

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 82/2020**

Precautionary measures No. 489-20

**Maycol Antonio Arce and 40 other persons deprived of their liberty, regarding
Nicaragua**
November 2, 2020
Original: Spanish

I. INTRODUCTION

1. During the working visit carried out by the Inter-American Commission on Human Rights (“the Inter-American Commission,” “the Commission” or “the IACHR”), between May 17 and 21, 2018, it received various requests for precautionary measures, urging that the IACHR require the State of Nicaragua (“the State”) to protect the rights to life and personal integrity of those who are allegedly at risk as a consequence of violent events that reportedly took place since April 18, 2018. The Commission has continued to monitor the situation and requests for precautionary measures received during and after the visit. In this matter, the applicants¹ requested on May 27, 2020 protective measures in favor of 42 persons deprived of their liberty in Nicaragua,² who they identified as “political [male or female] prisoners” in Nicaragua. The applicants allege that such persons are at risk given the conditions of detention and the alleged lack of medical care in the current context.

2. The IACHR requested information from the State on June 24, 2020, which has not responded to date. The applicants submitted additional information on August 10 and 27, and September 3, 2020.

3. Upon analyzing the information available, in light of the applicable context and the findings made, the Commission considers that the information presented shows *prima facie* that the rights to life, personal integrity and health of the persons identified as beneficiaries are in a serious and urgent situation. Consequently, in accordance with Article 25 of the Rules of Procedure, the State of Nicaragua is requested to: a) adopt the measures necessary to guarantee the rights to life, personal integrity, and health of the beneficiaries identified herein; b) adopt the measures necessary so that the beneficiaries can immediately have access to specialized medical assessments that are necessary to determine the health status in which they find themselves, and the medical attention that may be necessary, as well as to ensure that this attention is accordingly received; and c) taking into consideration the context of the COVID-19 pandemic and the risk to life and personal integrity as a result of the circumstances surrounding their deprivation of liberty, evaluate, immediately, 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.

¹The Legal Defense Unit (UDJ), the Registration and Legal Assistance Unit (*Unidad de Registro y Apoyo Legal*, UDR), the Nicaraguan Initiative of Women Human Rights Defenders (IND), the Nicaraguan Center for Human Rights (CENIDH), and the Center for Justice and International Law (CEJIL)

²The proposed beneficiaries identified by the applicants are: Maycol Antonio Arce, Walter Antonio Montenegro Rivera, Norlan Josué Cárdenas Ortiz, Richard Alexander Saavedra Cedeño, Jaime Enrique Navarrete Blandon, Edwin Antonio Hernández Figueroa, Wilber Antonio Prado Gutiérrez, Steven Moisés Mendoza, Mauricio Javier Valencia Mendoza, Giovanni Jareth Guido Morales, Max Alfredo Silva Rivas, Osman Marcel Aguilar Rodríguez, Ezequiel de Jesús González Alvarado, Samuel Enrique González, Alexander Rafael Martínez López, Gabriel Renán Ramírez Somarriba, Denis Javier Palacios Hernández, Uriel José Pérez, Jorge Adolfo García Arancibia, Lester José Selva, Víctor Manuel Díaz Pérez, Leyving Eliezer Chavarria, Edman Jheancarlos Mora Ortiz, Edwin Javier Mora Cajina, Carlos Antonio López Cano, Nilson José Membreño, Francisco Xavier Pineda Guatemala, Eliseo de Jesús Castro Baltodano, Luis Carlos Valle Tinoco, Manuel de Jesús Sobalvarro Bravo, Edward Enrique Lacayo Rodríguez, Ernesto Antonio Ramírez García, Néstor Eduardo Montealto Núñez, Michael Rodrigo Samorio Anderson, Fanor Alejandro Ramos, Justo Emilio Rodríguez López, Víctor Manuel Soza Herrera, Celia Cerda Cruz (identified by the State as Amílcar José Cerda Cruz), Karla Vanessa Escobar Maldonado, María Esperanza Sánchez García, Juana Estela López Alemán, and John Christopher Cerna Zúñiga

II. CONTEXTUAL INFORMATION

4. The Commission visited Nicaragua in May 2018 and compiled various testimonies on human rights violations that allegedly occurred since April after a series of protests. It subsequently published a report which included recommendations. To verify that these recommendations are being complied with, the Special Monitoring Mechanism for Nicaragua (MESENI) was created and had offices in Nicaragua until December 19, 2018 when the State suspended it. In turn, the Interdisciplinary Group of Independent Experts (GIEI) published a report that analyzed the acts that took place between April 18 and May 30, 2018 which confirmed the IACHR's findings.³

5. On the occasion of a presentation to the Permanent Council of the Organization of American States, the Commission shared the data collected by the MESENI, according to which from April 2018 to January 10, 2019, 325 persons died and more than 2000 were injured; 550 were detained and processed; 300 health professionals were dismissed, and at least 144 students of the National Autonomous University of Nicaragua were expelled.⁴ In its 2018 Annual Report, the IACHR included Nicaragua in Chapter IV-B pursuant to the provisions established in its Rules of Procedure.

6. During 2019, the Commission continued to condemn the continuing acts of persecutions, urging the State to comply with its obligations. On April 25, the IACHR shared the assessment and results reached by the MESENI, which continued to monitor the country from Washington, D.C. In June, the State approved a Comprehensive Care for Victims Act and an Amnesty Law, which were criticized for not complying with the international standards on truth, justice, reparations and guarantees of non-repetition.⁵ During these last months, the Commission continued registering serious incidents. For instance, in August it voiced its concern regarding the State's decision of ceasing the "Negotiating Table for Understanding and Peace" which started on February 27, 2019 between the government and the Civil Alliance for Justice and Democracy.⁶ On September 6, 2019, the IACHR denounced the escalation of harassment against human rights defenders and persons who, despite having been released from prison, continued to be intimidated.⁷

7. On November 19, the Commission once again drew attention to the ongoing repression, by noting that "[...]the closure of democratic spaces that currently characterizes the human rights crisis in Nicaragua, [has in addition the fact that] the families of people who have been deprived of liberty during this crisis are increasingly becoming the targets of state persecution in the form of surveillance and the obstruction of peaceful actions."⁸

8. Subsequently, the Commission again included Nicaragua in Chapter IV.B of its 2019 Annual Report,⁹ noting that the serious human rights crisis in the country continued during 2019, due to the de facto establishment of a state of emergency marked by the abusive use of public forces to repress dissident

³ GIEI, Report on the violent events that took place in Nicaragua between April 18th and May 30th, December 2018. (In Spanish)

⁴ IACHR. CIDH [sic] 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

⁵ IACHR. IACHR and OHCHR Express Concern Over the Passing of the Comprehensive Care for Victims Act in Nicaragua. June 3, 2019; IACHR. See also: IACHR Expresses Concern Over the Passing of the Amnesty Law in Nicaragua. June 12, 2019.

⁶ CIDH, 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.

⁷ IACHR. 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.

⁸ IACHR. IACHR Condemns Persecution of Victims of Repression in Nicaragua and Calls on State to Prevent Revictimization and Promote Truth, Justice, Reparation, and Measures of Non-repetition. November 19, 2019.

⁹ IACHR. 2019 Annual Report. Chapter IV.B Nicaragua. OEA/Ser.L/V/II. Doc. 5. February 24, 2020.

voices against the Government, raids, shutdowns and censorship of media, the imprisonment or exile of journalists and social leaders, the suspension of civil society organizations without guarantees of due process, and the interference and control by the Executive Branch in other branches of government. The Commission further observed that the prolonged weakening of democratic institutions in Nicaragua has led to the perpetuation of the human rights crisis in the country, and to the structural impunity for the serious human rights violations committed.

