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**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION 23/2022**

Precautionary Measure No. 212-21  
Samuel Mauricio Mairena Rocha regarding Nicaragua  
May 30, 2022  
Original: Spanish

**I. INTRODUCTION**

1. On March 10, 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 Human Rights Collective “Nicaragua Never Again” (“the applicants”), urging the Commission to request that the State of Nicaragua (“the State” or “Nicaragua”) adopt the necessary measures to protect the rights of Samuel Mauricio Mairena Rocha. According to the request, the proposed beneficiary, who is identified or perceived as a political opponent of the current Nicaraguan government, is at risk as he is being subjected to threats, harassment, and surveillance by state and parastatal agents since 2018 to present day.

2. Under the terms of Article 25(5) of its Rules of Procedure, the IACHR requested additional information from the applicants on March 18, 2021, and received the requested information on March 25, 2021. The IACHR requested information from both the State and the applicants on May 7, 2021. The State submitted information on May 18, 2021 and the applicants on May 22, 2021. The IACHR requested updated information from the applicants on May 28, 2021 and received the information on July 20, 2021. The IACHR subsequently requested information from the applicants on March 11, 2022 and received the information on March 30, 2022 and April 6, 2022. The IACHR requested information from the State on May 11, 2022. However, the State did not submit any response.

3. Upon analyzing the submissions of fact and law furnished by the parties, the Commission considers that the information presented shows *prima facie* that the proposed beneficiary is in a serious and urgent situation, given that his rights to life and personal integrity are at risk of irreparable harm. Therefore, the Commission requests that Nicaragua: a) take the necessary measures to protect the rights to life and personal integrity of Samuel Mauricio Mairena Rocha. To this end, the State must both ensure that state actors respect the life and personal integrity of the proposed beneficiary, in addition to protecting his rights in relation to acts of risk attributable to third parties, in accordance with the standards established by international human rights law; b) consult and agree upon the measures to be adopted with the proposed beneficiary and his representatives; and c) report on the actions taken to investigate the alleged events that led to the adoption of this resolution, so as to prevent these events from reoccurring.

**II. BACKGROUND INFORMATION**

4. Between May 17 and 21, 2018, the Commission visited Nicaragua and collected numerous testimonies on human rights violations committed in the framework of protests that began the previous month. Subsequently, on June 21, 2018, the IACHR published a report on the serious human

rights situation in the country.<sup>1</sup> In order to follow up on the recommendations issued in this report, the Special Monitoring Mechanism for Nicaragua (MESENI) was created, which remained in the country until the State suspended its presence on December 19, 2018.<sup>2</sup> For its part, the Interdisciplinary Group of Independent Experts (GIEI, for its Spanish acronym) for Nicaragua issued a report that analyzed the events that took place between April 18 and May 30, 2018, confirming the IACHR findings.<sup>3</sup> In its Annual Report 2018, the IACHR included Nicaragua in Chapter IV.B, in accordance with the grounds established in its Rules of Procedure.<sup>4</sup>

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>5</sup> In June, the State passed a Comprehensive Care for Victims Act and an Amnesty Law, both of which drew criticism for not complying with the international standards in matters of truth, justice, reparation, and guarantees of non-repetition.<sup>6</sup> On September 2019, the IACHR reported an increase in harassment against human rights defenders and persons who, despite having been released from prison, continued to be intimidated.<sup>7</sup> Similarly, in November, the Commission once again called attention to the ongoing repression, noting that “[...] in addition to the closure of democratic spaces that currently characterizes the human rights crisis in Nicaragua, the families of people who have been deprived of their freedom during this crisis are increasingly becoming the targets of state persecution in the form of surveillance and the obstruction of peaceful actions.”<sup>8</sup>

6. Subsequently, the Commission again included Nicaragua in Chapter IV.B of its Annual Report 2019,<sup>9</sup> noting that the serious human rights crisis in the country extended during 2019, due to the *de facto* installation of a state of emergency characterized by the abusive exercise of public force to repress any dissenting voices against the Government, the search, closure and censorship of media outlets, the imprisonment or exile of journalists and social leaders, the closure of civil society organizations without guarantees of due process, as well as the interference and control of the Executive Power over other public powers. Similarly, the Commission observed that the prolonged weakening of democratic institutions in Nicaragua has perpetuated the human rights crisis in the country and has led to structural impunity for serious human rights violations.<sup>10</sup>

<sup>1</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.

<sup>2</sup> IACHR. Press Release No. 135/18. IACHR Launches Special Monitoring Mechanism for Nicaragua (MESENI). June 24, 2018; IACHR. Press Release No. 274/18. Press Release about Nicaragua. December 19, 2018. See also: IACHR. Press Release No. 113/20. Two Years After Visit to Nicaragua, IACHR Condemns Lack of Compliance with its Recommendations and Calls on the State to Urgently Implement Them. May 16, 2020.

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

<sup>4</sup> IACHR. 2018 Annual Report. Chapter IV.B Nicaragua.

