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**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION 79/2021**

Precautionary Measure No. 1172-18  
Medardo Mairena Sequeira and Pedro Joaquín Mena Amador  
regarding Nicaragua  
October 3, 2021  
Original: Spanish  
(Extension)

**I. INTRODUCTION**

1. On July 15, 2021, the Inter-American Commission on Human Rights (“the Inter-American Commission,” “the Commission” or “the IACHR”), received a request for precautionary measures filed by the Permanent Commission on Human Rights (CPDH) urging the Commission to request that the State of Nicaragua (“the State” or “Nicaragua”) protect the rights to life and personal integrity of Medardo Mairena Sequeira and Pedro Joaquín Mena Amador in Nicaragua. According to the request, the proposed beneficiaries are currently at risk upon having been detained and held incommunicado from their relatives and lawyers in the current context of the country.

2. Initially, the IACHR processed the requests for *Medardo Mairena Sequeira* and *Pedro Joaquín Mena Amador* under new registrations, assigning them the numbers PM-643-21 and PM-644-21, respectively:

- Within the framework of registry PM-643-21 in favor of *Medardo Mairena Sequeira*, the IACHR requested information from the State on July 30, 2021, pursuant to Article 25 of the Rules of Procedure. The beneficiaries’ representation submitted additional information on August 4, 2021. The State responded on September 4, 2021.
- Within the framework of registry PM-644-21 in favor of *Pedro Joaquín Mena Amador*, the IACHR requested information from the State on July 27, 2021, pursuant to Article 25 of the Rules of Procedure. The representation submitted additional information on July 25, 2021. The State provided a response on July 9, 2021.

3. On September 27, 2021, the representation submitted additional information on the situation of *Medardo Mairena Sequeira* and *Pedro Joaquín Mena Amador*. Given the “factual connection” with matter PM-1172-18 in favor of relatives of Mr. Medardo Mairena Sequeira and relatives of Mr. Lener Fonseca, the IACHR decided to place the information under the registration number of 2018, and adopted this decision understanding the requests of July 15, 2021, as “extension requests.” At the time of making the decision, the Commission also noted that they shared the same representation both at the domestic level and before the inter-American system of human rights.

4. Upon analyzing the information provided by both parties, in light of the context, the Commission considers that the information presented shows *prima facie* that the beneficiaries are in a serious and urgent situation, given that their rights to life and personal integrity are at risk of irreparable harm. Consequently, in accordance with Article 25 of the Rules of Procedure, the Commission requests that Nicaragua: a) adopt the necessary measures to protect the rights to life, personal integrity, and health of Medardo Mairena Sequeira and Pedro Joaquín Mena Amador; b) ensure that the conditions of their detention are compatible with applicable international standards on the matter; c) taking into account the situation presenting a risk to their life and personal integrity as a result of the circumstances surrounding

their current deprivation of liberty, assess the possibility of granting alternative measures to deprivation of liberty, in accordance with its internal regulations and in light of the applicable inter-American standards; and d) report on the actions taken to investigate the alleged events that led to the adoption of this resolution, so as to prevent them from reoccurring.

## II. BACKGROUND INFORMATION

5. The Commission visited Nicaragua in May 2018 and collected several testimonies on human rights violations that allegedly occurred since the beginning of a series of protests in April, later publishing a report that included recommendations.<sup>1</sup> To verify compliance with these recommendations, the Special Monitoring Mechanism for Nicaragua (MESENI) was created and was present in the country until December 19, 2018, when the State temporarily suspended its operations.<sup>2</sup> For its part, the Interdisciplinary Group of Independent Experts (GIEI) issued a report that analyzed the events taking place between April 18 and May 30, 2018, confirming the IACHR findings.<sup>3</sup>

6. During a presentation before the Permanent Council of the Organization of American States, the Commission shared the data collected by the MESENI, according to which from April 2018 to January 10, 2019, there were 325 deaths and over 2000 injured, 550 detained and processed, 300 health professionals were dismissed, and at least 144 students were expelled from the National Autonomous University of Nicaragua.<sup>4</sup> For its Annual Report 2018, the IACHR included Nicaragua in Chapter IV-B in accordance with the grounds set forth in its Rules of Procedure.<sup>5</sup>

7. During 2019, the Commission continued to condemn the ongoing acts of persecution, urging the State to comply with its obligations. On June 25, the Commission shared the performance report and the results achieved by the MESENI, which continued to monitor the country from Washington, D.C.<sup>6</sup> Between February and June, the State passed the Law on Dialogue, Reconciliation and Peace, the Comprehensive Care for Victims Act, and an Amnesty Law, all of which generated public statements by the IACHR for not complying with the international standards in matters of truth, justice, reparation, and guarantees of non-repetition.<sup>7</sup> During the last months, the Commission continued registering serious incidents. For instance, in August it voiced its concern regarding the State's decision to cease the "Negotiating Table for Understanding and Peace" between the government and the Civil Alliance for Justice and Democracy, which started on February 27, 2019.<sup>8</sup> On September 6, the IACHR reported an increasing harassment against human rights defenders and persons who, despite having been released from prison, continued to be threatened.<sup>9</sup>

8. On November 19, 2019, the Commission once again called attention to the ongoing 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.

<sup>2</sup> IACHR, [Press Release No. 274/18](#). Press Release about Nicaragua. December 19, 2018.

<sup>3</sup> GIEI, [Report on the Acts of Violence occurred between April 18 and May 30, 2018](#). December 2018 [only in Spanish].

<sup>4</sup> IACHR, [Press Release No. 6/19](#). IACHR, CIDH denounces the weakening of the rule of law in the face of serious human rights violations and crimes against humanity in Nicaragua, January 10, 2019.

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

<sup>6</sup> IACHR, [Press Release No.160](#). IACHR, IACHR Presents Performance Report and Results for the Special Follow-Up Mechanism for Nicaragua (MESENI), June 25, 2019.

<sup>7</sup> IACHR, [Press Release No. 137/19](#). IACHR, IACHR and OHCHR Express Concern Over the Passing of the Comprehensive Care for Victims Act in Nicaragua, June 3, 2019. See also: IACHR, [Press Release No. 145/19](#). IACHR Expresses Concern Over the Passing of the Amnesty Law in Nicaragua. June 12, 2019; IACHR, [Press Release No. 21/19](#). IACHR Considers that the Law on Dialogue, Reconciliation and Peace in Nicaragua is Incompatible with International Standards Regarding Truth, Justice and Reparation. February 1, 2019.

<sup>8</sup> IACHR, [Press Release No.194/19](#). [IACHR Expresses Concern over Nicaragua's Announcement That It Will Not Continue Dialogue and Calls on the State to Comply with Its Obligations to Guarantee and Respect Human Rights](#). August 6, 2019.

<sup>9</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.