9. More recently, the IACHR identified the consolidation of a fifth stage of State repression in Nicaragua, characterized by the intensification of acts of surveillance, harassment, and selective repression against persons considered to be opponents of the Government.¹⁰

10. As of July 31, 2020, the State's repressive efforts had resulted in 328 people being killed, 405 health professionals being dismissed, 150 students being expelled, 90 journalists and independent media workers being exiled, 86 people being deprived of their liberty and 103,600 Nicaraguans having fled the country.¹¹

11. The deprivation of liberty of persons in the context of the human rights crisis described above has been a repressive strategy systematically developed by the State since the beginning. This has been particularly evident since August 2018, when, as a result of the so-called "clean-up" operation, there was a systematic use of criminal law in order to, following arbitrary and illegal detentions, bring disproportionate charges against opposition demonstrators, human rights defenders, independent journalists and social or political leaders, all identified with voices of dissent from the official narrative.¹² As a result of this strategy, when the so-called Negotiation Table between the Civic Alliance for Justice and Democracy and the government was initiated in February 2019, the Commission learned of the detailed report of more than 700 persons deprived of liberty in the context of the crisis.¹³

12. In the context of the aforementioned negotiation, the Inter-American Commission provided detailed information on the persons detained so that this information could be used as the grounds for promoting their release.¹⁴ Consequently, between February and June 2019, a significant number of the persons who had been deprived of their liberty in the context described above were released. However, more than 80 people, imprisoned in the context of the human rights crisis, continued to be held after this release process.¹⁵

13. From June 2019 to date, the Commission has continued to publicly denounce the persistence of the repressive strategy of depriving of their liberty persons identified as dissidents, despite several changes in the manner in which the strategy is being implemented, such as the multiplication of modules and detention centers in which these persons are held and the cessation of the use of criminal definitions such as terrorism and organized crime. As of October 7, 2020, more than 90 persons have been reported as having been deprived of their liberty in this context. This strategy continues to be marked by illegal and arbitrary detentions, disproportionate or unfounded use of criminal charges for the purpose of

¹⁰ 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.

¹¹ IACHR. MESENI Newsletter. Situation of Human Rights in Nicaragua. July 2020 (in Spanish).

¹² IACHR. Press Release No. 187/18. IACHR Calls On the State of Nicaragua to Cease the Criminalization of Protest and Respect Persons Deprived of Liberty and Their Families. August 24, 2018

¹³ The Epoch Times. Preliminary list confirms at least 802 political prisoners of the Ortega regime (in Spanish). News from March 20, 2019.

¹⁴ Reuters. Nicaragua releases hundreds of prisoners, 36 on the list of "political prisoners" (in Spanish). News from April 17, 2019

¹⁵ Twitter. La #CIDH recuerda al Estado de #Nicaragua que al menos 88 personas continúan detenidas en el marco de la crisis. Las personas excarceladas siguen con procesos o condenas abiertas. El restablecimiento de derechos y garantías en el país está pendiente. #MESENI. Tweet de 12 de junio de 2019. Available at <https://twitter.com/CIDH/status/1138866709589307396>

criminalization, the absence of guarantees of due process, and a series of violations of the rights of detained persons and their families under international human rights law.¹⁶ All this is part of what the IACHR describes as an uninterrupted process of human rights crisis that has persisted in the country since April 2018.

14. Given the characteristics and effects of the COVID-19 pandemic, both the Commission and the Office of the United Nations High Commissioner for Human Rights called on the Nicaraguan state authorities to provide alternative measures to the deprivation of liberty of these persons. These calls were also based on the systematic violations of rights that were observed in their arrest and imprisonment. Since the beginning of the global pandemic, the State of Nicaragua has carried out several collective releases of persons deprived of their liberty identified as "ordinary prisoners" without the use of objective criteria intended to adopt the calls to protect persons at risk in relation to the COVID-19. Moreover, none of these releases has so far benefited persons deprived of their liberty in the context of the human rights crisis, given that these persons are in a situation that involves a particular risk to their health.¹⁷

III. SUMMARY OF FACTS AND ARGUMENTS PROVIDED BY THE APPLICANTS

15. As a contextual element, the applicants expressed their concern about how the Nicaraguan government is allegedly handling the COVID-19 pandemic, mainly on issues of transparency, as well as limitations on access to information about the situation of persons deprived of their liberty since April 2018. In general terms, the applicants indicated that prison facilities in Nicaragua have significant levels of overcrowding. Regarding the conditions of detention during the pandemic, these facilities allegedly do not meet the minimum requirements to exercise social distancing, nor the minimum hygiene measures. Furthermore, the applicants noted that reports were submitted from relatives who were prohibited from entering drinking water for the consumption by the person deprived of liberty and had restrictions to bring gel or liquid alcohol, gloves, chlorine and masks into the prison.

16. The proposed beneficiaries are held in seven different prisons in the country, distributed as follows: 30 are held in the "La Modelo"¹⁸ national penitentiary system (SPN), 2 in the SPN of Waswalí,¹⁹ 4 in the SPN of Granada,²⁰ 1 in the SPN of Jinotepe,²¹ 1 in the SPN of Matagalpa,²² 1 in the SPN of Chinandega,²³ 3 in the Comprehensive Women's Penitentiary Center (EPIM), formerly the Women's Penitentiary System, and known as "La Esperanza."²⁴ In the same way, the applicants indicated that the proposed beneficiaries have symptoms "that could be related to COVID-19" or are in a situation of vulnerability. In May 2020, the applicants stated that the proposed beneficiaries were examined by the International Committee of the Red Cross (ICRC); however, they had not been followed up by the

¹⁶ IACHR. Press Release 249/20. [La CIDH llama a cesar de inmediato los actos de persecución contra las personas identificadas como opositoras al gobierno y al restablecimiento de garantías democráticas en Nicaragua](#). October 10, 2020.

¹⁷ IACHR. Press Release 72/20. [IACHR and OSRESCER Express Serious Concern About the Human Rights Situation During the Response to the COVID-19 Pandemic in Nicaragua](#). April 8, 2020

¹⁸ Maycol Antonio Arce, Norlan Josué Cárdenas Ortiz, Richard Alexander Saavedra Cedeño, Jaime Enrique Navarrete Blandón, Edwin Antonio Hernández Figueroa, Wilber Antonio Prado Gutiérrez, Steven Moisés Mendoza, Giovanni Jareth Guido Morales, Max Alfredo Silva Rivas, Osman Marcel Aguilar Rodríguez, Alexander Rafael Martínez López, Gabriel Renán Ramírez Somarriba, Víctor Manuel Díaz Pérez, Edman Jheancarlos Mora Ortiz, Edwin Javier Mora Cajina, Nilson José Membreño, Francisco Xavier Pineda Guatemala, Eliseo de Jesús Castro Baltodano, Luis Carlos Valle Tinoco, Manuel de Jesús Sobalvarro Bravo, Edward Enrique Lacayo Rodríguez, Ernesto Antonio Ramírez García, Néstor Eduardo Montealto Núñez, Michael Rodrigo Samorio Anderson, Fanor Alejandro Ramos, Justo Emilio Rodríguez López, Víctor Manuel Soza Herrera, Celia Cerda Cruz and John Christopher Cerna Zúñiga. Uriel José Pérez was reported to have been in the Hospital Alemán until June 5, but he was transferred again to "La Modelo" SPN.

¹⁹ Walter Antonio Montenegro Rivera and Jorge Adolfo García Arancibia

²⁰ Mauricio Javier Valencia Mendoza, Ezequiel de Jesús González Alvarado, Samuel Enrique González and Denis Javier Palacios Hernández

²¹ Lester José Selva

²² Leyving Eliezer Chavarría

²³ Carlos Antonio López Cano

²⁴ Karla Vanessa Escobar Maldonado, María Esperanza Sánchez García, and Juana Estela López Alemán.

penitentiary staff. For the applicants, even though the symptoms that the proposed beneficiaries have may not be a consequence of COVID-19, they highlighted the conditions in which they are. In addition, they questioned the lack of response to the internal appeals filed in favor of persons deprived of their liberty in Nicaragua, in the context of the ongoing human rights crisis that started in the country in April 2018.