<sup>5</sup> See in this regard: IACHR. Press Release No. 6/19. IACHR denounces the weakening of the rule of law in the face of serious human rights violations and crimes against humanity in Nicaragua. January 10, 2019; IACHR. Press Release No. 26/19. IACHR Condemns Increasing Attacks on the Press and Ongoing Human Rights Violations in Nicaragua. February 6, 2019; IACHR. Press Release No. 90/19. IACHR Condemns Continuing Acts of Repression in Nicaragua during Negotiating Table Talks. April 5, 2019.

<sup>6</sup> IACHR. Press Release No. 137/19. IACHR and OHCHR Express Concern Over the Passing of the Comprehensive Care for Victims Act in Nicaragua. June 3, 2019; IACHR. Press Release No. 145/19. IACHR Expresses Concern Over the Passing of the Amnesty Law in Nicaragua. June 12, 2019.

<sup>7</sup> IACHR. Press Release No. 220/19. IACHR Speaks Out Against Ongoing Repression in Nicaragua and Expresses Its Concern at Increased Harassment of Human Rights Defenders and People Who Have Been Released from Prison. September 6, 2019.

<sup>8</sup> IACHR. Press Release No. 297/19. IACHR Condemns Persecution of Victims of Repression in Nicaragua and Calls on State to Prevent Revictimization and Promote Truth, Justice, Reparation, and Measures of Nonrepetition. November 19, 2019.

<sup>9</sup> IACHR. 2019 Annual Report. Chapter IV.B Nicaragua. OAS/Ser.L/V/II. Doc. 5, February 24, 2020, paras.5 and 6.

<sup>10</sup> IACHR. 2019 Annual Report. Chapter IV.B Nicaragua. OAS/Ser.L/V/II. Doc. 5. February 24, 2020, para. 19.

7. During 2020, the IACHR identified the consolidation of a fifth stage of state repression in the country, characterized by the intensification of acts of surveillance, harassment, and selective repression against people considered to be opponents of the Government.<sup>11</sup> Thus, in May 2020, the IACHR condemned the non-compliance with its recommendations and urged the State to implement them.<sup>12</sup> In October 2020, the IACHR again called on the State to immediately cease persecution of persons identified as dissidents and to reestablish democratic guarantees in Nicaragua.<sup>13</sup> Subsequently, the Commission once again included Nicaragua in Chapter IV.B of its Annual Report 2020.<sup>14</sup>

8. In 2021, the Commission condemned the increasing acts of harassment in Nicaragua. These acts were against persons identified as opponents of the Government, human rights defenders, and the independent press<sup>15</sup>. The IACHR also condemned the widespread impunity and the prolonged breakdown of the rule of law that persists in Nicaragua.<sup>16</sup> In 2021, the IACHR Special Rapporteurship for Freedom of Expression (SRFoE) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) highlighted that, since April 2018, the international community has been registering a climate of hostility towards the exercise of freedom of expression in Nicaragua. This climate of hostility has been marked by criminalization of protests, arbitrary detentions, seizing and closing independent media outlets, and persecuting and harassing independent journalists, human rights defenders, and opponents, in addition to exiling them.<sup>17</sup> On June 9, 2021, the IACHR and OHCHR condemned the criminal prosecution of leaders of the Nicaraguan opposition and urged the State to release all persons detained in the context of the crisis.<sup>18</sup> Moreover, on August 11, 2021, the Commission condemned the systematic acts that the State has carried out in recent months with the aim of preventing the opposition from participating in the general elections to be held in Nicaragua in November of the same year. It further condemned the ongoing human rights violations in this context, and urged the State to cease repression against those who express opposing views towards the Government.<sup>19</sup> On September 10, 2021, the Commission and the OHCHR condemned the criminalization of individuals who are identified as political opponents in Nicaragua.<sup>20</sup>

9. On October 25, 2021, the IACHR published the report “Nicaragua: Concentration of Power and the Undermining of the Rule of Law.” In this regard, the Commission identified acts of harassment, threats, raids, arbitrary detentions, and mistreatment against any person considered to be an opponent of the

<sup>11</sup> IACHR. [Press Release No. 80/20](#). Two Years into Nicaragua’s Human Rights Crisis, the IACHR Stresses its Permanent Commitment to Victims and Confirms the Consolidation of a Fifth Phase of Repression. April 18, 2020.

<sup>12</sup> IACHR. [Press Release No. 113/20](#). Two Years After Visit to Nicaragua, IACHR Condemns Lack of Compliance with its Recommendations and Calls on the State to Urgently Implement Them. May 16, 2020.

<sup>13</sup> IACHR. [Press Release No. 249/20](#). IACHR Calls for Persecution of People Identified as Dissidents to End and for Democratic Guarantees to be Reestablished in Nicaragua. October 10, 2020.

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

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

<sup>16</sup> IACHR. [Press Release No. 93/21](#). Three Years After the Start of the Human Rights Crisis in Nicaragua, IACHR Condemns Ongoing Impunity. April 19, 2021.

<sup>17</sup> IACHR. [Press Release No. R47/21](#). OHCHR Joint Statement for Central America and IACHR RELAY on Journalist’s Day in Nicaragua. March 2, 2021.

<sup>18</sup> IACHR. [Press Release No. 145/21](#). IACHR and OHCHR Categorically Condemn Criminal Prosecution of Presidential Precandidates and Urge State of Nicaragua to Release Them Immediately. June 9, 2021; IACHR. [Press Release No. 171/21](#). Nicaragua: IACHR and OHCHR Demand an End to Arbitrary Arrests and the Release of All Individuals Detained Since the Start of the Crisis in Nicaragua. July 9, 2021.