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 liberty during this crisis are increasingly becoming the targets of state persecution in the form of surveillance and the obstruction of peaceful actions.”<sup>10</sup>

9. During 2020, the IACHR verified the intensification of acts of surveillance, harassment, and selective repression against people considered to oppose the Government, and identified a fifth stage of repression in the context of the crisis implemented since mid-2019, which it described as “the most intense and systematic attack on public liberties to have occurred in the country since the beginning of the crisis.”<sup>11</sup> In May, 2020, the IACHR noted and condemned the non-compliance with its recommendations and urgently called on 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>

10. In 2021, the IACHR condemned the increasing harassment in Nicaragua.<sup>14</sup> As reported to the IACHR, these acts are manifested in the deployment of police teams including civilians outside targeted homes during whole days. This is carried out to prevent these persons or their relatives from leaving, or otherwise identify and search any person who enters or leaves the place. In other cases, they are purportedly subjected to monitoring, detentions, threats, and house searches.<sup>15</sup> More recently, the Commission condemned the widespread impunity and the extended breach of the rule of law that persists in Nicaragua,<sup>16</sup> and the recent and intensive repression against individuals and organizations who belong to the opposition party, human rights defenders, and the independent press.<sup>17</sup>

11. In August 2021, the IACHR urged the State to cease repression against opponents to the government, emphasizing, among the state actions carried out in recent months aimed at preventing the participation of the opposition: detention and criminalization of leaders, including pre-presidential candidates, by approving and using criminal laws with ambiguous content and/or arbitrarily restricting the political rights of the Nicaraguan population; and, in general, by deepening a police state that keeps public rights and freedoms suspended.<sup>18</sup>

### **III. PRECAUTIONARY MEASURES IN FORCE UNDER REGISTRATION NUMBER PM-1172-18, IN FAVOR OF MEDARDO MAIRENA SEQUEIRA’S FAMILY MEMBERS AND MARIO LENER FONSECA DÍAZ’S FAMILY MEMBERS.**

12. On October 15, 2018, the IACHR decided to request the adoption of precautionary measures in favor of Medardo Mairena Sequeira and Mario Lener Fonseca Díaz and their families, in Nicaragua. The request for precautionary measures alleged that the beneficiaries, members of the Civic Alliance for

<sup>10</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>11</sup> IACHR. [Press Release No. 80/20](#). IACHR, 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. [Press Release No. 2/21](#). IACHR Condemns Growing Harassment in Nicaragua. January 6, 2021.

<sup>15</sup> IACHR. [Press Release No. 2/21](#). IACHR Condemns Growing Harassment in Nicaragua. January 6, 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 152/21](#). IACHR Condemns the Serious Escalation of Repression in Nicaragua. June 18, 2021.

<sup>18</sup> IACHR. [Press Release 209/21](#). IACHR condemns the set of state actions that aim to put an end to the participation of the opposition in the next elections in Nicaragua. August 11, 2021 [only in Spanish].

Justice and Democracy, and of the Dialogue Table representing the *Campesino* Movement, were being subjected to threats, harassment, intimidation and acts of violence since the protests of April 18, 2018, in Nicaragua.

13. Upon analyzing the available information, in light of the applicable context and the findings directly made by the IACHR, the Commission considered that the information provided showed *prima facie* that the rights to life and personal integrity of Medardo Mairena Sequeira and Mario Lener Fonseca Díaz, as well as their families, are in a serious and urgent situation. Consequently, in accordance with Article 25 of the Rules of Procedure, the Commission requested that the State of Nicaragua: a) adopt the necessary measures to guarantee the rights to life and personal integrity of Medardo Mairena Sequeira and Mario Lener Fonseca Díaz, as well as their nuclear families, who are susceptible to identification. In particular, the State must both ensure that state actors respect the rights of the beneficiaries in accordance with the standards established by international human rights law, as well as in relation to acts of risk attributable to third parties; b) ensure that Medardo Mairena's detention conditions comply with applicable international standards. In particular, adopt the necessary measures that enable the necessary medical care for Medardo Mairena, taking into account his health condition and in accordance with the recommendations given by the corresponding specialists. Furthermore, in order to verify the circumstances in which the beneficiary finds himself, facilitate that Mr. Medardo Mairena can access his legal representatives and receive family visits in accordance with the applicable standards; c) consult and agree upon the measures to be adopted with the beneficiaries and their representatives; and d) report on the actions taken to investigate the alleged events that led to the adoption of this precautionary measure, so as to prevent them from reoccurring.<sup>19</sup>

14. On that occasion, the Commission identified as beneficiaries Medardo Mairena Sequeira and Mario Lener Fonseca Díaz, as well as their families, who are susceptible to identification under the terms of Art. 25(6)(b).<sup>20</sup> Subsequently, upon following up on the matter, the Commission decided to request provisional measures before the Inter-American Court in favor of Medardo Mairena Sequeira and Mario Lener Fonseca Díaz, who, as of May 2019, were deprived of their liberty in Nicaragua.<sup>21</sup> In the case of Medardo Mairena, it was indicated that he suffered attacks that he described as "torture" while he was in "El Chipote." Upon being deprived of liberty, information was received indicating, among other aspects, that they have been deprived of liberty in confined, dark spaces, without air circulation or natural light, and there they face feeding problems. One of them reportedly suffered a scorpion picket, given that scorpions go unnoticed in the dark, while the corresponding specialized medical evaluations are purportedly not carried out.

15. On May 21, 2021, the President of the Inter-American Court adopted urgent measures in favor of Medardo Mairena Sequeira and Mario Lener Fonseca Díaz.<sup>22</sup> Subsequently, on October 14, 2019, the Inter-American Court decided to lift the urgent measures given that the beneficiaries had been released.<sup>23</sup>

16. Finally, the IACHR requested information from the State on May 21, 2021, on the situation of the family members of Medardo Mairena Sequeira and Mario Lener Fonseca Díaz. The State responded on

<sup>19</sup> IACHR. [Resolution No. 80/18](#). PM 1172-18. Medardo Mairena Sequeira and Mario Lener Fonseca Díaz and their families regarding Nicaragua. October 15, 2018.

<sup>20</sup> IACHR. [Resolution No. 80/18](#). PM 1172-18. Medardo Mairena Sequeira and Mario Lener Fonseca Díaz and their families regarding Nicaragua. October 15, 2018, para. 35.

<sup>21</sup> IACHR, IACHR Submits a Request to the Inter-American Court for Provisional Protection Measures for 17 People Who Are Being Deprived of Their Freedom and Are at Extreme Risk in Nicaragua, May 15, 2019.

<sup>22</sup> I/A Court H.R. [Matter of seventeen persons deprived of liberty regarding Nicaragua. Provisional Measures. Adoption of Urgent Provisional Measures](#). Order of the President of the Inter-American Court of Human Rights of May 21, 2019 [only in Spanish].

<sup>23</sup> I/A Court H.R. [Matter of seventeen persons deprived of liberty regarding Nicaragua. Provisional Measures](#). Order of the Inter-American Court of Human Rights of October 14, 2019 [only in Spanish].

May 25, 2021, and indicated as follows:

“In this regard, this Ministry communicates that the State of Nicaragua guarantees and protects the human rights of all people, without distinction for reasons of birth, nationality, political creed, race, sex, language, religion, opinion, origin, economic position, or social condition, in compliance with its domestic legal system and the ratified international instruments on human rights.”

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

17. Hereunder is the information received from the representatives and the State regarding the request for precautionary measures in favor of Medardo Mairena Sequeira and Pedro Joaquín Mena Amador in Nicaragua.