A. Persons held in "La Modelo" SPN

17. The applicants indicated that "La Modelo" is a penitentiary for men and one of the main destinations for persons detained for reporting human rights violations in Nicaragua. There is allegedly a high level of unhealthiness and the low amount of water to which people deprived of liberty have access. Furthermore, only two small food rations per day are reportedly provided in this prison. Some inmates purportedly manage to deal with food shortage thanks to what their relatives bring them during the two family visits (besides other two conjugal visits) that they are allowed per month, or the packages that they leave in the intermediate weeks.

18. According to the applicants, there is an excessive bureaucracy to access health services, since when an inmate needs medical attention, the management of the National Penitentiary System must consult the Ministry of the Interior, to later consult with the Presidency, in order to decide whether to provide medications, so that, in the best-case scenario, a health emergency situation is addressed only 45 minutes later. In the case of persons described by the applicants as "political prisoners," health care is more difficult given that "in front of their cell they have a yellow line, one meter away, so that not a member of the penitentiary system can approach them without authorization."

19. For the applicants, there is an environment of hostility promoted by the custodial personnel against the inmates described as "political" who are held in "La Modelo" SPN. For instance, the wife of Wilber Antonio Prado Gutiérrez has reported that a guard threatened him saying that "he will not leave the prison alive" and that when he asked why, the guard replied "because you are *puchito*," a name used in Nicaragua to refer to persons considered as opponents of the Government. Moreover, as part of the hostility of ordinary prisoners against inmates identified as "political," the applicants indicated that the proposed beneficiary Edwin Javier Mora Cajina was attacked, and his left arm was broken (without clarifying on what date).

i. Maycol Antonio Arce

20. The proposed beneficiary is 28 years old and he reportedly has alarming symptoms since April 2020 and his health has gradually deteriorated. On April 16, 2020, the Court was asked to order the medical evaluation of the young Arce as he had symptoms such as vomiting and a skin breakout. In response, the judge indicated that he had already sent a letter to the penitentiary system for medical evaluation. When this order was ignored, the judge ordered to send a new official letter for the transfer of the proposed beneficiary to the forensic clinic for this purpose. Once again, the order issued was disregarded, and instead of being transferred to the hospital, he was taken directly to "La Modelo" SPN and did not receive any medical care whatsoever.

21. In regard to his conditions of detention, the proposed beneficiary initially shared a cell with approximately 25 persons, a number that has recently increased, worsening the overcrowding situation in which he remains and that, therefore, precludes him from maintaining physical distancing measures. There is reportedly little access to water, a service that is available exclusively in the early morning hours (1:00 a.m.) and in limited amounts. To meet all daily needs, of personal hygiene and consumption, he is only allowed to accumulate water in a container that must be used throughout the day. On April 30, 2020, the review of precautionary measures was requested, however, that request was dismissed.

22. In August 2020, the applicants indicated that the proposed beneficiary continues to have health problems, such as fatigue, chest pain, and visible skin problems. To date, he has not received any type of medical attention from the penitentiary authorities. His relatives reportedly opted to provide him with over-the-counter medications, such as Panadol, Enalapril and Scabisan, in addition to serums to treat dehydration. Such medications reportedly relieve pain, but do not treat the causes.

ii. Norlan Josué Cárdenas Ortiz

23. The proposed beneficiary is 32 years old and has reportedly been convicted in first instance. He has been held in La Modelo SPN, lower gallery 5, since November 2019. According to the applicants, he faces serious limitations in access to water and shares a cell with at least 18 persons. Their relatives reported having faced some restrictions in bringing into the detention center cleaning products and sanitary implements such as masks and gloves. For instance, on May 5, 2020, his sister reportedly indicated that, only after several attempts, she managed to get 5 masks and a small amount of alcohol gel into the detention center, but they did not allow her to enter gloves or chlorine.

24. On that occasion, she also denounced that his brother has a bruise on the back of his head, which has been learned by the prison's physician; however, he has not received any kind of attention. Such complaints were reiterated on May 12, 2020, at a virtual conference where the sister and the lawyer of the proposed beneficiary participated. On this occasion it was reported that the proposed beneficiary had been severely beaten and that he had symptoms of COVID-19. Furthermore, it was explained that in La Modelo SPN there are no medications, describing the difficulties that she has faced to be allowed to enter medications for her brother.

25. In August 2020, the applicants indicated that he continues to have health problems, enduring his conditions with the little relief offered by some over-the-counter medications provided by relatives, such as Alka AD, prednisone, calamine, benzyl benzoate, and Scabisan.

iii. Richard Alexander Saavedra Cedeño

26. He is 33 years old and is accused of theft. He is reportedly held in La Modelo SPN, lower gallery 5, cell number two, where they can only fill 1 bucket of water a day. His relatives reported that he has fever, sore throat and bone pain. The proposed beneficiary allegedly attended a medical consultation, but the medications have not been given to him.

iv. Jaime Enrique Navarrete Blandón, v. Néstor Eduardo Montealto Núñez, vi. Osman Marcel Aguilar Rodríguez

27. On April 15, 2020, an attempt was made to file requests for the establishment of a family cohabitation regime in favor of these 3 proposed beneficiaries before the Director General of the National Penitentiary System and the authorities of "La Modelo" SPN. When trying to file the appeal, a human cordon made up of custodial personnel of the institution purportedly physically prevented the entrance to the penitentiary center, while stating that they would not be allowed to enter and no documents would be received from them. Consequently, the request was sent to the [female] Minister of the Interior; however, according to the information provided, there has been no response to the request to date.

28. Always referring to these three proposed beneficiaries, the applicants provided more details regarding their conditions of detention:

- *Jaime Enrique Navarrete Blandón* is serving his sentence, and isolated, in the maximum security sector of La Modelo SPN, known as "La 300," where he does not have access to water during the day, except to bathe and fill a bucket of water to cover all his personal hygiene and consumption needs. The entry of purified water by his family is allegedly prohibited. The conditions of imprisonment in "La 300" are precarious, the cells are 3.5 x 2.5m² and there is not enough ventilation or lighting. The applicants indicated that he has symptoms such as severe cough, fever and body aches.
- *Néstor Eduardo Montealto Núñez* is 26 years old and reportedly remains in overcrowding with 20 other persons in La Modelo SPN, gallery 7. He allegedly only has access to water twice a day and has limitations on access to water for his consumption, given that he is only allowed to bring into the prison a gallon of purified water during visits, which are sporadic. Furthermore, he allegedly suffers from hypertension, and has shortness of breath, cough, and body aches.
- *Osman Marcel Aguilar Rodríguez* was accused of being the head of a gang of arms traffickers. He is allegedly in a "transition" cell located in La Modelo SPN, thus new persons constantly come and go, which increases physical contact and, with it, exposure to contracting COVID-19. His family reported that he has had dry cough and fever for several weeks. The overcrowding situation inside the cell is reportedly extremely critical, as he is forced to remain in a cabin in view of the lack of sufficient space. Personal hygiene and cleaning measures are limited by the low access to water, since the service is only available in the early morning hours, to bathe and fill a container (3:00- 4:00 a.m.) with a limited amount that must be enough to cover all his needs during the day.

vii. *Edwin Antonio Hernández Figueroa*

29. He is 34 years old and is held in La Modelo SPN, gallery 6, since June 11, 2019. The proposed beneficiary is accused of trafficking narcotic drugs, psychotropics and other controlled substances to the detriment of the State of Nicaragua. Moreover, he allegedly has fever, dry cough and body aches.

viii. *Wilber Antonio Prado Gutierrez*

30. He is 29 years old and is accused of frustrated femicide and frustrated murder. He is held in La Modelo SPN, gallery 7, since January 2020. The proposed beneficiary has severe body aches, headaches, chest and stomach aches, in addition to having fever. Despite having requested medical attention, the penitentiary staff reportedly told him that there is no attention or medications available.

ix. *Steven Moisés Mendoza*

31. He is allegedly held in La Modelo SPN since March 9, 2020 for the crime of illegal transportation of narcotics and controlled substances. His family has reported that he has fever, body aches and cough and that despite this, he is not receiving medical attention.