<sup>19</sup> IACHR. [Press Release No. 238/21](#). The IACHR and OHCHR condemn criminalization, lack of due process, and serious detention conditions for people considered to be opponents in Nicaragua. September 10, 2021; IACHR. [Press Release No. 209/21](#). IACHR Condemns the State Actions Aimed at Ending Opposition Participation in Nicaragua’s Upcoming Election. August 11, 2021.

<sup>20</sup>IACHR. [Press Release No. 238/21](#). IACHR, OHCHR Condemn Criminalization, Harsh Conditions of Detention, and Failure to Enforce Due Process for Individuals Who are Perceived to Be Government Critics in Nicaragua. September 10, 2021.

current Government, all this at the hands of police and vigilante groups.<sup>21</sup> Subsequently, on November 4, 2021, the IACHR and OHCHR expressed concern regarding the increasing repression against opponents in Nicaragua within the framework of the electoral process, and highlighted the attacks against journalists.<sup>22</sup> On November 10, 2021, the IACHR condemned the human rights violations that occurred in the framework of the elections. These violations occurred from acts of police siege, harassment, raids, threats, and arbitrary detentions against opposition leaders, human rights activists, members of civil society organizations, and journalists. The Commission further urged the State to release all those who had been arbitrarily detained in the electoral context since the beginning of the crisis, in addition to ceasing attacks against political opponents.<sup>23</sup>

10. On November 20, 2021, the IACHR made a statement in which it looked unfavorably upon the State of Nicaragua's decision to denounce the Charter of the Organization of American States on November 19, 2021, during the ongoing context of crisis that the country has been going through in recent years. On the occasion, the Commission reaffirmed its jurisdiction over Nicaragua and stated that it would continue to exercise its monitoring mandates through the Special Monitoring Mechanism for Nicaragua (MESENI), as well as continue to analyze and process cases, petitions, and precautionary measures.<sup>24</sup> On December 20, 2021, the Commission called for international solidarity for States to adopt measures for the protection of people forced to flee the country. In this sense, the main groups of people who have fled Nicaragua are human rights defenders, journalists, leaders of social movements, relatives of persons deprived of liberty, and persons identified as political opponents.<sup>25</sup>

11. In January 2022, the IACHR urged the State of Nicaragua to release the individuals who are reportedly still in arbitrary detention, under unhealthy detention conditions, suffering ill-treatment, subject to the arbitrary application of maximum security regimes and the lack of adequate, timely, and specialized medical care. According to MESENI, most of these individuals, who have been identified as government opponents, are beneficiaries of protective measures granted by the organs of the inter-American system.<sup>26</sup> In February 2022, the IACHR condemned the manipulation of criminal law and criminalization of persons identified as opponents, due to the lack of judicial independence and separation of powers. These acts have seriously affected the judicial guarantees for political prisoners in Nicaragua.<sup>27</sup>

12. On February 10, 2022, the Special Rapporteurship on Economic, Social, Cultural and Environmental Rights (SRESCER) of the IACHR condemned that the National Assembly of Nicaragua had decided to cancel the legal capacity of 16 universities and civil society organizations, considering it an act that is framed within the overall practice to limit freedom.<sup>28</sup> The Rapporteurship expressed

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<sup>21</sup> IACHR. [Press Release 284/2021](#). IACHR Publishes Report on the Concentration of Power and the Weakening of the Rule of Law in Nicaragua. October 28, 2021.

<sup>22</sup> IACHR. [Press Release 292/21](#). Four days ahead election day, IACHR and OHCHR condemn the lack of guarantees of rights and freedoms in the context of the electoral process in Nicaragua. November 4, 2021.

<sup>23</sup> IACHR. [Comunicado de Prensa 300/21](#). IACHR Condemns Human Rights Violations Reported During Elections in Nicaragua. November 10, 2021.

<sup>24</sup> IACHR. [Press Release 312/2021](#). The IACHR Stresses Its Competent Jurisdiction Concerning Nicaragua and laments Nicaragua's Decision to Denounce the Charter of the OAS in a Context of Serious Human Rights Violations.

<sup>25</sup> IACHR. [Press Release 346/2021](#). IACHR Calls for International Solidarity, Urges States to Protect the People Who Have Been Forced to Flee from Nicaragua. December 20, 2021.

<sup>26</sup> IACHR. [Press Release 023/022](#). IACHR urges the State of Nicaragua to release all persons arbitrarily detained. January 31, 2022.

<sup>27</sup> IACHR. [Press Release RD026/22](#). REDESCA condemns the cancellation of the membership of 26 universities and associations for academic and social purposes by the National Assembly of Nicaragua. February 10, 2022.

<sup>28</sup> IACHR. [Press Release 027/2022](#). IACHR Condemns Manipulation of Criminal Law and Lack of Safeguards in Trials of Political Prisoners in Nicaragua. February 11, 2022.

further concern regarding the impact on the right to education, academic freedom and the autonomy of universities, the labor rights of people working in the affected entities, and the social rights they contribute to protect from their respective missions.