##### **A. Recent information provided by the representation**

- *Medardo Mairena Sequeira*

18. Mr. Medardo Mairena Sequeira was Coordinator of the “*Campesino* Council in Defense of the Land, Lake, and Sovereignty in Nicaragua” (“*Campesino* Movement”), which was created in 2013 in response to the license for the construction of the Interoceanic Canal. In April 2018, when various social protests took place in Nicaragua, Mr. Mairena was part of the “Civic Alliance for Justice and Democracy” and was a member of the “Dialogue Table,” representing the “*Campesino* Movement.” During that time, Mr. Mairena was followed by police officers dressed in civilian and uniformed clothes, even near the hotels where he was staying in Managua, along with other *Campesino* persons from Nicaragua.

19. Mr. Mairena was detained by the National Police on July 13, 2018, when he was about to travel abroad to a work meeting. He remained approximately 15 days at the National Directorate of Legal Assistance “El Chipote,” where, according to the representation, he was tortured and beaten on his head, ribs, chest, and stomach. Following his detention in “El Chipote,” Mr. Mairena was transferred to the “La Modelo” prison, in a maximum-security cell, where there is a place for punishment called “El Infiernillo,” where there are insects, cockroaches, and mice. He was locked in “total darkness” with no access to sunlight. The representation indicated that his process was carried out without the guarantees of due process, for various crimes such as murder, kidnapping, organized crime, financing of terrorism, among others. For these reasons, he was sentenced to 216 years in prison. On June 11, 2019, he was released through an Amnesty Law that granted this benefit to all those detained because of their participation in the protests. The representation questioned the law in light of inter-American standards on the matter.

20. Since his release from prison, Mr. Mairena suffered from constant siege by National Police officers, who assigned a patrol and several motorcyclists dressed in civilian clothes to follow him wherever he moved. As a coalition was formed with a view to the electoral process in Nicaragua in November 2021, the siege increased, as well as the restrictions, given that he was no longer allowed to leave the city of Managua. These limitations worsened once Mr. Medardo Mairena Sequeira announced his pre-candidacy for the presidency of Nicaragua. Thus, the surveillance and permanent siege reached the point of not allowing him to leave the house where he was living in Managua.

21. On July 5, 2021, around 9:00 p.m., National Police officers forcefully entered the house where Medardo Mairena Sequeira was staying. Upon entering the house, the officers did not produce any search warrant and immediately detained him, without giving him the reasons for his detention. Then, they allegedly took him to the National Judicial Assistance Directorate “Evaristo Vásquez Police Complex.” On

the morning of July 6, 2021, the National Police, through press release 181-2021, reported that:

“Yesterday, Monday, July 5, 2021, the following persons were detained: Medardo Mairena Sequeira, Pedro Joaquín Mena Amador, and Freddy Alberto Navas López, leaders of the murder of 4 fellow police officers and civilian citizens, kidnapping, and injuries to 12 fellow police officers in the municipality of Morrito, department of Río San Juan, and the death blocks in the departments of Chontales, Boaco, Río San Juan and Zelaya Central, where they committed crimes of homicide, robbery with intimidation (assaults), kidnappings, extortion, rapes, destruction, and multiple damages during the failed attempted coup in 2018. [...]

In the same way, the detainees are being investigated for carrying out acts that undermine independence, sovereignty, and self-determination; inciting foreign interference in internal affairs; requesting military interventions; using financing from foreign powers to carry out acts of terrorism and destabilization; proposing and manage economic, commercial, and financial blockades against the country and its institutions; demanding, exalting, and welcoming penalties against the State of Nicaragua and its citizens, and injuring the supreme interests of the nation, in accordance with Article 1 of Law No. 1055 “Law on the Defense of the Rights of the People to Independence, Sovereignty, and Self-determination for Peace.”

22. In the morning of July 6, 2021, a team of lawyers from the Permanent Commission of Human Rights of Nicaragua (CPDH) at the request of family members of Medardo Mairena Sequeira, came to the Evaristo Vásquez Police Complex, to investigate the reasons for the detention and to know his state of health. The police officers, upon looking at the group of human rights defenders, closed the reception door and refused to open it. Another officer guarding the gate through which the police patrols enter told the group of lawyers to wait 5 minutes. While two of the lawyers began to make statements to the media about the work they were doing, a police patrol appeared with at least 10 National Police officers armed with pistols and AK rifles. These troops began to yell at the group of CPDH defenders seeking that they withdraw from the place. They were told that no information would be provided. They were allegedly forced to board the vehicle in which the defenders were traveling. On the way back, the lawyers were chased for several kilometers.

23. The next day, July 7, 2021, relatives of Medardo Mairena showed up at the same place (Evaristo Vásquez Judicial Complex) and they did not receive any information either. Since then, the relatives of Medardo Mairena have come to this police station every day to leave him food, which is not accepted. The officers purportedly only receive two liters of water per day. When his relatives request to see him, this is denied. They are not provided with any information on the physical or mental health of the detainee, and therefore, Mr. Medardo Mairena was in total isolation.

24. On July 6, 2021, a writ of habeas corpus (*exhibición personal*) was filed before the Managua Court of Appeals, Criminal Chamber I, because of the illegal detention of Mr. Medardo Mairena. On July 8, 2021, the Court of Appeals ruled that the detention of Mr. Medardo Mairena is legal based on Law 1055 - Law for the Defense of the Rights of the People to Independence, Sovereignty, and Self-determination for Peace. The representation indicated that this law is not punitive, that is, it does not cover criminal behaviors subject to be prosecuted as crimes. On July 7, 2021, the Public Ministry issued statement 030-2021 in which, regarding Mr. Medardo Mairena Sequeira, it is established:

“In compliance with the Constitution and the Laws of the Republic, a written request for a special hearing for protection of constitutional guarantees was submitted today to request the extension of the period of investigation and judicial detention against Lester Lenin Alemán Alfaro, Max Isaac Jerez Meza, and Medardo Mairena Sequeira, for being prosecuted for the possible commission of illegal acts due to strong indications that they have attacked Nicaraguan society and the rights of the people, in

accordance with Law No. 1055 and the Criminal Code. In addition, they have allegedly carried out acts that undermine the independence, sovereignty, and self-determination of Nicaragua; they have publicly incited foreign interference in internal affairs, proposing or managing economic, commercial, and financial operations blockades against the country and its institutions; they have demanded and celebrated penalties against the State of Nicaragua and its citizens. The special hearings were held today, and the requests were admitted by the corresponding judicial authority, who issued a 90-day judicial detention for each person being prosecuted...”

25. The representation indicated that the special hearing for protection of constitutional guarantees was held in total secrecy, without the intervention of his defense lawyer. Moreover, they indicated that none of the procedural actions reported by the Public Ministry, carried out by the judicial authority, are provided in the System of Cases of the website of the Judicial Power. They described the process as “arbitrary.” For the representation, as long as the National Police does not bring Mr. Medardo Mairena to his relatives to lawyers, it is presumed that he may be being subjected to torture, or cruel, inhuman or degrading treatment.

26. On August 4, 2021, the representation reported that Mr. Mairena remained isolated and in solitary confinement. They also reported that on July 29, 2021, María del Socorro Oviedo Delgado, technical defense of the proposed beneficiary and member of the CPDH, was detained under the same conditions as Mr. Mairena. Lawyer Oviedo is purportedly in total isolation, unable to receive visits from relatives or lawyers. It was indicated that both Mr. Mairena and his technical defense underwent a “hearing on constitutional guarantees,” without guaranteeing their right to a lawyer. At the hearing, they were imposed 90 days of judicial detention for the alleged crime of treason to the homeland. The representation emphasized that Mr. Mairena was completely defenseless because few lawyers would accept to defend him under the risk of being detained at any time. The representation also stressed that it is unknown whether he has been evaluated by a physician. On July 20, 2021, a complaint was filed with the Constitutional Chamber of the Supreme Court of Justice. No response has been allegedly received, despite appearances made on July 23, 2021. As of July 29, 2021, the representation indicated that it contacted the Supreme Court, who indicated that the case is still under study.