x. *Giovanny Jareth Guido Morales*

32. Detained since January 8, 2020 and accused of storage of drugs and marijuana, he is purportedly held in gallery 6. According to the applicants, he does not have access to water in his cell; instead, he must get water on the ground floor. Additionally, he reportedly only has access to water once a day, having symptoms such as headache, cough, and congestion. Subsequently, through a communication dated August 27, 2020, the applicants reported that on July 14, 2020 the proposed beneficiary was released without any explanation, "therefore, the circumstances that motivated the request for precautionary

measures in his favor have changed.”

xi. Max Alfredo Silva Rivas

33. According to the applicants, his detention, which took place on March 10, 2020, was violently carried out and at the hands of armed civilians, given that he was allegedly beaten to unconsciousness. The proposed beneficiary is asthmatic and has dry cough, body itchiness, skin rashes and “acute respiratory distress.” On May 6, 2020, the judge was requested to transfer him to a hospital due to his health status, and that he be immediately treated by the physician of the Managua judicial complex. The [female] judge in charge ordered that he be treated and transferred to the hospital, but the prison system officers did not comply with the judicial decision.

xii. Alexander Rafael Martínez López

34. He is allegedly held in gallery 1, with dry cough and episodes of high fever episodes.

xiii. Gabriel Renán Ramírez Somarriba

35. He is 39 years old and is allegedly held in gallery 1, with high fever episodes, body aches and dry cough. Subsequently, in June 2020, the applicants indicated that he is in the Granada SPN, sharing a cell with 11 persons. The proposed beneficiary only has access to one bucket of water a day to cover all his needs, and the unsanitary conditions in the cell have led to an outbreak of black cockroaches.

xiv. Victor Manuel Díaz Pérez

36. He is 26 years old and was accused of murder and illegal possession of firearms or ammunition, both being actual concurrent offenses. He is serving a sentence in cell 21. His family reported that he has body ache, cough, and headache. On April 16, 2020, the Criminal Chamber of the Supreme Court of Justice was requested to authorize, as a preventive measure, the change of the precautionary measure of pre-trial detention. According to the applicants, to date there has been no response. The proposed beneficiary started to have symptoms that may be due to COVID-19 on a subsequent date; however, given the lack of response to the first request, they did not take any other action. Regarding the conditions of detention, the proposed beneficiary is in La Modelo SPN, in overcrowding given that he shares a cell with 45 other persons. He is only allowed to fill one bucket of water a day to cover all his needs. Furthermore, he faces restrictions in accessing purified water for his consumption since he is only allowed to buy, in a restricted way and at high prices, in the commissary of the penitentiary center.

37. On June 3, 2020, the mother of the proposed beneficiary managed to visit him at La Modelo. It has been indicated that his symptoms have worsened, having had a severe cough. The applicants expressed concern for the fact that the proposed beneficiary has pre-existing chronic conditions that affect his two lungs, as well as asthma. Lastly, his mother has noted that his cellmates also have difficulty breathing. Although an epidemic outbreak within the prison is denied, there are reasons for the applicants to fear its existence.

38. In August 2020, the applicants indicated that the proposed beneficiary was the victim of beatings and threats by a prison officer. In this regard, Francisco Hernández, who was released on July 14, 2020, expressed: “I fear for the life of my friend Víctor Díaz, who is a political prisoner and is under threat by the deputy mayor (*subalcalde*) of contingent 1 Alexis Cruz, since this is setting up a structure of ordinary prisoners to beat up political prisoners and now he was left alone in the cell. An officer who has three stars on his uniform beat him two weeks ago, his name is Jorge alias Malanga.” The applicants also indicated

that on July 19, 2020, Celia and other persons referred to as “political prisoners” of “La Modelo” denounced, through a letter, that the staff planned a riot in which ordinary prisoners were to murder political prisoners in exchange for their freedom.

xv. *Edman Jheancarlos Mora Ortiz*

39. He is 29 years old and was accused of obstruction of functions, attempted murder, frustrated homicide, kidnapping for extortion, serious injuries, damage, and aggravated robbery, along with 6 other persons from Ometepe Island. In the initial hearing against him, held after his arrest, the applicants indicated that he presented with signs of torture, specifically teeth detachment and broken ribs. The applicants indicated that he has an infection in his mouth as a result from a cut and has difficulty breathing. In addition, the applicants emphasized that he shares a cell with other 15 persons.

xvi. *Edwin Javier Mora Cajina*

40. He is 23 years old and was accused of obstruction of functions, attempted murder, frustrated homicide, kidnapping for extortion, serious injuries, damage, and aggravated robbery, along with 6 other persons from Ometepe Island. The applicants indicated that he reports symptoms such as fever, difficulty breathing, and urological problems (specifically, problems to urinate). In the initial hearing against him, after his arrest, it was indicated that he had beat marks on his sides and back.

xvii. *Nilson José Membreño*

41. He is 26 years old and is accused of conspiracy to traffic narcotics, psychotropics and other substances, improper use of emblems and uniforms of the Army and National Police as well as manufacture and possession of restricted weapons. According to the applicants, he was diagnosed with hypertension and remains held in gallery 6.

42. On March 6, 2020, the competent Court was informed of the proposed beneficiary's ailments, such as numbness in half of his body and face, and headaches, and it was requested to order an assessment of his health status by the Institute of Legal Medicine. There has been no response whatsoever. When he presented with symptoms characteristic of COVID-19 -such as fever, muscle pain, headache and symptoms of respiratory disease-, On May 8, 2020, the Court was requested to transfer him to a healthcare center for adequate medical treatment. In response, on May 12, 2020, the Court ordered that a medical evaluation be carried out by the Institute of Legal Medicine and the results be sent to the Court.

43. According to the applicants, the proposed beneficiary shares a cell with 5 persons, without access to sunlight and with limited access to water, which is also not drinkable. In addition to these precarious conditions, there is an added hostility against him caused by the custody staff, because according to information provided by Nilson's mother, the guards have told the ordinary prisoners that they were not released last May because of the so-called political prisoners. This situation has left Nilson and other inmates exposed to suffering attacks by ordinary prisoners, in retaliation for not having been released.

xviii. *Francisco Xavier Pineda Guatemala*

44. He is 35 years old, is reportedly held since January 24, 2019 and remains in high gallery 1, where he has access to water only once a day and exclusively in early morning hours. The proposed beneficiary allegedly underwent a colostomy surgery on his abdomen, for which he requires special medications, diet and care that are not being provided. In February 2020, he reported that his requests for medical attention were being ignored by the authorities and that the medications provided by his relatives are not being

given to him. According to the applicants, he has symptoms such as fever, cough, and congestion, further stating that he shares a cell with 16 persons.

xix. Eliseo de Jesús Castro Baltodano

45. He is 54 years old and is being criminally prosecuted for allegedly having a backpack with plastic bottles, aluminum foil and muriatic acid. According to the request, he was arrested on September 11, 2019 and located in high gallery 6. Moreover, it was indicated that he has chronic conditions such as hypertension and heart problems and that in the last few days he had fever, sore throat and cough.

46. A [female] judge ordered that he should be urgently sent to a hospital, thus she issued an official letter requiring his immediate transfer to the Yolanda Mayorga Hospital, but it was never carried out. His relatives and lawyer requested to see the proposed beneficiary, but they were reportedly not granted the corresponding permit, therefore they filed letters before the Ministry of the Interior and the ICRC giving an account of these events, requesting their good offices to confirm what is really happening in the penitentiary system. However, the applicants stated that they have not received any response whatsoever.

xx. Luis Carlos Valle Tinoco

47. He is 32 years old and is accused of robbery with intimidation of persons as well as of the crime of illegal possession of firearms or ammunition, both being actual concurrent offenses. He is held in high gallery 4. Since March 6, 2020, it has been requested that his health status be assessed by a medical care center; however, this assessment has not been carried out to date. He allegedly has fever, body aches and sore throat.