13. On March 7, 2022, the High Commissioner on the situation of human rights in Nicaragua presented a report before the Human Rights Council of the United Nations. The report communicated concern that the State continues to fail to ensure accountability for human rights violations. At the same time, it documented arbitrary detentions and harassment by State officers against human rights defenders, journalists, and lawyers.<sup>29</sup> On March 31, 2022, at the 49th session of the Human Rights Council, a resolution was issued. This resolution established a group of experts in Nicaragua to conduct an independent investigation into human rights violations that have taken place in the country since April 2018.<sup>30</sup> According to data from the United Nations Refugee Agency (UNHCR), over 150,000 Nicaraguans have requested protection in Costa Rica.<sup>31</sup>

14. On March 23, 2022, the IACHR affirmed that the statement by Ambassador Arturo McFields, the then Permanent Representative of Nicaragua to the OAS, confirmed the serious violations of human rights, the institutional deterioration, and the Executive's strategy to silence dissident and opposition voices, according to the IACHR.<sup>32</sup> Recently, in April 2022, four years after the beginning of the 2018 social protests, the Inter-American Commission reaffirmed its commitment to the Nicaraguan population for the search for justice, reparation, the reconstruction of its democracy, and a national reconciliation based on the right to memory and truth. Since April 2018, serious human rights violations have gone unpunished. Such violations resulted in 355 deaths, over 2,000 injured persons, and 171 arbitrary detentions in conditions that are contrary to personal dignity and integrity.<sup>33</sup>

### III. SUMMARY OF FACTS AND ARGUMENTS PROVIDED BY THE PARTIES

#### A. Information provided by the applicants

15. According to the request, the proposed beneficiary was subject to threats, harassment, and surveillance at the hands of state and "parastatal" agents since 2018 because he was identified or perceived as an opponent of the Nicaraguan government. In April 2018, Mr. Mairena Rocha joined the social protests, as he participated in marches and donated medicines in favor of those who were affected. For this reason, the Council of Citizen Power (*Consejo del Poder Ciudadano*, CPC) began to threaten to detain him, in addition to warning him that "he was on a list" for "raising masses." In other words, for inciting protests against the government. In addition, a member of CPC sent him

<sup>29</sup>OACNUDH Address by the High Commissioner on the situation of human rights in Nicaragua to the 49th session of the Human Rights Council. Available (in Spanish) at: <http://www.oacnudh.org/discurso-de-la-alta-comisionada-sobre-la-situacion-de-los-derechos-humanos-en-nicaragua-ante-la-49a-sesion-del-consejo-de-derechos-humanos/>.

<sup>30</sup>United Nations Human Rights Council. Human Rights Council concludes forty-ninth regular session after adopting 35 resolutions. April \*\*, 2022 Available at <https://www.ohchr.org/en/press-releases/2022/04/human-rights-council-concludes-forty-ninth-regular-session-after-adopting-35?sub-site=HRC>.

<sup>31</sup>UNHCR. The number of Nicaraguans displaced in Costa Rica has doubled in less than a year. March 25, 2020. Available (in Spanish) at: <https://www.acnur.org/noticias/briefing/2022/3/623d08ed4/el-numero-de-nicaraguenses-desplazados-en-costa-rica-se-ha-duplicado-en.html>.

<sup>32</sup>IACHR. [Press Release 065/2022](#). The Ambassador's statements to the OAS, McFields, and his subsequent dismissal confirm the serious violations in Nicaragua. March 29, 2022.

<sup>33</sup>IACHR. [Comunicado de Prensa 081/2022](#). Four years since the beginning of the human rights crisis: IACHR endorses its commitment to the people of Nicaragua. April 18, 2022

messages on family member's phones where he was threatened by being told to "reap the consequences" for participating in protests.