27. Lastly, the representation reaffirmed that Mr. Mairena is in total isolation from his family and lawyers and is not allowed to enter food or medicine. The representation indicated that they are not aware of his whereabouts, his health condition, and whether he has undergone any health assessment, given that the authorities have refused to provide official information in this regard.

- *Pedro Joaquín Mena Amador*

28. Mr. Pedro Joaquín Mena Amador was a member of the “*Campesino* Council in Defense of the Land, Lake, and Sovereignty in Nicaragua” (“*Campesino* Movement”), which was created in 2013 in response to the concession for the construction of the Interoceanic Canal. In April 2018, the date on which various social protests took place in Nicaragua, Mr. Mena was part of the “Civic Alliance for Justice and Democracy” and had been a member of the “Dialogue Table,” as a member of the “*Campesino* Movement.” During that time, Mr. Mena was followed by police officers dressed in civilian and uniformed clothes, even near the hotels where he was staying in Managua, along with other *Campesino* persons, including the leader of the Medardo Mairena movement.

29. Mr. Mena was detained by the National Police on July 13, 2018, when he was about to travel abroad to a work meeting. He was held approximately 15 days at the National Directorate of Legal Assistance “El Chipote,” where, according to the representatives, he was tortured and suffered all kinds of humiliations. Following his detention in “El Chipote,” Mr. Mena was transferred to the “La Modelo” prison, in a maximum-security cell, where there is a place for punishment called “El Infiernillo,” where there are

insects, cockroaches, and mice. The police themselves allegedly threw products that call insects to that place. He was locked in “total darkness” with no access to sunlight. His process was carried out without the guarantees of due process, for various crimes such as murder, kidnapping, organized crime, financing of terrorism, among others. For these reasons, he was sentenced to 210 years in prison. On June 11, 2019, he was released through an Amnesty Law that granted this benefit to all those detained because of their participation in the protests. The representation questioned the law in light of inter-American standards on the matter.

30. Since his release from prison, Mr. Mena suffered from a permanent siege by members of the National Police, who assigned a patrol and several motorcyclists dressed in civilian clothes, to follow Mr. Pedro Mena wherever he moved, in the national territory. In the last 10 months, this siege has intensified to the extent that he is no longer allowed to leave the region of the Fonseca municipality of Nueva Guinea. This caused that he was no longer able to go to Managua for work meetings.

31. At around 8:00 p.m., on July 5, 2021, members of the National Police entered the home of citizen Pedro Joaquín Mena Amador without producing any search or arrest warrant. These police officers proceeded to detain Pedro Joaquín Mena Amador and transfer him to the National Directorate of Legal Assistance. On the morning of July 6, 2021, through press release 181-2021, the National Police reported that:

“Yesterday, Monday, July 5, 2021, the following persons were detained: Medardo Mairena Sequeira, Pedro Joaquín Mena Amador, and Freddy Alberto Navas López, leaders of the murder of 4 fellow police officers and civilian citizens, kidnapping, and injuries to 12 fellow police officers in the municipality of Morrito, department of Río San Juan, and the death blocks in the departments of Chontales, Boaco, Río San Juan and Zelaya Central, where they committed crimes of homicide, robbery with intimidation (assaults), kidnappings, extortion, rapes, destruction, and multiple damages during the failed attempted coup in 2018. [...]

In the same way, the detainees are being prosecuted for carrying out acts that undermine independence, sovereignty, and self-determination; inciting foreign interference in internal affairs; requesting military interventions; using financing from foreign powers to carry out acts of terrorism and destabilization; proposing and managing economic, commercial, and financial blockades against the country and its institutions; demanding, exalting, and welcoming penalties against the State of Nicaragua and its citizens; and injuring the supreme interests of the nation, in accordance with Article 1 of Law No. 1055 “Law on the Defense of the Rights of the People to Independence, Sovereignty, and Self-determination for Peace.”

32. The representation referred to what happened with the CPDH (vid. *supra* para. 22). On July 7, 2021, Mena’s relatives visited the Evaristo Vásquez Judicial Complex, where they did not receive any information. Since then, every day, Mr. Mena’s relatives reportedly come to this police complex to leave him food, which is not accepted. The officers allegedly only receive two liters of water per day. When his relatives request to see him, this is denied, and they are purportedly not provided with any information on the physical or mental health of the detainee. Therefore, Mr. Mena is completely incommunicado.

33. On July 7, 2021, a writ of habeas corpus was filed with the Court of Appeals of Managua, Criminal Chamber I, for the illegal detention of Mr. Mena. The Court of Appeals ruled that the detention is legal based on Law 1055 “Law for the Defense of the Rights of the People to Independence, Sovereignty, and Self-determination for Peace.” On July 8, 2021, the Public Ministry issued statement 031-2021 where, regarding Mr. Pedro Joaquín Mena Amador, it established as follows:

“In compliance with the Constitution and the Laws of the Republic, a written request for a special hearing for protection of constitutional guarantees was filed yesterday in the afternoon to request the extension of the period of investigation and judicial detention against Freddy Alberto Navas López and Pedro Joaquín Mena Amador, who are being prosecuted for having arranged with other persons the formation of a permanent organization for the commission of serious criminal acts to the detriment of the State of Nicaragua, its institutions and its citizens, as well as for having strong indications that they have attacked the rights of the Nicaraguan people and society in accordance with Law No. 1055 and the Criminal Code. The special hearings were held yesterday afternoon and the requests were admitted by the corresponding judicial authority, who issued a judicial detention for 90 days.”

34. The representation reported that the special hearing for protection of constitutional guarantees was held in total secrecy and without the intervention of a defense lawyer. Moreover, they indicated that none of the procedural actions reported by the Public Ministry are included in the System of Cases of the website of the judiciary. They called the process “arbitrary.” The representation stressed that Mr. Mena is in completely incommunicado from his family and lawyers and is not being allowed to enter food or medicine. The representation considers that as long as the National Police does not present Mr. Mena, it is presumed that he may be being subjected to torture, or cruel, inhuman, or degrading treatment.

35. The representation emphasized that there is no certainty about where Mr. Mena is being held. Relatives and lawyers have visited the National Legal Assistance Directorate “Evaristo Vásquez Judicial Complex,” but the police authorities refuse to provide information. In the notices issued, the National Police and the Public Ministry have not indicated where Mr. Mena is being held or his state of health. On July 29, 2021, the representation reported that Mr. Mena’s technical defense had not been able to see him despite having submitted a request for a visit to the judge in the case. In the same way, it was indicated that his relatives have not been able to see the proposed beneficiary even though every day they arrive at the facilities of the Evaristo Vásquez Judicial Complex. It was indicated that the officers deny any information about the proposed beneficiary.