48. The proposed beneficiary purportedly has chronic ailments regarding coronary and circulatory problems. On May 14, 2020, the Judicial Court was asked to order the transfer of the proposed beneficiary to a healthcare center because he had different characteristic symptoms of COVID-19, such as fever, muscle aches, headaches and symptoms of respiratory disease. In response, on May 20, 2020, the Judicial Court issued an official letter addressed to the Institute of Legal Medicine and the person responsible for “La Modelo” SPN, to carry out the medical evaluation requested. Moreover, it was established that once he is assessed, the results should be sent to the same court, in order to “process what corresponds by law.”

49. Despite having been taken to the Institute of Legal Medicine, the applicants indicate that no physical examination or auscultation were performed whatsoever to verify his health status. However, on May 28, 2020, the Judicial Court received an opinion in which it is concluded that the proposed beneficiary does not have any health impairments and, therefore, it did not make recommendations. However, the sister of the proposed beneficiary visited him on June 10, 2020, and found that the fever episodes have decreased, but he continues to have respiratory problems.

50. His detention conditions include overcrowding and serious restrictions on access to water. The proposed beneficiary shares a cell with 14 other persons. In that place, he only has access to water once a day, occasion on which he must store water in a container to cover all his daily needs, including personal hygiene and consumption.

xxi. Manuel de Jesús Sobalvarro Bravo

51. He is 58 years old and according to the applicants, he has hypertension. On March 26, 2020, the Court was asked to schedule a special hearing to review the precautionary measure for pre-trial detention and the authorization to enter masks, cleaning and personal hygiene products, for the prevention of

COVID-19. In the absence of a response from the judicial authority, the request was reiterated on March 30 and April 16, 2020. After starting to present characteristic symptoms of COVID-19, such as dry cough, bone pain, cardiac arrhythmia and loss of appetite, the transfer to the Institute of Legal Medicine was ordered for a medical evaluation, which has not come to fruition.

52. The proposed beneficiary shares a cell with 4 other persons in La Modelo SPN, gallery 4, cell 18. He allegedly has limited access to water, which forces him to make great efforts to subsist on the little amount he manages to accumulate in a container and with which he must cover all of his personal hygiene needs throughout the day. Restrictions on access not only affect personal hygiene but also consumption, given that he is only allowed to buy one drum of purified water per week, which must necessarily be purchased at the penitentiary commissary.

53. On another note, in August 2020 the applicants indicated that the proposed beneficiary had received death threats from an ordinary prisoner, while the custodial staff threatened to transfer him to Maximum Security cells, in retaliation for keeping a written record on anomalies within the penitentiary center. On August 20, 2020, the applicants indicated that because of this he had been injured and sent to a punishment cell. Furthermore, the custodial staff warned him not to go near other cells or they will shoot him.

54. According to the applicants, the persons referred to as political prisoners are placed in a dispersed manner in different parts of the prison in order to prevent communication between them and make them feel more vulnerable. With this same objective, specific ordinary prisoners are in charge of watching them.

xxii. Edward Enrique Lacayo Rodríguez

55. He is 45 years old and is allegedly accused of trafficking narcotic drugs, psychotropics and other controlled substances to the detriment of public health. He is held since March 15, 2019 and has been diagnosed with hypertension and diabetes. His mother reported that they do not allow her to give him his diabetes medication, or food, thus precluding him from having access to an adequate diet to prevent the worsening of his disease. He reportedly has high fever. He only has access to one bucket of water a day. In March 2020, it was alleged that food was being provided with ground glass and decomposed.

56. According to the applicants, in the maximum-security area of "La Modelo" SPN he remains held in precarious conditions, since the cells are 3.5 x 2.5m², without sufficient lighting or ventilation, hence high temperatures are experienced inside, causing a feeling of suffocation, dizziness and headaches. Recently, his sister reported that he was transferred to an isolation cell.

xxiii. Ernesto Antonio Ramirez Garcia

57. He is 39 years old and was accused of carrying a weapon and trafficking narcotic drugs, psychotropics and other controlled substances to the detriment of public health. He allegedly has heart problems and remains in the low gallery 5, where he has access to water for only 2 hours a day, during the early morning. He reportedly has fever, body ache and sore throat. The applicants indicated that he shares a cell with 16 persons.

xxiv. Michael Rodrigo Samorio Anderson

58. He is 36 years old and has been held since February 20, 2020. He is in gallery 3, cell 15. According to his relatives, he presents with loss of smell and taste, in addition to respiratory problems.

xxv. Fanor Alejandro Ramos

59. He is 48 years old and is held in La Modelo SPN, Gallery 11, cell 1. He is accused of storing psychotropic narcotics or other controlled substances, to the detriment of public health. He allegedly presents with characteristic symptoms of COVID-19 such as fever, body aches, diarrhea, etc. This is of concern given that he has diabetes and hypertension. Due to his health status, on May 12, 2020, the judge was requested to apply alternative measures to pretrial detention and authorize the entry of products such as liquid soap for hand washing, alcohol gel, masks, and gloves. In response, on May 14, 2020, the court issued an official letter to the director of the Institute of Legal Medicine to appoint a forensic physician to carry out a medical evaluation of Fanor's health condition. The decision has reportedly not been complied with.

60. On May 18, 2020, his wife sent a new request to the Judge stating that, on a visit on May 15, 2020, her husband indicated that he had lost his taste, smell and appetite since five days ago, and keeps having cold sweating. He also informed her that on May 14, 2020, elderly inmates with motor disability, HIV, and symptoms of the COVID-19 virus, who were in gallery 9, were transferred to gallery 11, where he is in a 5x7m cell, hence in that gallery the penitentiary population went from 60 to 122. The wife informed the Judge that there are only two places for the 122 inmates to relieve themselves and that they only receive two hours of water in the morning and two hours of water at noon.

61. Subsequently, a special hearing was scheduled for May 20, 2020, which was suspended after the proposed beneficiary stated that he had muscle aches, fever and cough and he even had to leave the courtroom for presenting a strong cough episode. Faced with the breach of the judicial decision to carry out the assessment by the Institute of Legal Medicine, on June 3, 2020 the judicial authority again issued an official letter whereby the Institute of Legal Medicine was requested to submit the respective medical report as soon as possible. To date, this order has not been complied with.

62. The conditions of detention are reportedly characterized by "critical overcrowding," unsanitary conditions, deprivation of exposure to sunlight, lack of lighting, humidity, and serious limitations in access to water, both to meet personal hygiene needs and for consumption. These conditions have allowed the outbreak of a mosquito plague.

xxvi. Justo Emilio Rodríguez López

63. He is 68 years old and is held since April 20, 2020, accused of obstruction of functions, attempted murder, frustrated murder, extortionate kidnapping, serious injuries, damage, and aggravated robbery, together with 6 other persons from the Ometepe Island. The applicants indicated that he has chronic conditions such as hypertension, he has fever and shortness of breath.

