24</sup> Similarly, the Commission recalls that, by its own mandate, it is not called upon to determine any criminal liabilities for the alleged facts. Moreover, in this proceeding, it is not called upon to find any violation of rights enshrined in the American Convention or other applicable instruments.<sup>25</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>26</sup>

26. As a *preliminary matter*, the Commission recalls that, insofar as it is a request for extension, a criterion to consider is that the alleged facts have a “factual connection” with the events that justified, at the time, the adoption of precautionary measures.<sup>27</sup> In this regard, the Commission recalls that the precautionary measures currently include, among others, members of the “Mothers of April Association” (AMA) who, due to their activities within the said association, have been subjected to events presenting a risk in the current context of Nicaragua. At the same time, the Commission notes that the proposed beneficiary is identified as president of the AMA and has been subjected to monitoring, intimidation, and acts of aggression against her for demanding justice in favor of her brother. Thus, for the Commission, the risk factors faced by the proposed beneficiary are in turn similar to those shared by the current beneficiaries. Therefore, the Commission considers that the requirement of “factual connection” has been met.

27. When analyzing compliance with the requirement of *seriousness*, the Commission takes into account as an additional contextual element that, as part of its investigative work, the GIEI Nicaragua identified the killing of Franco Valdivia Machado –brother of the proposed beneficiary and president of the AMA–, which occurred on April 20, 2018, in Estelí, during the demonstrations following April 18, 2018. As indicated, the GIEI:

“[...] learned of cases in which the crime scene was washed down or not processed, even though the person killed was on a public road. One of these cases is the event of April 20, 2018, in front of the Estelí Mayor’s Office, where Franco Alexander Valdivia Machado was killed, [...] the GIEI had access to video material that recorded how on April 21 the crime scene was “washed down.” On May 1, that is, almost 10 days after the events, members of the Police appeared at the Central Park of Estelí to carry out investigations on the crime scene. The family was never notified of this action, and they only found out by

<sup>24</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>25</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 his family regarding Nicaragua. April 30, 2021, para. 33 [only in Spanish].

<sup>26</sup> In this regard, the Court has indicated that “[it] cannot, in a provisional measure, consider the merits of any arguments pertaining to issues other than those which relate strictly to the extreme gravity and 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>27</sup> I/A Court H.R., [Fernández Ortega et al. regarding Mexico](#). Resolution of Provisional Measures of November 23, 2010, considerandum 19.

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neighbors who saw experts working at the site.”<sup>28</sup>

28. Similarly, the Commission observes that, despite the granting of precautionary measures in favor of certain members of the AMA since 2020, to date the State has not sent information on the measures implemented in their favor. The lack of information from the State is relevant given that the representation has indicated throughout the time the precautionary measures have been in force that State officers, or state supporters, have been involved in the incidents faced. The Commission calls on the State of Nicaragua to report in a specific, detailed, and updated manner those measures adopted in implementation of these precautionary measures in favor of the beneficiaries. Notwithstanding, the lack of information at this time prevents knowing whether the State has adopted measures to address the sources of risk that affect the current beneficiaries, at least since 2020, the year in which precautionary measures were granted and extended.

29. Regarding the current situation of the proposed beneficiary and her family, the Commission notes that she is the president of the AMA and has been the subject of the following alleged events, at least since 2018, such as: (i) harassment by members of the Sandinista Youth and the National Police; (ii) harassment towards her mother Francisca, when the latter was visiting the cemetery where her son is kept, by the police, paramilitaries, and government supporters who purportedly threaten them for having publicly denounced Franco’s killing; (iii) given the intensity of the events she was facing, she had to flee the country in July 2018, and her mother on February 10, 2020; (iv) when she returned to the country in November 2020 with her family, immigration agents told her, “We are going to keep an eye on you because we know that you are a coup plotter and a member of the so-called ‘Mothers of April Association’”; (v) during the first two months after her return to Nicaragua, the proposed beneficiary allegedly had to move into three different houses to avoid being identified and besieged, although they always managed to locate her; (vi) since December 2020, permanent police surveillance, even when she traveled in rented cars to avoid being identified; (vii) follow-ups by the police, who took photos of her, as well as by motorists; (viii) on April 20, 2021, there was police and parastate presence when the family carried out an activity remembering the death of the brother. In that occasion, Francis Valdivia and her mother were attacked and detained; (ix) upon being detained, they were stripped naked, forced to do squats, and photos were taken, and Francis reported having been groped by a police officer; (x) before being released, the police commissioner threatened them by saying: “One bullet solves everything” and “Whoever goes to the war ends up dead”; (xi) the police have allegedly patrolled and watched their house following their detention, including people identified as paramilitaries; (xii) the photographs of the proposed beneficiaries have purportedly circulated through WhatsApp groups of the Estelí National Police, where they identify the address of each of the detainees. The photographs correspond to those taken at the police station at the time of the detention; and (xiii) recently, on June 8, 2021, two motorized police officers were watching in front of Francis Valdivia’s house, and therefore, she was forced to move again in search of safety and tranquility.