36. On July 7, 2021, a writ of habeas corpus was filed before the Managua Court of Appeals, Criminal Chamber I, for the illegal detention of Mr. Mena. The Court of Appeals ruled that the detention of Mr. Mena Amador is legal based on Law 1055 “Law for the Defense of the Rights of the People to Independence, Sovereignty, and Self-determination for Peace,” which is a law that is not punitive, that is, it does not cover criminal behaviors subject to be prosecuted as crimes. The representation indicated that they filed a complaint with the Constitutional Chamber of the Supreme Court of Justice on July 20, 2021. On July 23, 2021, they allegedly appeared, but the secretary told them that their complaint was under study. On July 29, 2021, the representation called and was told that the complaint was still under study, even though the law establishes that it shall be resolved within 24 hours.

37. Finally, the representation indicated that the proposed beneficiary remains “completely incommunicado,” without being allowed to receive food from them. They are allegedly allowed to bring him only two liters of water per day. The representation indicates that, given the situation raised, “the presumption that he is being subjected to acts of torture increases every day.” The police purportedly continue to refuse to give any information about him, even though his relatives come daily to ask about his situation.

- *Recent information from the representation regarding both proposed beneficiaries*

38. On September 27, 2021, the representation reported that a change of defense for Mr. *Medardo Mairena* was requested to the judge. The representation indicated that 66 days passed for Mr. Mairena to have contact with his relatives. Similarly, it was questioned that Medardo did not have the opportunity to choose his defense at the preliminary hearing, following the requests made. Until September 6, 2021, the

representation indicated that they had requested to have access to the file to see the indictment. However, the defense was unable to see the indictment that had been delivered to the lawyer from the Public Defender's Office, –who assisted him in the preliminary hearing–, and therefore, the indictment was not available at the initial hearing and prior access to it was not allowed.

39. At the initial hearing, Mr. Mairena spoke for only 5 minutes with his defense. He allegedly indicated that he was held with another person in a small cell. In his understanding, this cell was smaller than that intended for “punishment”; they did not allow the entry of food from relatives, except liquid; the food provided by the officers was “good”; and he was given three meals. It was indicated that he had symptoms of an ear infection, which was adequately treated at the time. Mr. Mairena indicated that he did not understand why he was in the small cell, given that he has been cooperating with the investigations and interrogations that different police officers were carrying out at different times during the day.

40. On September 23, 2021, the representation indicated that it was notified of a “hearing to expand the indictment,” which was held on September 24, 2021. That day, the proposed beneficiary indicated that he was still in the cell, that he still had an ear infection, and that he had contracted the flu a few days ago. At that time, the representation requested that he be referred again to Forensic Medicine to find the reason for his conditions. Mr. Mairena stated that he continued with constant interrogations at any time of the day by different police officers.

41. As for *Pedro Mena Amador*, the representation indicated that on September 22, 2021, an initial hearing was held with his lawyer. The representation indicated that a request for dismissal was filed because his rights and guarantees were not observed, given that Mr. Mena had access to communications with a lawyer only three hours after being detained, while the reasons for his detention were not explained to him until he was brought to a hearing with a lawyer that was not a trusted one. At the hearing for protection of constitutional guarantees on July 7, 2021, the representation indicated that a trusted lawyer did not participate. For 66 days, Mr. Mena reportedly did not have contact with his relatives. On September 9, 2021, the representation indicated that he was not allowed to choose his defense either. Therefore, the Public Defender's Office took on the process. The representation indicated that it has challenged the charges on the proposed beneficiary before the judge. Furthermore, the representation indicated that they managed to talk with him at the end of the hearing on September 22, 2021, and he informed them that he is being questioned every day, with enquiries about the political activities of Medardo Mairena. He is allegedly receiving three meals a day and sleeping well.

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

42. The State responded regarding the situation of both proposed beneficiaries. With respect to *Medardo Mairena Sequeira*, the State indicated that he is involved in criminal activities committed against the peace, security, and human rights of the Nicaraguan people, in marked collusion with imperial powers and foreign governments. It added that Mr. Mairena is being criminally prosecuted in accordance with current Nicaraguan Justice Codes, following constitutional principles and guarantees and respect for Human Rights.

43. The State denounced that the IACHR is insisting on transgressing internal processes and circumventing the actions of the national authorities in the country, by trying to grant precautionary measures to criminals for the Nicaraguan justice. For the State, the IACHR is subject to the Interventionist Policy of the United States of North America, the purpose of which is to use this body to violate the institutions and sovereignty of the State of Nicaragua. The State indicated that it will not allow this to happen. The State specified that it will continue to reject and condemn the resolutions of the IACHR as long as it keeps depending on the United States of America and insists on undermining the Human Rights

of the Nicaraguan people.

44. In the case of *Pedro Joaquín Mena Amador*, the State indicated that the proposed beneficiary and his family are not at risk and that the request for precautionary measures in his favor should not be admitted. The State added that it protects the rights of all people within the national territory, without discrimination and considering the principles and guarantees established in its constitution. The State indicated that it complies with the Constitution in the face of acts that undermine the independence, sovereignty, and self-determination of the Nicaraguan people that are contrary to the common good of society, and that cause destabilization, damaging the supreme interests of the Nation and those of the Nicaraguan people.

45. The State reiterated that those who violate the legal interests protected by the State must be prosecuted objectively and be liable for the consequences of the acts they carry out, in violation of the law, which is applicable to everyone. Therefore, the State indicated that they should be subjected to the previously established legal procedures, within the framework of the most absolute respect for their rights and guarantees. The State specified that such procedures comply with the procedural principles of due process, the principle of legality, effective judicial protection, the right to defense, among others. Similarly, it indicated that the authorities in charge of applying the law ensure that each investigative and jurisdictional step is carried out respecting the procedural guarantees. The State indicated that when a person exceeds the legal boundaries that are applicable to everyone, they trigger legal consequences, and consequently, it must investigate and proceed according to the law.

46. Finally, the State indicated that Mr. Mena Amador is undergoing a criminal prosecution process resulting from the alleged commission of common crimes. In this process, his rights and procedural and administrative guarantees are observed to avoid any treatment that threatens his dignity and personal integrity.

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

47. 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 41(b) of the American Convention on Human Rights, as well as in Article 18(b) of the IACHR Statute. The mechanism of precautionary measures is set forth in Article 25 of the Commission's Rules of Procedure. In accordance with that Article, the Commission grants precautionary measures in serious and urgent situations in which these measures are necessary to avoid irreparable harm to persons.

48. 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>24</sup> Regarding their protective nature, these measures seek to avoid irreparable harm and preserve the exercise of human rights.<sup>25</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

<sup>24</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>25</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].

are not adopted.<sup>26</sup> Regarding their precautionary nature, these measures have the purpose of preserving legal situations while under the consideration of the IACHR. The object and 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>27</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 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.

49. The Commission recalls that the facts supporting a request for precautionary measures do not need to be proven beyond doubt; rather, the purpose of the assessment of the information provided should be to determine, *prima facie*, if a serious and urgent situation exists.<sup>28</sup> Similarly, the Commission recalls that, by its own mandate, it is not called upon to determine any criminal liabilities for the facts alleged.<sup>29</sup> 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>30</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>31</sup>

50. Although the precautionary measures requested in favor of the proposed beneficiaries initially received new registration numbers from 2021, the Commission considers that there is a “factual

<sup>26</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>27</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>28</sup> In this regard, for example, referring to provisional measures, the Inter-American Court has indicated that a minimum of detail and information is required to assess, *prima facie*, whether an extremely serious and urgent situation exists. I/A Court H.R., *Matter of the children and adolescents deprived of their liberty in the “Complexo do Tatuapé” of the Fundação CASA*. Request for extension of provisional measures. Provisional Measures regarding Brazil. Resolution of the Inter-American Court of Human Rights of July 4, 2006. Considerandum 23.