16. On June 19, 2018, the proposed beneficiary and others travelled to the vicinity of Managua Police Station VII where, according to the testimony of Mr. Samuel Mairena, police officers were arming "paramilitaries." The purpose of the visit was to record this situation and report it. However, both police and parastatals started shooting at them. The proposed beneficiary was shot in his left foot and was therefore unable to continue fleeing. When he was caught, a police officer shot him in his right shoulder and the proposed beneficiary fell down to the floor. Three hooded parastatal agents and a police officer then shot him in his abdomen eight times when the proposed beneficiary was already on the ground. People from the area helped the proposed beneficiary by transferring him to the public hospitals "Antonio Lenin Fonseca" and "Alemán Nicaragüense," where he was allegedly denied medical attention. As a result, he was transferred to the Vivian Pellas Private Hospital, where police officers reportedly prevented him from entering. Ultimately, he was accepted at the "Manolo Morales" Hospital, where he was operated on and six shells of AK-47, 9mm pistol, and 38-caliber were extracted.
17. According to the request, a bullet that was lodged in the proposed beneficiary's spinal cord made him lose sensitivity and certain motor activities and, as a result, he can no longer walk. Another bullet reportedly destroyed his large intestine and he consequently can no longer fulfill his physiological needs normally. He now must use a colostomy bag. The applicant also stated that, due to medical negligence, the proposed beneficiary developed scars on his buttocks. It was pointed out that a physician at the hospital where the operation was performed told him that it had been done incorrectly. As a result, they had left the proposed beneficiary with "crossed organs," and he therefore needed another operation. Similarly, physicians allegedly told the proposed beneficiary that the lack of medical attention was the result of retaliation for his participation in the protests, for being a "coup plotter" and "*tranquero*" [person who participates in barricades as protest]. While the proposed beneficiary was hospitalized, his father, Mr. Pablo Mairena Castro was interrogated by hospital staff members. They told him that his son was in this situation because he was as a "*tranquero*." On June 28, 2018, the proposed beneficiary was discharged and transferred to rehabilitation at Aldo Chavarría Hospital.
18. In August 2018, the proposed beneficiary had an emergency transfer to the Vélez Paiz Hospital due to a severe hip infection. He was detained for two months and, according to the applicants, was not cared for diligently. Upon leaving the hospital, he was threatened and verbally assaulted by police officers who stopped the vehicle in which he was being transported and forced him to get out. The proposed beneficiary demonstrated his fragile health. One of the officers said: "This was the one who was in that barricade." At this time, police officers threatened to detain him. However, due to neighbors' intervention, he was able to leave.
19. Subsequently, in early October 2018, police officers parked outside the proposed beneficiary's house and stayed there for 15 days. A police officer approached the proposed beneficiary's father and told him that they were going to enter his house to talk to his son, but that never happened. A few months later, the proposed beneficiary's brother, Josué Mairena, was detained by police officers who had confused him with the proposed beneficiary. When detained, he was told that he would be charged with terrorism and illegal bearing of arms. Mr. Josué Mairena was released upon proving that he was not Samuel.

20. The applicants alleged that, although the proposed beneficiary was a victim of attempted homicide at the hands of police and parastatal agents, reportedly no serious or impartial investigation was initiated by any State entity to prosecute and convict the perpetrators of the acts.
21. During 2019 and 2020, the proposed beneficiary continued to receive police siege. In early 2020, police officers threatened to kill him and said: “They were going to kill him for being a *tranquero*.” On July 18, 2020, there was “vigil” in celebration of an anniversary of the Sandinista revolution. Sympathizers and members of the CPC painted the proposed beneficiary’s house red and black, alluding to the current government’s party. They also left threats by writing the word “LEAD” [an expression that since 2018 reportedly has a death threat connotation against government opponents] and a phrase that read: “You’re going to die.” His father left the house at that time and had his face and pants painted on. In the presence of police officers, these people began to shout out insults, such as: “*The coup plotter who was shot in the barricade lives here.*” In addition, even the police officers threatened the proposed beneficiary’s father.
22. Regarding the proposed beneficiary’s health, the applicants reported that he has not received rehabilitation therapies due to the scars that he still has in the lower part of his spine. The proposed beneficiary was finally operated on in May 2021. This marked the beginning of his recovery. It was also indicated that, although this scarring reportedly does not pose an imminent risk to the proposed beneficiary’s life, there is a possibility of infection. This is in addition to the inability to access adequate rehabilitation.
23. Moreover, during 2021, the police sieges in the proposed beneficiary’s house continued. The applicants reported that parastatal agents had been watching him from a white van with no license plate, and that they frequently conduct patrols outside his residence. In addition, in mid-2021, the presence of private vans outside the proposed beneficiary’s home increased. Parastatal agents used these vans to take photographs, film videos, and constantly shout “coup plotter” and “terrorist.” According to the applicants, on July 15, 2021, during celebrations for the Sandinista revolution, government supporters stayed outside the proposed beneficiary’s house for hours with the aim of grafitting his home, and asked aloud: “What do we write, coup plotter or terrorist?”. However, the proposed beneficiary’s neighbors gathered to defend him and managed to remove these people from the outskirts of his residence.
24. In 2022, police surveillance in front of the proposed beneficiary’s dwelling continued. In addition, CPC members also continued inquire into his activities. Due to the costly and dangerous nature of the operation that the proposed beneficiary allegedly needs, he was told that it could not be performed in Nicaragua. It was indicated that the proposed beneficiary cannot receive adequate medical assistance in Nicaragua as the country does not have adequate medicines and rehabilitation. The proposed beneficiary is in a wheelchair and was reportedly denied the surgery to “reconstruct the nerves in the bone marrow.” This surgery is reportedly the only possibility for him to ever walk again. In addition, he continues to receive death threats and threats of imprisonment.
25. The applicants reported that, on March 23, 2022, the proposed beneficiary presented himself before the Directorate General of Immigration and Nationality (*Dirección General de Migración y Extranjería*) to request the renewal of his passport, in order to travel abroad to request help in pending surgeries and an external evaluation with the aim of determining if would ever walk again. However, he was reportedly told that he could not be provided his passport until he “solved his

problems with the court.” Upon leaving the offices, a patrol car followed the proposed beneficiary to his residence. After this incident, police officers and members of CPC have kept constant surveillance of his home, and he is therefore forced to be “confined.”