64. In September 2020, the applicants indicated that the proposed beneficiary was transferred to the Antonio Lenin Fonseca Hospital. According to the applicants, in July 2020 the proposed beneficiary was beaten by other inmates, presenting with chest pain and significant impairment in understanding and answering simple questions. The health situation of the proposed beneficiary has reportedly deteriorated, which has been brought to the attention of the judicial authorities. At the time, a court order was issued for him to be evaluated with a view to providing him with the medical care required. However, the order was allegedly not complied with. On August 29, 2020, it was unofficially reportedly learned that the health status of Mr. Rodríguez was critical. In view of this, some relatives and a lawyer appeared at the facilities of "La Modelo" in order to request information about the health status of the proposed beneficiary and to file a formal request requiring his transfer to a hospital. However, the applicants indicated that officers of "La Modelo" not only refused to provide any information, but also to receive the abovementioned request,

asserting that he was already being taken care of in the prison. The proposed beneficiary was reportedly admitted to the intensive care area, and according to the applicants, he is fighting for his life. The applicants indicated that the Office of the United Nations High Commissioner for Human Rights (OHCHR) had made a statement urging the State of Nicaragua to guarantee adequate medical care.

xxvii. Víctor Manuel Soza Herrera

65. The proposed beneficiary is allegedly accused of trafficking narcotic drugs, psychotropics and other controlled substances to the detriment of public health. He has been reportedly held since January 26, 2020 under maximum security. He allegedly has sore throat, severe headache, and fever. According to the applicants, he is held in an isolation cell with other 3 persons who also reportedly have characteristic symptoms of COVID-19.

xxviii. Celia Cerda Cruz (identified by the State as Amílcar José Cerda Cruz)

66. The applicants identify her as a 34-year-old transgender woman. On April 21, 2020, she was reportedly detained. On May 8, 2020, she was brought before a court for the initial hearing against her. On that occasion, she commented that she has had fever for three days and that they had not yet provided her with her medication. The proposed beneficiary purportedly suffers from hypertension and has been precluded from bringing her propranolol treatment into the penitentiary. Similarly, they have not allowed her to enter a mat, or the food provided by his mother. The proposed beneficiary is receiving hormone therapy and has a thyroid condition. According to the applicants, despite her gender identity, she has been held in La Modelo SPN since April 21, 2020, where she was placed in cells for men.

67. In August 2020, the applicants indicated that the proposed beneficiary has been forced to remain in “La Modelo” penitentiary –despite being a center exclusively for men– where since her arrival, she has faced threats, insults and continuous hostility by the penitentiary staff: “We are going to cut your hair.” “Why don't you run like when you were beating a policeman?” “Women's clothing is not allowed here.” “You are a man, you asshole.” “You can't go around putting on makeup here.”

68. Moreover, according to the applicants, the penitentiary staff has been encouraging hostility by other inmates against her and she is forced to assume caregiving or domestic roles by her cellmates, such as cleaning and kitchen tasks, which she has to agree to in order to avoid aggressions inside the penitentiary. Recently, she has been the victim of beatings, death threats with a knife in hand, as well as continuous insults for her gender identity, without any action whatsoever having been taken by the penitentiary authorities and staff to protect her.

69. On July 12, 2020, a cellmate purportedly attacked her after seeing her socializing with other inmates. He insulted her and hit her in the face. The aggressor allegedly tried to take control of the proposed beneficiary, forbidding her to interact with other inmates. On July 15, 2020, the defense of Ms. Cruz reported that an ordinary prisoner threatened the prisoner Ewin Mora with death and the proposed beneficiary tried to intervene to defend him. As a reaction to this, the ordinary prisoner drew a dagger while threatening that he would kill them both. Subsequently, the proposed beneficiary suffered an increase in her blood pressure. Lastly, the applicants indicated that the mother of the proposed beneficiary is also receiving text messages from a person who could be the one who previously attacked the proposed beneficiary. According to the applicants, despite complaints with the penitentiary authorities and guards, the internal regulations have not been applied for disciplinary faults.

xxix. *John Christopher Cerna Zúniga*

70. He is 24 years old and at the time of being arrested, his right rib was allegedly fractured, and his head cracked. He purportedly suffers from a degenerative lung disease and epilepsy. Furthermore, according to the applicants, since before his arrest he already had a right shoulder dislocation for which he would undergo surgery in April 2020, which has not been possible due to being deprived of his liberty. According to his relatives, at some point he had fever, flu symptoms, headache, and body pain. Despite the above, the proposed beneficiary was only allowed to enter acetaminophen, and he shared this medication with some of his cellmates, who had the same symptoms.

71. There reportedly exists an order from a judge stating that he should be taken to an evaluation by forensic medicine. Thus, the proposed beneficiary allegedly has breathing difficulties as a result of his lung disease and a fractured rib. He remains with severe pain in his right rib, without having received any medical attention to date.

72. In a court hearing on March 26, 2020, the referral to the Institute of Legal Medicine was requested, as was the review of the precautionary measure of pre-trial detention, and the authorization to enter cleaning and personal hygiene products for the prevention of COVID-19. It was also reiterated that in a court hearing on March 12, 2020, emphasis was made on the health status of the proposed beneficiary, who allegedly has “serious head injuries that cause intense permanent headache, a shoulder dislocation that needs urgent surgery, calcification in the lungs, and also has schizophrenia that requires treatment and psychiatric consultation. Of these ailment[s], the defense submitted at the hearing a simple copy of the proofs and the medical epicrisis.” On March 30, 2020, the request for medical assessment and entry of COVID-19 prevention material (face masks, solid and liquid soap) was reiterated. The request was reiterated again on April 16, 2020.

73. On April 25, 2020, the proposed beneficiary was purportedly taken to a medical examination at the Institute of Legal Medicine. However, the attention allegedly included only a psychological assessment. Despite the lack of a physical or medical examination, an opinion was reportedly issued stating that the proposed beneficiary is in good health. Subsequently, he was allegedly tested for tuberculosis due to a possible outbreak of this disease in the penitentiary center and because he had symptoms, such as body tremors.

74. On May 12, 2020, it was reported that the authorities are not complying with protecting the health of the proposed beneficiary. On May 7, 2020, the proposed beneficiary allegedly suffered a “respiratory crisis,” without being provided with any treatment by the penitentiary authorities. The applicants purportedly consider him a suspect for COVID-19. His relatives have reportedly had to resort to providing him, by their own means, with metocarbamol, acetaminophen and other medications that do not require a medical prescription.

75. On May 14, 2020, the proposed beneficiary indicated that he is in gallery 6, cell 26, along with 18 other ordinary prisoners. He is reportedly in a quiet space, but he still has rib pain and respiratory distress. He allegedly had a “crisis” and after insisting, they gave him salbutamol and prednisone. Despite the delivery of some medications, his treatment was reportedly not adequate for his needs, because it was prescribed without carrying out a medical examination necessary to diagnose the origin of his symptoms. He purportedly indicated that more than half of the inmates are ill with the same symptoms: “flu,” vomiting, diarrhea, fever, body pain. There are reportedly also no medications, and in the medical consultation they allegedly only prescribe (patients with fever) to get wet with water from a barrel. He indicated that containment measures have been adopted, albeit late (fumigation and washing of walls, taking temperature at night). The prison authorities purportedly take one person out for an interview,

offering freedom in exchange for information, as considered by “national intelligence.”

76. As of June 8, 2020, he reportedly continued to have fever and cough, in addition to showing paleness on his face and significant weight loss. On that date, his mother was informed that the lung problem had worsened and that he had been urgently taken to the infirmary, two weeks ago, when he presented with a new respiratory crisis. However, he reportedly did not receive any specific care or medication, being under observation until he began to breathe normally again. In view of the worsening of his ailments, his relatives have reported that they tried to bring medications into the penitentiary, however they are allowed to pass only flu medications, acetaminophen and oral rehydration fluids, and not specific medications for the treatment of the pulmonary calcification from which he suffers.

77. The conditions in his cell are purportedly deplorable as the space is extremely limited and unhealthy. His cellmates reportedly smoke. There exist alleged limitations on access to water, as the service is available only during specific hours, and he is allowed to save only one bucket of water to cover all his needs throughout the day.

xxx. Uriel José Pérez

78. He is 28 years old and was arrested on November 15, 2019. In March 2020, it was alleged that food was being provided with ground glass and decomposed. According to his relatives, on his last visit, Uriel had difficulty breathing. Moreover, he did reportedly not attend a hearing on May 12, 2020. At the German Hospital, they purportedly confirmed that the proposed beneficiary had been intubated in intensive care, since Saturday, May 9, 2020. Until June 5, 2020, he was allegedly in the German Hospital. While he was in the hospital, it was reported that he had come out of intensive care and had a rash on his arms. Furthermore, a refusal to provide information to relatives about his diagnosis and health status persists.