<sup>29</sup> IACHR. [Resolution 5/2014](#). Precautionary Measure No. 374-13. Gustavo Francisco Petro Urrego regarding Colombia. March 18, 2014, para. 13; IACHR. [Resolution 41/2021](#). Precautionary Measure No. 382-21. Ovidio Jesús Poggioli Pérez regarding the Bolivarian Republic of Venezuela. May 13, 2021, para. 14.

<sup>30</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>31</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].

connection” with those precautionary measures still in force in favor of the families of Medardo Mairena Sequeira and Mario Lener Fonseca Díaz under registration number PM-1172-18. In this sense, when understanding the requests for precautionary measures as an “extension” of those in force, the Commission takes into account that this matter refers to members of the *Campesino* Movement, like the initial granting of 2018 was at the time. Similarly, the Commission notes that the representation has alleged ongoing risk factors, which, in turn, are identical with those analyzed by the Commission when the precautionary measures were granted in 2018, and by the presidency of the Inter-American Court, when assessing urgent measures. The Commission also observes that Mr. Medardo Mairena was at the time a beneficiary of precautionary measures under the 2018 registration number. In this sense, for the Commission, the above assessment elements are sufficient to indicate that the requirement of “factual connection” has been met, given that the facts alleged in the request for extension are connected with the events that justified the initial adoption of the precautionary measures.<sup>32</sup>

51. In this matter, the Commission observes that the alleged situations placing the proposed beneficiaries at risk are framed in the current context of Nicaragua,<sup>33</sup> as well as the special situation of exposure in which the persons identified as “opponents” and those who have demonstrated against the actions of the government find themselves.<sup>34</sup> In the same sense, as observed by the IACHR through its monitoring functions, it is noted that the situation of the persons proposed as beneficiaries is not an isolated one, but rather is part of a practice of arbitrary detentions, criminalization of opponents and human rights defenders, and the subsequent lack of adequate medical care for persons deprived of liberty for political reasons.<sup>35</sup> In this regard, the IACHR has granted several precautionary measures<sup>36</sup> and the Inter-American Court a provisional measure to persons identified as dissidents who are deprived of liberty in Nicaragua.<sup>37</sup>

52. On the other hand, 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

<sup>32</sup> In this regard, see: IACHR, Resolution 10/17, Precautionary Measure No. 393-15 Detainees in “Punta Coco” regarding Panama, March 22, 2017, para. 28; and I/A Court H.R., Fernández Ortega *et al.* regarding Mexico. Resolution of Provisional Measures of November 23, 2010, considerandum 19.

<sup>33</sup> See in this regard: 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.

<sup>34</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; 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; I/A Court H.R. [Matter of Juan Sebastián Chamorro \*et al.\* regarding Nicaragua](#). Provisional Measures regarding Nicaragua. Order of the Inter-American Court of Human Rights of June 24, 2021, para. 24.

<sup>35</sup> IACHR. [Press Release No. 209/21](#). IACHR condemns the set of state actions that aim to put an end to the participation of the opposition in the next elections in Nicaragua. August 11, 2021 [only in Spanish]. [Gross Human Rights Violations in the Context of Social Protests in Nicaragua](#). OEA/Ser.L/V/II. Doc. 86. June 21, 2018; 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, p. 194; IACHR. [Persons Deprived of Liberty in Nicaragua in connection with the Human Rights Crisis that Began on April 18, 2018](#). OEA/Ser.L/V/II. Doc. 287. October 5, 2020, para. 5; IACHR. [Annual Report 2020. Chapter IV.B Nicaragua](#), February 2021, para. 154.

<sup>36</sup> See in this regard: IACHR. [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 his family regarding Nicaragua. April 30, 2021; IACHR. [Resolution 33/2021](#). 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>37</sup> I/A Court H.R. [Matter of Juan Sebastián Chamorro \*et al.\* regarding Nicaragua](#). Provisional Measures regarding Nicaragua. Order of the Inter-American Court of Human Rights of June 24, 2021. See also: I/A Court H.R. [Matter of Juan Sebastián Chamorro \*et al.\* regarding Nicaragua](#). Adoption of urgent measures in favor of Daisy Tamara Dávila Rivas and her family. Order of the President of the Inter-American Court of Human Rights. July 19, 2021.

in their custody.<sup>38</sup> This is the result of the special relationship and interaction of subjection between the person deprived of liberty and the State, characterized by the particular intensity with which the latter can regulate their rights and obligations, and by the circumstances of imprisonment, in which the inmate is prevented from satisfying on their own a series of basic needs essential for the development of a dignified life.<sup>39</sup> More specifically, and in light of the facts described by the requesting organizations, 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, their health and well-being are adequately ensured.<sup>40</sup>

53. Taking into account the aforementioned particular context of Nicaragua and the special duty of guarantor that the State has towards the persons in its custody, the Commission will proceed to analyze the procedural requirements regarding the persons proposed as beneficiaries.

54. At the time of fulfilling the requirement of *seriousness*, the Commission takes into account the profile of the proposed beneficiaries in the historical and current context of Nicaragua. In this sense, the Commission notes that both proposed beneficiaries are visible leaders of the Nicaraguan *Campesino* Movement, and, following the events of April 2018, they had an important participation in the spaces for consultation with the government with a view to solving the human rights crisis (vid. *supra* paras. 18 and 28). In addition, through its different mechanisms, the IACHR has received information on the systematic repression of persons who make up the *Campesino* Movement due to their opposition to the government and, in particular, to the denunciation and protest actions organized against the construction of the Interoceanic Grand Canal. Since 2013, this repression has consisted of attacks, threats, arbitrary detentions, and other acts committed, both by state officers and government supporters.<sup>41</sup> In 2018, the *Campesino* Movement continued its mobilizations and actively participated in the protests called in different parts of the country, standing out for supporting university students and other sectors mobilized through the organization of demonstrations, sit-ins, and the installation of roadblocks in various strategic points of the country. Derived from the leadership role that it exercises for a sector of the Nicaraguan *Campesino* population, in the same year, the leaders of the Movement were part of the National Dialogue established between civil society and the government.<sup>42</sup>

55. Thus, the Inter-American Commission has noted the existing history of open opposition of the

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<sup>38</sup> See in this regard: I/A Court H.R. [Matter of Juan Sebastián Chamorro et al. regarding Nicaragua](#). Provisional Measures regarding Nicaragua. Order of the Inter-American Court of Human Rights of June 24, 2021, para. 38; 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. 49.

<sup>39</sup> IACHR. [Report on the Human Rights of Persons Deprived of Liberty in the Americas](#). OEA/Ser.L/V/II. 68, December 31, 2011, paras. 49-50.

<sup>40</sup> I/A Court H.R. [Matter of seventeen persons deprived of liberty regarding Nicaragua](#). Provisional Measures. Adoption of Urgent Provisional Measures. Order of the President of the Inter-American Court of Human Rights of May 21, 2019 [only in Spanish]. Considerandum 23.