26. The applicants searched for information in the “Nicarao” System, in which no pending case was found against the proposed beneficiary. Additionally, a private attorney was requested to visit the Central Judicial Complex Managua (*Complejo Judicial Central Managua, CJCM*), where no pending cases against the proposed beneficiary were found either. However, they refused to grant him a judicial record and stated that the proposed beneficiary had to be there himself. On April 1, 2022, the proposed beneficiary again visited the Directorate General of Immigration and Nationality in another attempt to resolve his situation. Upon being assisted to, an official checked the system and said: “Boy, you can’t leave the country, you have a restraining order against you.” The proposed beneficiary requested further information, but it was denied. This situation has caused him anxiety due to police sieges and the detention threats that he has received over the years.
27. On April 15, 2022, police officers detained J.A.V.G. who was violently removed from his house and transferred to Police Station V. They were interrogated about the proposed beneficiary’s activities. J.A.V.G. was released under threat of being detained again if he did not inform the police on the acts of protest that the proposed beneficiary was allegedly carrying out. In addition, in the context of the fourth anniversary of the beginning of the protests, the home sieges increased. On April 17, 2022, a police patrol remained outside his home from 6:00 to 9:00 a.m. They took photographs and videos of the proposed beneficiary’s property and of his relatives’ general food store, which prevented them from working normally. Towards the end of April, a police patrol was again stationed outside the proposed beneficiary’s house and the sirens were reportedly sounded with the intention of intimidating him. In addition, the applicant claimed that the proposed beneficiary is under constant stress as a result of the police siege.
28. Lastly, the applicants alleged that the proposed beneficiary has been subjected to constant stress as a result of the police siege. In addition, it was mentioned that a physician with the initials H.F.L. recently assessed the proposed beneficiary. The physician indicated that the proposed beneficiary has paraplegia, neurological damage that affects his intestinal motility and urinary bladder, and that he presents with an ulcer in the perineal region.

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

29. The State reported that it guarantees and protects the human rights of all persons, with no distinction as to birth, nationality, political belief, race, sex, language, religion, opinion, origin, economic status, or social status, in compliance with its domestic legal order and the international instruments ratified in the field of human rights. The report does not contain any other pleadings or arguments.
30. Following the Commission’s request for updated information on May 11, 2022, the State did not submit any additional information.

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

31. The precautionary measures mechanism is part of the Commission’s function of overseeing compliance with the human rights obligations set forth in Article 106 of the Charter of the



Organization of American States. These general oversight functions are established in Article 18(b) of the Statute of the IACHR, while the precautionary measures mechanism is described in Article 25 of the Rules of Procedure of the Commission. In accordance with that Article, the Commission grants precautionary measures in serious and urgent situations in which these measures are necessary to avoid an irreparable harm.

32. 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, protective and precautionary.<sup>34</sup> Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.<sup>35</sup> To do this, the IACHR shall assess the problem raised, the effectiveness of state actions to address the situation described, and the vulnerability to which the persons proposed as beneficiaries would be exposed if the measures are not adopted.<sup>36</sup> Regarding their precautionary nature, these measures have the purpose of preserving legal situations while under the consideration of the IACHR. They aim to safeguard the rights at risk until the petition pending before the inter-American system is resolved. Their object and purpose are to ensure the integrity and effectiveness of an eventual decision on the merits and, thus, avoid any further infringement of the rights at issue, a situation that may adversely affect the useful effect (*effet utile*) of the final decision. In this regard, precautionary or provisional measures enable the State concerned to comply with the final decision and, if necessary, to implement the ordered reparations.<sup>37</sup> In the process of reaching a decision, according to Article 25(2) of its Rules of Procedure, the Commission considers that:
- a. “serious situation” refers to a grave impact that an action or omission can have on a protected right or on the eventual effect of a pending decision in a case or petition before the organs of the inter-American system;
  - b. “urgent situation” refers to risk or threat that is imminent and can materialize, thus requiring immediate preventive or protective action; and
  - c. “irreparable harm” refers to injury to rights which, due to their nature, would not be susceptible to reparation, restoration or adequate compensation.

<sup>34</sup> See in this regard: I/A Court Caso del Centro Penitenciario Región Capital Yare I y Yare II (Cárcel de Yare) H.R. 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>35</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. Matter 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>36</sup> See in this regard: I/A Court Asunto Milagro Sala H.R. 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>37</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” news outlets. 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.

33. In analyzing these requirements, the Commission reiterates that the facts supporting a request for precautionary measures need not be proven beyond doubt. The information provided should be assessed from a *prima facie* standard of review to determine whether a serious and urgent situation exists.<sup>38</sup> Similarly, the Commission recalls that, by its own mandate, it is not called upon to determine any individual liabilities for the facts alleged. Moreover, it is not appropriate, in this proceeding, to rule on violations of rights enshrined in the American Convention or other applicable instruments.<sup>39</sup> This is better suited to be addressed by the petition and case system. The following analysis 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>40</sup>
34. As a *preliminary point*, the Commission observes that the applicants referred to the proposed beneficiary's health and obstructions in the processing of a passport. After giving an account of a series of events from 2018 to date, the Commission notes that the proposed beneficiary reportedly received medical attention following the gunshots received in June 2018. As a result, he is allegedly in a wheelchair with limited mobility (see *supra* paras. 24 and 28). The applicants recently expressly indicated that, although the proposed beneficiary has scars in the lower part of his spine, this medical condition does not place him at any imminent risk. He even allegedly underwent an operation in May 2021 and started his recovery (see *supra* para. 22).
35. The available information refers to the fact that the proposed beneficiary reportedly requires a specific operation for his bone marrow (see *supra* para. 24). However, no medical documentary support is provided to support this claim. This makes it impossible to report that health professionals in Nicaragua issued him that medical prescription. It is also noted that the applicants reportedly did not file domestic appeals for this purpose. It is therefore not possible to know the competent judicial assessments, and, if they were delayed, to know the time that elapsed without receiving a response. Given that the health allegations were presented in a general manner and without the minimum documentary support to analyze the allegation, the Commission does not identify concrete and current information that would be sufficient to indicate that the proposed beneficiary's current health places him in a situation of imminent risk under the terms of Article 25 of the Rules of Procedure.
36. With regard to the processing of the proposed beneficiary's passport, the Commission recalls that, in this procedure, it is not applicable to analyze whether the corresponding administrative requirements for the issuance of a passport were met internally, or whether there are questions in this sense. Beyond the arguments submitted in this regard by the applicant, the Commission recalls that it is not called upon to analyze questions relating to due process, including those applicable to administrative formalities. In that regard, the Commission states that it will not analyze these specific allegations in the proceedings.