B. Persons held in the Waswalí SPN

xxxi. Walter Antonio Montenegro Rivera

79. He is 30 years old and was sentenced to 5 and a half years in prison. He is held in the Waswalí SPN. The health status of the proposed beneficiary is reportedly particularly delicate, given that in addition to being diabetic, hypertensive and presenting characteristic symptoms of COVID-19, such as fever, cough, back pain and breathing problems, he has 2 bullets lodged in his head, one in his thorax and another one in his abdomen as a result of shots fired when they tried to arrest him. This last medical condition allegedly causes him multiple complications: swallowing and speaking problems, body numbness, temporary loss of sight and he spits blood from time to time. In addition, the bullet in his abdomen is so close to the intestines that it allegedly causes him to defecate blood.

80. The proposed beneficiary was reportedly taken to the Matagalpa SPN medical post. However, the physicians have allegedly responded describing his situation as psychological and saying that he does not have anything, even though the proposed beneficiary can even touch one of the bullets in his body. Consequently, he was purportedly prescribed pills for blood pressure control. However, his sister confirmed that he continues having multiple symptoms, such as fever, headache, chills and cough with phlegm production. His conditions are allegedly characterized by critical overcrowding, given that he shares a cell with 330 persons, and extremely limited access to water, only available in the early morning hours, therefore he has to make great efforts to manage the little water he is able to accumulate in a container, to cover all his needs during the day.

xxxii. Jorge Adolfo García Arancibia

81. He is 50 years old and has cough, fever and difficulty breathing, being a patient with chronic diseases. Subsequently, in June 2020, the applicants indicated that he is in the Matagalpa SPN, sharing a cell with 140 persons.

C. Persons held in the SPN of Granada

xxxiii. Mauricio Javier Valencia Mendoza

82. He is 38 years old and is sentenced for the crime of trafficking, possession and use of restricted weapons, substances or explosive devices. Since July 2019, he has been allegedly held in the SPN of Granada, cell 7. On April 20 and 24, 2020, a request was made to the Judicial Court to authorize as a preventive measure the change of the prison regime to that of release on parole, without having received any response to date. Since mid-May, the proposed beneficiary allegedly presents with characteristic symptoms of COVID-19, such as fever and bone pain. When the symptoms appeared, on May 19, 2020, the COVID-19 test was allegedly requested, as well as a medical assessment by the Institute of Legal Medicine. In this request, the [female] lawyer of the proposed beneficiary indicated that, although he had been taken to the nursing facility, he was not assessed diligently. Similarly, she noted that he was not being provided with the appropriate medications for his symptoms, and that his family has been supplying medications as possible, but they are not sure if these are being indeed given to him. The request has not been purportedly answered either. The health of the proposed beneficiary has reportedly worsened, presenting with symptoms that are more severe.

83. The proposed beneficiary purportedly shares a space with 60 other persons. Access to water is allegedly extremely limited, since the service is only available at night, hence he must keep water in a container to cover all his needs during the day, which includes personal hygiene and consumption. He was reportedly prevented from entering purified water brought by his relatives.

xxxiv. Ezequiel de Jesús González Alvarado

84. He is 20 years old and is accused of storing the Contact Bomb (*Bomba de Contacto*) to cause anxiety in the town of Masaya. He has been held since August 3, 2019 and is allegedly in cell 6. His family reports that he has had dry cough and fever for a few weeks. On April 28, 2020, before he presented with characteristic symptoms of COVID-19, such as dry cough and fever, the judge was requested to authorize the change of the precautionary measure, due to the overcrowding and unhealthy conditions of the penitentiary where he remains held, as well as the imminent threat of an epidemic outbreak inside. The abovementioned judicial authority never ruled on the request filed in his favor. The proposed beneficiary has reportedly suffered symptoms such as severe headaches, fever, sore throat, cough, "flu," and loss of smell. His situation is allegedly especially aggravated by the serious limitations in access to water, given that they allow him to fill only one bucket of water a day to meet all his needs and it is not even drinking water.

xxxv. Samuel Enrique González

85. He is 55 years old and is accused of storing a Contact Bomb to cause distress in the town of Masaya. In the last weeks, the proposed beneficiary has reportedly presented with characteristic symptoms of COVID-19, such as dry cough, headache, difficulty breathing and high fever. The applicants indicate that he is in the group of risk. There exists an alleged judicial resolution ordering his transfer to the *Hospital Japón*, in the city of Granada, for his assessment and medical treatment; however, the prison authorities

have purportedly refused to comply with it. To date, the proposed beneficiary reportedly remains in the Granada SPN and the medications he has received have been provided by his relatives. The proposed beneficiary is allegedly in the Granada SPN, cell 8, in overcrowding conditions with around 120 persons. There is purportedly little access to water, as they are only allowed to fill one bucket a day to satisfy all their needs for personal hygiene and consumption which, moreover, is not drinking water.

xxxvi. Denis Javier Palacios Hernández

86. He is 33 years old and was arrested on July 23, 2019, after voluntarily appearing for a summons at the Masaya police station. At the time of his arrest, he was working in a gunpowder workshop because it was his occupation, and the police allegedly held him responsible for making homemade bombs that had been detonated in the previous days in various parts of the city of Masaya. He is being reportedly held in the Granada SPN, cell 4, and has fever, body aches and cough. To date, he has purportedly not received any medical attention. According to the applicants, he shares a cell with 70 persons and faces limitations in access to water.

D. Persons held in the Jinotepe SPN

xxxvii. Lester José Selva

87. Since January 18, 2020, he has been purportedly held. He allegedly has fever, bone pain, loss of appetite, smell and taste, and he feels weak. The applicants indicated that the proposed beneficiary shares a 3.5 x 3.5 m² cell with 7 persons, where the continuous lack of access to water and the existence of a toilet inside the cell, force him to remain in severely unsanitary conditions.

E. Persons held in the Matagalpa SPN

xxxviii. Leyving Eliezer Chavarría

88. He is 31 years old and is accused of manufacture, trafficking, possession and use of restricted weapons, substances or explosive devices. He allegedly has fever and cough and has not received any medical attention. Subsequently, the applicants indicated that he shares a cell with 140 persons.

F. Persons held in the Chinandega SPN

xxxix. Carlos Antonio López Cano

89. He is 28 years old and is held since May 22, 2019. The proposed beneficiary allegedly has a clinical history of high blood pressure. On April 30, 2020, the wife of the proposed beneficiary requested the Court to urgently order his referral to the forensic physician for a medical assessment, for having characteristic symptoms of COVID-19, such as dry cough, sore throat, chest pain, fever and pain when breathing. Notwithstanding the above, there has allegedly not been any response to the request. On June 5, 2020, the request was again reiterated, with no response to date.

90. The ICRC reportedly carried out a medical check-up on the proposed beneficiary, however, the result of the examination is unknown. Moreover, the proposed beneficiary purportedly confirmed that he continues to have cough and bone pain and that the only medications he has received are those provided by his relatives. More recently, his relatives faced restrictions to bring medications into the penitentiary. For instance, on June 3, 2020, he was not allowed to enter cough medications or skin ointments. Furthermore, liquid alcohol was reportedly not allowed, but only a small bottle of alcohol gel.

91. The proposed beneficiary allegedly shares a cell with 21 other persons. This fact precludes him from maintaining physical distancing as well as the necessary hygiene measures. The applicants indicated that there exists an epidemic outbreak of COVID-19 in the Chinandega SPN, where the proposed beneficiary is reportedly held. According to his wife, the proposed beneficiary has stated that, in the early morning hours, he has noted that prison authorities have removed the bodies of other inmates who have died in other cells.

G. Persons held in the Comprehensive Women's Penitentiary Center (EPIM)

xl. Karla Vanessa Escobar Maldonado

92. She is 40 years old and is held since May 6, 2020. According to the applicants, since her imprisonment she has had an allergic reaction to chlorine, heat and the confinement conditions. Moreover, she has cough.