<sup>41</sup> On June 13, 2013, the National Assembly approved Law no. 840 “Special Law for the Development of Nicaraguan Infrastructure and Transport in respect of the Canal, Free Trade Zones and Associated Infrastructure,” which allowed the concession for the construction and management of the interoceanic canal in southern Nicaraguan territories to the Chinese company HKND Group, which would seriously affect *campesino* communities in the canal sector and their territories. In response, the rural population of the canal route decided to organize and constitute the *Campesino* Movement in order to initiate coordinated reporting actions to make their protest against the construction of the Interoceanic Canal visible. IACHR, [Annual Report 2016. Chapter IV.A: Overview of the human rights situation in the hemisphere](#). OEA/Ser.L/V/II. Doc. 22. March 15, 2017, para. 18; IACHR, [Public Hearing on the Construction of the Transoceanic Canal and its Impact on Human Rights in Nicaragua, 154<sup>th</sup> Session](#), March 16, 2015; CENIDH and FIDH, [Concession of the Interoceanic Canal in Nicaragua: Serious impact on human rights. Mobilized Campesino communities resist](#), September 2016; IACHR, Annual Report 2019, [Chapter IV.B Nicaragua](#), OEA/Ser.L/V/II. Doc. 5. February 24, 2020, para. 200 *et seq.*

<sup>42</sup> CENIDH, [Report: Six months of civic resistance to government repression](#), p. 20; Nicaragua Human Rights Collective Never Again, *Acción Penal*, Due Process of Law Foundation (DPLF), Nicaraguan *Campesino* Movement. [Gross Human Rights Violations in the Context of Social Protests in Nicaragua](#). Managua and San José, September 22, 2019 (On file IACHR).

*Campesino* Movement to the current government, which adds special seriousness to the facts alleged in this proceeding, given that they have allegedly caused a more intense state reaction against the movement members and its leaders. The State reaction has allegedly increased even more against the proposed beneficiaries following the decision of Mr. Medardo Mairena, leader of the *Campesino* Movement, to be a presidential candidate in the next general elections of the country (vid. *supra* para. 20).

56. Despite having previously granted precautionary measures in 2018 and urgent measures in 2019 in favor of Mr. Mairena (vid. *supra* paras. 12-14), the Commission identifies that, according to the representation, events have continued to occur against Mr. Mairena and other members of the *Campesino* Movement, such as Mr. Mena. Thus, the representation indicated that the proposed beneficiaries have been subjected to “siege” through continuous monitoring by the National Police and other motorized persons in civilian clothes during 2019 until July 2021, when they were detained again (vid. *supra* paras. 18-20 and 28-30). Such events caused severe limitations of displacement in the country, and therefore, the representation indicated that they could not leave their home or region, which prevented them from participating in meetings of their Movement (vid. *supra* paras. 20 and 30). In this regard, the Commission observes that, according to the representation, since July 2021 the proposed beneficiaries have been the subject of the following events that make it possible to graph the seriousness of the situation they currently face in the country:

- a. The proposed beneficiaries were detained on the night of July 5, 2021, alleging the use of force to enter the home, in the case of Mr. Mairena.
- b. At the time of the detention, the police did not inform the proposed beneficiaries of the reasons for their detention, nor did they produce a search or arrest warrant.
- c. The police did not officially report the exact place where the proposed beneficiaries are purportedly held. The public statements by the Police did not specify the place where they are allegedly detained.
- d. Since July 6, 2021, lawyers and family members have tried to obtain information on the situation of the proposed beneficiaries and their official place of detention. Police officers have refused to provide official information and have intimidated lawyers and family members.
- e. Despite various legal remedies filed to obtain information on the proposed beneficiaries and challenge the detentions, the representation indicated that the proposed beneficiaries had been kept totally incommunicado for approximately 66 days and were not allowed to receive food or medicines from them.
- f. Given the lack of official information, the representation considered that the proposed beneficiaries were being subjected to torture, this allegation being particularly worrying given Mr. Mairena’s background when he was deprived of liberty between 2018 and 2019.
- g. During their total isolation, the proposed beneficiaries were subjected to hearings with “total secrecy” and without the intervention of the lawyer trusted by the proposed beneficiaries. Information on the status of the process was also not available on the Judiciary’s website.
- h. When the defense was able to talk with the proposed beneficiaries, it had difficulties in accessing timely information on the criminal proceedings open against them, which might allow them to carry out an adequate defense.
- i. In September 2021, Mr. Mairena indicated that he was in a small cell intended for “punishment,” and that, although his health had been treated, he continues to have symptoms of ear infection and recent flu.
- j. Both regarding Mr. Mairena and Mr. Mena, it was indicated that they are continuously questioned by the police during their detention, particularly with a view to obtaining information about Mr. Mairena.

57. In assessing these alleged facts, the Commission notes with special concern that the State had

refused to provide information on the situation of the proposed beneficiaries for over 60 days. This has remained so despite complaints about irregularities in the course of the criminal process. Moreover, the proposed beneficiaries were purportedly placed in total incommunicado detention after being detained. Although the Commission understands that they were receiving food and medical attention, the available information indicates that such medical attention is not the most appropriate, given that Mr. Mairena allegedly continues with symptoms of ear infection to date. Furthermore, the available information indicates that Mr. Mairena has been placed in a small cell as a punishment. In this regard, for both the Commission and the Inter-American Court, “prolonged isolation and coercive solitary confinement represent, by themselves, forms of cruel and inhuman treatment, harmful to the mental and moral integrity of the person and the right of all detainees in this regard due to the inherent dignity of the human being.”<sup>43</sup> The foregoing acquires particular relevance given that the persons proposed as beneficiaries are recognized, visible, and opponents of the current Nicaraguan government, and they are also members of the *Campesino* Movement, who have a history of opposition to the current government. Thus, the Commission also finds that there are indications that the detentions of the proposed beneficiaries are part of a larger context characterized by a systematic set of state actions aimed at preventing the participation of the opposition in the general elections to be held in Nicaragua in November of this year.<sup>44</sup>

58. Upon requesting information from the State in the terms of Article 25, the Commission observes that its response focused on indicating that the proposed beneficiaries have been prosecuted for criminal behavior; that it respects the corresponding guarantees in accordance with the applicable regulatory instruments; and that they are not at risk. Similarly, the State questioned the resolutions of the IACHR regarding what has been happening in the country. Regarding the situation of the proposed beneficiaries, the Commission considers that the information presented does not allow assessing whether the State adopted measures, for example, regarding the alleged total isolation to which the proposed beneficiaries were subjected; the refusal to provide official information to the relatives on the situation of the proposed beneficiaries; measures adopted regarding the conditions of detention or health care in relation to their medical conditions. In this regard, the State did not provide specific, detailed, or updated information on any of these aspects. Thus, the State’s response does not indicate that the alleged situation has been duly mitigated, which would imply that the IACHR does not activate the mechanism of precautionary measures in the terms of Article 25 of its Rules of Procedure.