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<sup>38</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>39</sup> IACHR Resolución 2/2015. Precautionary Measure No. 455-13. Matter of Nestora Salgado regarding Mexico. January 28, 2015, para. 14; IACHR. Resolution 37/2021. Precautionary Measure No. 96-21. Gustavo Adolfo Mendoza Beteta and family regarding Nicaragua. April 30, 2021, para. 33.

<sup>40</sup> In this regard, the Court has indicated that "[it] cannot, in a provisional measure, consider the merits of any arguments pertinent to issues other than those which relate strictly to the extreme gravity, urgency, and the necessity to avoid irreparable damage to persons." See in this regard: I/A Court H.R. Matter of James et al. regarding Trinidad and Tobago. Provisional Measures. Order of the Inter-American Court of Human Rights of August 29, 1998, considerandum 6; I/A Court H.R. Caso Familia Barrios Vs. Venezuela. Provisional Measures. Order of the Inter-American Court of Human Rights of April 22, 2021, considerandum 2 [only in Spanish].

37. Having addressed these preliminary issues, the Commission proceeds to analyze the proposed beneficiary's situation under the terms of Article 25 of its Rules of Procedure. This implies recalling that the proposed beneficiary's situation is within a context that the IACHR has been monitoring through its MESENI. With regard to the requirement of *seriousness*, the Commission considers that it has been met. In arriving at this determination, the Commission takes into account the following alleged events that occurred between 2018 and present day:
- Following his participation in social protests in April 2018, the proposed beneficiary received threats from members of the Council of Citizen Power (CPC). It was indicated that the proposed beneficiary's relatives received threatening messages saying that they must "reap the consequences" (see *supra* para. 15);
  - On June 19, 2018, hooded police and parastatal agents shot the proposed beneficiary in his abdomen eight times. This led to mobility loss and the need of a colostomy bag as his large intestine was damaged. On the same day, police officers prevented the proposed beneficiary from entering the Vivian Pellas Private Hospital (see *supra* para. 16);
  - In June 2018, during the period that the proposed beneficiary was hospitalized, his father was threatened and interrogated by staff members of the "Manolo Morales" Hospital because his son was reportedly called a "*tranquero*" (see *supra* para. 17);
  - In August 2018, upon leaving the "Vélez Paiz" Hospital, the proposed beneficiary received threats and verbal attacks from police officers who stopped the vehicle in which he was being transported (see *supra* para. 18);
  - At the beginning of October 2018, a police patrol spent 15 days outside the proposed beneficiary's home (see *supra* para. 19);
  - At the beginning of 2020, the proposed beneficiary received death threats from police officers, who said: "They were going to kill him for being a *tranquero*" (see *supra* para. 21);
  - On July 18, 2020, police officers graffitied the proposed beneficiary's house with messages that read "LEAD" and "You're going to die" and threatened his father (see *supra* para. 21);
  - In mid-2021, "parastatal agents" allegedly travelled in vans without license plates. They reportedly took photographs and videos, and constantly shouted "coup plotter" and "terrorist" (see *supra* para. 23);
  - On July 15, 2021, government supporters stayed outside the proposed beneficiary's home with the intention of graffitiiing his home once again (see *supra* para. 23);
  - On March 23, 2022, a patrol followed the proposed beneficiary to his residence (see *supra* para. 25);
  - Since March 2022, police officers and members of CPC have maintained constant surveillance of his home (see *supra* para. 25);