30. The Commission observes that the alleged facts show a special animosity towards the proposed beneficiary, which is reportedly related to her work within the AMA. Moreover, the Commission notes with special concern that the proposed beneficiary has not only been subjected to harassment or intimidation, but to recent attacks against her. The Commission also takes into account that the threats and attacks she has been facing have even been attributed to a police commissioner, who threatened her with death while she was detained along with a member of her family. This is, while in the custody of the state. The ongoing surveillance and police presence at their homes, or during their trips, show that those responsible purportedly know about their activities and have a very close follow-up on her, despite all the actions that the family of the proposed beneficiary adopted over the years to prevent persecution.

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<sup>28</sup> GIEI Nicaragua. [Report on the acts of violence occurred between April 18 and May 30, 2018](#), page 243 [only in Spanish].

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For instance, fleeing the country on an opportunity, moving houses, or renting different cars.

31. As evidenced in the matter at hand, when classifying the situation presenting a risk, the Commission takes into consideration that the events of violence and insecurity against women defenders are influenced by their gender, while they are particularly exposed to various forms of violence, including sexual violence, as well as violence against their families in retaliation for their work, in addition to other obstacles that threaten the work of defenders in general.<sup>29</sup> The Commission also observes that women defenders are exposed to the use of gender stereotypes to delegitimize their work or even ridicule them.<sup>30</sup>

32. The Commission notes that, despite having requested information from the State, the information available is not sufficient to analyze how it has been adopting measures to mitigate the situation presenting a risk to the proposed beneficiaries. At the same time, the Commission notes that according to the information provided by the representation, the risk described comes from actions of State actors or related individuals. On another note, although it is not for the Commission to determine the perpetrators of the events of risk, or if they are attributable to state actors, at the time of assessing this request the Commission does take into account the seriousness of the possible participation of State actors, according to the allegations furnished, as this would place the proposed beneficiaries in a situation of greater vulnerability. In addition, even though the family has filed complaints concerning what happened to Francis Valdivia's brother in 2018 and allegations were brought regarding irregularities in the investigations (see *supra* para. 14), the Commission notes that no protection measures have been adopted in favor of the proposed beneficiaries. The foregoing becomes more relevant insofar as the proposed beneficiary and her family have been challenging the actions of the police and pro-Government individuals in Nicaragua.

33. In view of the circumstances, the Commission considers that from the applicable *prima facie* standard, and in the context of the State of Nicaragua, it is sufficiently proven that the rights to life and personal integrity of Francis Valdivia Machado are at serious risk. Taking into account the risk elements exposed, the Commission deems that this situation also extends to the proposed beneficiary's identified nuclear family.

34. With regard to the requirement of *urgency*, the Commission considers that it has been met, given that the facts described suggest that the risk is likely to continue and exacerbate over time. Therefore, in view of the imminent materialization of the risk, the situation calls for the immediate adoption of measures to safeguard their rights to life and personal integrity. At the time of undertaking this assessment, the Commission takes into account that the proposed beneficiary continues to demand justice from the AMA, which she leads.

35. Regarding 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, by their very nature, constitutes the maximum situation of irreparability.

## **VI. BENEFICIARIES**

36. The Commission declares as beneficiaries Francis Valdivia Machado and the members of her nuclear family identified in footnote 1. All these persons are duly identified pursuant to Article 25 of the Rules of Procedure.

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<sup>29</sup> IACHR, Towards Effective Integral Protection Policies for Human Rights Defenders, 2017, para. 303

<sup>30</sup> *Ibidem*.

## VII. DECISION

37. The Commission 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, the Commission requests that the State of Nicaragua:

- a) adopt the necessary measures to protect Francis Valdivia Machado's and her nuclear family's rights to life and personal integrity. In particular, the State must ensure that the beneficiaries' rights are respected in accordance with the standards established by international human rights law, both by state actors and in relation to acts of risk attributable to third parties;
- b) consult and agree upon the measures to be adopted with the beneficiary and her representatives; and
- c) report on the actions taken to investigate the alleged events that led to the adoption of the precautionary measures at hand, so as to prevent them from reoccurring.

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

39. 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 do not constitute prejudgment regarding the possible violation of the rights protected in the American Convention on Human Rights and other applicable instruments.

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

41. Approved on August 7, 2021 by: Antonia Urrejola Noguera, President; Julissa Mantilla Falcón, First Vice President; Flávia Piovesan, Second Vice President; Margarette May Macaulay, Esmeralda Arosemena de Troitiño, and Joel Hernández García, members of the IACHR.

Tania Reneaum Panszi  
Executive Secretary