59. Regarding the challenges to the resolutions adopted on Nicaragua, the Commission recalls that it is an autonomous and principal organ of the Organization of American States (OAS). As part of its mandate, the IACHR grants precautionary measures when identifying situations that entail a risk, exclusively assessing the requirements of seriousness, urgency, and irreparable harm set forth in Article 25 of its Rules of Procedure. As has been consistently stated, such assessments can be made without making determinations on the merits. If the State considers that such requirements are not met, it is called upon to furnish specific, sufficient, and up-to-date information sufficient to indicate that the alleged risk has been duly mitigated and that the persons are not in a situation established by the Article 25 of the Rules of Procedure. Despite the prior precautionary measures in force, the Commission notes that the State has continued to send general information without focusing on the specific situation of the beneficiaries (vid. *supra* para. 16).

60. Taking the foregoing into account, the Commission considers that from the *prima facie* standard, and in the context of Nicaragua, it is sufficiently proven that the rights to life, personal integrity, and health of Medardo Mairena Sequeira and Pedro Joaquín Mena Amador are at serious risk.

<sup>43</sup> I/A Court H.R. [Matter of Juan Sebastián Chamorro et al. regarding Nicaragua](#). Provisional Measures regarding Nicaragua. Order of the Inter-American Court of Human Rights of June 24, 2021, para. 36.

<sup>44</sup> IACHR. [IACHR Condemns the State Actions Aimed at Ending Opposition Participation in Nicaragua’s Upcoming Election](#), August 11, 2021.

61. With regard to the requirement of *urgency*, the Commission deems that it has been met, given that if they remain in the situation described, the proposed beneficiaries are likely to be imminently exposed to a greater impact on their rights. Given the lack of information on measures being adopted in favor of the proposed beneficiaries, the Commission considers it necessary to implement concrete measures with a view to addressing their risk. In this regard, the Commission observes, for example, that the proposed beneficiaries were being subjected to continuous interrogations during their detention, which was reportedly preceded by a period of solitary confinement longer than 60 days.

62. 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.

63. Lastly, upon identifying compliance with the procedural requirements, the Commission notes that, in the specific case of Nicaragua, on June 24, 2021, the Inter-American Court of Human Rights granted provisional measures to four persons identified as opponents, some of them precandidates to the presidency of Nicaragua, due to “the circumstances in which the detentions were carried out, the subsequent lack of information from the State on the whereabouts and conditions of detention of the proposed beneficiaries, their current situation of being held incommunicado, as well as the alleged delicate state of health and the lack of access to medicines and health care required by most of them.”<sup>45</sup> In addition, “the lack of information on the procedural status, such as the secrecy on the place of detention, the impossibility of legal assistance from trusted lawyers, the prolonged solitary confinement, the fact that the detainees are active politicians,” added to the context of the aforementioned country, led the Inter-American Court of Human Rights to conclude that those were “*prima facie*, arbitrary detentions.”<sup>46</sup> In view of all the foregoing, the Court considered it necessary, due to the exceptional circumstances of the matter, to order the immediate release of the beneficiaries.<sup>47</sup>

64. Similarly, in May 2019, at the time of granting urgent measures in favor of 17 persons deprived of their liberty, the President of the Inter-American Court of Human Rights indicated that in the Nicaraguan legal system there are possibilities for granting alternative measures to [deprivation of] liberty to persons, even when they are being subjected to criminal proceedings or have already been convicted.<sup>48</sup> On that occasion, given the risk assessment based on the confinement conditions of the persons deprived of their liberty, the President of the Court asked the State to assess, immediately, the granting of alternative measures to deprivation of liberty, in accordance with its domestic regulations and the inter-American standards.<sup>49</sup> These provisional measures were subsequently lifted by the plenary session of the Inter-American Court when all the beneficiaries were released.<sup>50</sup>

65. In light of these criteria, the Commission notes that in the matter at hand the information sent by the State does not include sufficient elements to disprove the applicants’ submissions and the findings made by the Commission through its monitoring mechanisms with regard to the proposed beneficiaries’ conditions of detention and lack of adequate medical care. In this regard, as already indicated, the

<sup>45</sup> I/A Court H.R. [Matter of Juan Sebastián Chamorro et al. regarding Nicaragua](#). Provisional Measures regarding Nicaragua. Order of the Inter-American Court of Human Rights of June 24, 2021, para. 39.

<sup>46</sup> I/A Court H.R. [Matter of Juan Sebastián Chamorro et al. regarding Nicaragua](#). Provisional Measures regarding Nicaragua. Order of the Inter-American Court of Human Rights of June 24, 2021, para. 40.

<sup>47</sup> I/A Court H.R. [Matter of Juan Sebastián Chamorro et al. regarding Nicaragua](#). Provisional Measures regarding Nicaragua. Order of the Inter-American Court of Human Rights of June 24, 2021, para. 42.

<sup>48</sup> I/A Court H.R. [Matter of seventeen persons deprived of liberty regarding Nicaragua](#). Provisional Measures. Adoption of Urgent Provisional Measures. Order of the President of the Inter-American Court of Human Rights of May 21, 2019 [only in Spanish]. Considerandum 30.

<sup>49</sup> I/A Court H.R. [Matter of seventeen persons deprived of liberty regarding Nicaragua](#). Provisional Measures. Adoption of Urgent Provisional Measures. Order of the President of the Inter-American Court of Human Rights of May 21, 2019 [only in Spanish]. Considerandum 3.

<sup>50</sup> I/A Court H.R. [Matter of seventeen persons deprived of liberty regarding Nicaragua](#). Provisional Measures. Order of the Inter-American Court of Human Rights of October 14, 2019 [only in Spanish].

Commission considers that the requirements of Article 25 of the Rules of Procedure have been met. Based on the above, the Commission requires that the State assess the possibility of granting alternative measures to deprivation of liberty, taking into account the particular situation of the proposed beneficiaries, in order to protect their rights to life and personal integrity, in compliance with the assessments made in this resolution in light of the available information.

## **VI. BENEFICIARIES**

66. The Commission declares that the beneficiaries of this precautionary measure are Medardo Mairena Sequeira and Pedro Joaquín Mena Amador, who are duly identified in this proceeding.

## **VII. DECISION**

67. The 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, the Commission requests that Nicaragua:

- a) adopt the necessary measures to protect the rights to life, personal integrity, and health of Medardo Mairena Sequeira and Pedro Joaquín Mena Amador;
- b) ensure that the conditions of their detention are compatible with applicable international standards on the matter;
- c) taking into account the situation presenting a risk to their life and personal integrity as a result of the circumstances surrounding their current deprivation of liberty, assess the possibility of granting alternative measures to deprivation of liberty, in accordance with its internal regulations and in light of the applicable inter-American standards; and
- d) report on the actions taken to investigate the alleged events that led to the adoption of this resolution, so as to prevent them from reoccurring.

68. The Commission also requests that the Government of Nicaragua kindly inform the Commission within 15 days, as from the date of this resolution, on the adoption of the precautionary measures agreed upon and update that information periodically.

69. The Commission emphasizes that, in accordance with Article 25(8) of the Commission's Rules of Procedure, the granting of precautionary measures and their adoption by the State do not constitute a prejudgment regarding the possible violation of the rights protected in the American Convention or other applicable instruments.

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

71. Approved on October 3, 2021, by Antonia Urrejola Noguera, President; Julissa Mantilla Falcón, First Vice President; Flávia Piovesan, Second Vice President; Margarette May Macaulay; Joel Hernández García and Edgar Stuardo Ralón Orellana, members of the IACHR.

Tania Reneaum Panszi  
Executive Secretary