- On April 15, 2022, police officers detained young J.A.V.G., who was interrogated and threatened with the aim of receiving information on the proposed beneficiary's activities (see *supra* para. 27);
  - On April 17, 2022, a police patrol was outside the proposed beneficiary's house and took photos and videos of his property and his relatives' general food store (see *supra* para. 27);
  - At the end of April 2022, a police patrol again stationed itself outside the proposed beneficiary's home (see *supra* para. 27).
38. The Commission notes that the aforementioned facts show ongoing events that the proposed beneficiary has been facing over time. In this sense, it is observed that he has been the subject of acts of surveillance, harassment, and death threats by police and parastatal agents from 2018 to present day. At the most intense point of the events that the proposed beneficiary faced, the Commission observes that the threats materialized in 2018 when he was shot. This event led to medical conditions that required surgical intervention. As a result of the above, the proposed beneficiary was left paraplegic with limited mobility.
39. With regard to the events that the proposed beneficiary has faced, the Commission notes that the available information allows the conclusion of the following: (i) State and non-state actors have extensive knowledge on the proposed beneficiary's residence, as well as his usual activities; (ii) The aforementioned knowledge has led to his home being graffitied with words such as "LEAD" and death threats such as "You will die," which reflects an important action by the people who know where he resides and who know about his family; (iii) Constant monitoring over time, whether from police patrols or vehicles with no license plates, reflect an intention to keep him under continuous observation after being qualified as a "coup plotter" or "terrorist" by police groups or unidentified persons; (iv) People related to the government and police personnel allegedly not only follow the proposed beneficiary, but also keep a visual record of his situation, which is especially concerning to the extent that these actors are the same ones who allegedly sent him death threats; and (v) Police presence and monitoring outside of his residence at the hands of people related to the government in the last month of April 2022. The previous events happened against the proposed beneficiary even when he was carrying out personal procedures in Nicaragua. This is even though the proposed beneficiary has not continued to carry out activities to denounce or criticize the current government, aside from the reports to determine responsibilities for the aggression received in 2018.
40. After requesting information from the State under Article 25 of the Rules of Procedure, the Commission takes note of the response it received regarding the protection and guarantee of the human rights of all persons. However, the information provided by the State makes no mention of the proposed beneficiary's specific situation. Therefore, it is not possible to analyze whether the applicants' claim regarding a serious risk against him has been disproved. As regards the attribution of the facts to state officers, the Commission recalls that it is not called upon to make determinations on individual liabilities, but it does consider the seriousness of the allegation regarding state officers' participation in these events. The foregoing places the proposed beneficiary in a situation of particular vulnerability. The Commission was also not informed if those responsible have been found, or the status of the ongoing investigations, regarding the armed attack that the proposed beneficiary faced in 2018. The foregoing is particularly concerning insofar as it has been alleged that the perpetrators were reportedly police officers and parastatals, who also allegedly continue with the harassment and death threats against the proposed beneficiary from that point in time to present day.

41. Due to the above, the Commission considers, from the *prima facie* standard and in the current context of Nicaragua, that it is sufficiently proven that the rights to life and personal integrity of Samuel Mauricio Mairena Rocha are at serious risk.
42. Regarding the requirement of *urgency*, the Commission considers that it has been fulfilled, since the facts described suggest that the risk is likely to continue and worsen over time, in such a way that, in view of the imminent materialization of the risk and, above all, the lack of implemented protection measures, the situation calls for the immediate adoption of measures to safeguard the rights to life and personal integrity of the proposed beneficiary. At the time of making these assessments, the Commission notes that the threatening events that Mr. Samuel Mairena has been facing have also been attributed to state officers and have persisted over time since April 2018 to present day. In addition, there are no elements that indicate that the risk factors identified over time have been duly mitigated. In this regard, as indicated above, the Commission does not have specific information provided by the State which would be sufficient to assess the actions that have been taken to address the proposed beneficiary's alleged risk.
43. Regarding the requirement of *irreparable harm*, the Commission considers that it has been met, inasmuch as the potential impact on the rights to life and personal integrity constitutes, by their very nature, the maximum situation of irreparability.

#### **V. BENEFICIARY**

44. The Commission declares Mr. Samuel Mauricio Mairena Rocha as beneficiary, who is duly identified in these proceedings.

#### **VI. DECISION**

45. The Inter-American Commission considers that this matter meets, *prima facie*, the requirements of seriousness, urgency, and irreparable harm set forth in Article 25 of its Rules of Procedure. Consequently, it requests that Nicaragua:
  - a) take the necessary measures to protect the rights to life and personal integrity of Samuel Mauricio Mairena Rocha. To this end, the State must both ensure that state actors respect the life and personal integrity of the proposed beneficiary, in addition to protecting his rights in relation to acts of risk attributable to third parties, in accordance with the standards established by international human rights law;
  - b) consult and agree upon the measures to be adopted with the proposed beneficiary and his representatives; and
  - c) report on the actions taken to investigate the alleged events that led to the adoption of this resolution, so as to prevent these events from reoccurring.
46. The Commission requests as well that the State of Nicaragua report, within 15 days as from the day after the notification of this resolution, on the adoption of the precautionary measures requested and to update that information periodically.

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47. The Commission emphasizes that, in accordance with Article 25(8) of its Rules of Procedure, the granting of this precautionary measure and its adoption by the State do not constitute a prejudgment on any violation of the rights protected under the applicable instruments.
  48. The Commission instructs its Executive Secretariat to notify this resolution to the State of Nicaragua and the applicants.
  49. Approved on May 30, 2022, by Julissa Mantilla Falcón, President; Edgar Stuardo Ralón Orellana, First Vice-President; Margarette May Macaulay, Second Vice-President; Esmeralda Arosemena de Troitiño; Joel Hernández García; Roberta Clarke; and Carlos Bernal Pulido, members of the IACHR.

Tania Reneaum Panszi  
Executive Secretary