93. The proposed beneficiary has multiple health conditions, such as allergies, uterine injuries, and thyroid problems. On May 3, 2020, during the preliminary hearing against her, the Court was requested to send an official letter to the Institute of Legal Medicine to carry out a medical assessment of her health status, and to change her pre-trial detention. During that hearing the Judge asked the Institute of Legal Medicine for a medical assessment. At the request of the defense of the proposed beneficiary, the entry of gel alcohol and a mask was authorized, but the authorization to enter “medications to strengthen the immune system” of the proposed beneficiary was denied.

94. At the abovementioned preliminary hearing, the Judge stated that he was able to verify that the proposed beneficiary has been receiving medical treatment for the illness she suffers from. In contrast, her relatives have informed the representatives that they have tried to enter medicines for both her thyroid problems and blood pressure, as well as food and personal hygiene products; however, these have not been given to the proposed beneficiary, hence her health status is delicate.

95. On May 18, 2020, the judge reportedly decided to maintain the pre-trial detention measure. During this hearing, the proposed beneficiary mentioned to her lawyer that in previous days she had been taken to the EPIM’s medical clinic and that they asked her questions about her health status, but they did not carry out any type of physical assessment, nor they prescribed any clinical test to diagnose her conditions. On May 26, 2020, her lawyer tried to visit the proposed beneficiary at the EPIM to verify her health situation, but the penitentiary staff did not allow her to enter, alleging that it had not been authorized. On May 29, 2020, a request for alternative measures to prison was filed in her favor before the judge, and a hearing was scheduled for June 15, 2020.

96. On June 15, 2020, the proposed beneficiary reportedly continued to have symptoms suspicious of COVID-19. On June 2, 2020, a relative was able to visit the proposed beneficiary and indicated that the proposed beneficiary had fever and intense body ache. Moreover, it was reported that the ordinary prisoners had beat her on orders of the guards, therefore she tries not to speak and always stay in a corner to avoid further attacks. In addition, it was mentioned that they do not take her out to the yard to sunbathe and she remains in overcrowding conditions with 78 more women.

97. Between June and July 2020, the proposed beneficiary was the victim of multiple acts of harassment and threats from the guards and other inmates who are allegedly instructed by the prison authorities. The proposed beneficiary purportedly lives in constant fear and has been forced to limit her movement and interaction with other women deprived of their liberty, even refusing to leave her cell –in

the hours allowed by the penitentiary staff to sunbathe– for fear of being beaten. On July 14, 2020, her sister, Maritza Escobar, informed the media that during a family visit they noted that the proposed beneficiary is losing her hair and has considerably lost weight.

xli. Maria Esperanza Sánchez García

98. Since her arrival in the SPN on February 6, 2020, according to the applicants, the proposed beneficiary has been repeatedly subject to alleged torture and cruel and inhuman treatment by the guards of the system, with the aim of forcing her to accept the crimes charged against her.

99. On March 24, 2020, she reportedly suffered an asthma attack and an episode of high blood pressure. Despite her health situation, she has been allegedly repeatedly denied the right to receive adequate medical care and medications. Due to the pressure exerted by other inmates of the penitentiary system, the proposed beneficiary has been reportedly taken to a medical assessment where she was diagnosed with bronchitis. On April 29, 2020, she allegedly received attention at the prison's health facility thanks to pressure by her cellmates, who took action when the proposed beneficiary had an asthma attack and was not provided with her medications, even though her family brings them. According to the applicants, members of the ICRC recommended daily nebulization, but penitentiary system officers did reportedly not comply with these guidelines. As a result, the proposed beneficiary had to be purportedly admitted to the prison's health facility for a week, as she had an asthma attack and tachycardia.

100. Upon being discharged on May 4, 2020, the proposed beneficiary returned to her cell with around 30 women deprived of their liberty, who are ill, with symptoms such as fever, cough, diarrhea and vomiting. Sánchez' cellmates are in alleged poor health conditions and fear being infected with COVID-19. So far, authorities and physicians from the SPN "La Esperanza" have reportedly only offered acetaminophen to some of the ill women, while others have not been given any medication whatsoever, because there are no medications in the penitentiary. More recently, the proposed beneficiary reportedly had cough, fever and difficulty breathing.

101. The proposed beneficiary purportedly has chronic arterial hypertension, chronic ischemic heart disease and bronchial asthma. On July 10, 2018, the date of his last internal medical assessment, specific prescriptions and recommendations were made.²⁵ On May 24, 2020, the proposed beneficiary allegedly requested medical attention because she felt very tired, being assisted 7 hours later. The applicants questioned that even though she had high blood pressure, tiredness, and a heavy cough, they only prescribed her one pill for blood pressure. On May 25, 2020, the proposed beneficiary had to be reportedly taken back to the health facility because she continued to have the same symptoms. On this occasion, she was nebulized and then returned to her cell.

102. On May 27, 2020, her daughter reportedly confirmed that she continues to have cough and fatigue. According to her daughter, they did not give her the medication prescribed by the physician, nor did they give her access to nebulizations twice a day. On June 1, 2020, during the family visit, the proposed beneficiary indicated that she had not eaten for several days because her food was delivered in poor conditions, hence she only ate the oats that her relatives bring her. In the cellblock where she is, she shares a space with around 40 women.

103. In August 2020, the applicants indicated that one of the women deprived of their liberty is in charge of harassing and threatening Ms. Sánchez, with the support of the prison custody staff. Ms. Sánchez

²⁵ Medications: Formoterol 12 mcg (1 capsule inhaled every 12 hours); Beclomethasone 250 mcg (2 puff every 12 hours); Montelukast (10 mg orally daily); Losartan (50 mg orally daily); Trimetazidine (35 mg orally daily); and Acetylsalicylic Acid (100 mg orally daily). In addition, they recommended to have a healthy lifestyle.

shares a cell with Juana Estela López Alemán, who is also proposed as a beneficiary of these measures, therefore they have jointly sent a letter to the Directorate of the penitentiary center, reporting the situation and holding the aforementioned inmate responsible for any attack on their lives or personal integrity. In response, the prison authorities allegedly moved the aggressor to another cell; however, the attacks reportedly continued by other women deprived of their liberty, who, in addition to mockery and insults, express threats against her. Lastly, they indicated that her health status has worsened over time, to the extent that, after feeling dizzy and being seen clearly disoriented, she had to be transferred in a wheelchair to a hearing of the oral trial against her, held on last July 16, 2020 before the Seventh Criminal District Court (*Juzgado Séptimo Distrito Penal de Juicio*) in Managua.

xlii. Juana Estela López Alemán

104. She is 58 years old and is a person with a physical disability. She has been reportedly diagnosed with chronic hypertension and has alleged rib fractures as a result of a severe beating by policemen during interrogations. According to her [female] lawyer, on April 23, when she attended the court, Ms. López Alemán had her face swollen. On April 20, her daughter paid her a special visit, where she was purportedly not allowed to hand her over her medicines, a mattress, gel alcohol and food. On May 8, 2020, she was reportedly transferred to the court for a hearing. On that occasion, the proposed beneficiary told her [female] lawyer that she has been defecating blood and that the physician was able to see that she has bruises on her body.

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

105. Precautionary measures are one of the mechanisms of the Commission for the exercise of its function of overseeing compliance with human rights obligations, as established in Article 106 of the Charter of the Organization of American States. These general oversight functions are established in Article 41(b) of the American Convention on Human Rights, as well as in Article 18(b) of the Statute of the IACHR. 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 to persons.

106. The Inter-American Commission and the Inter-American Court of Human Rights (hereinafter "the Inter-American Court" or "I/A Court H.R.") have established repeatedly that precautionary and provisional measures have a dual nature, one being protective and the other being precautionary. As regards the protective nature, these measures seek to avoid irreparable harm and preserve the exercise of human rights. Regarding their precautionary nature, these measures have the purpose of preserving legal situations while they are being considered by the IACHR. Their precautionary nature aims to safeguard the rights at risk until the request under consideration in 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 allow the State concerned to comply with the final decision and, if necessary, implement the ordered reparations. Regarding the process of decision making 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.

107. The Commission recalls that the facts supporting a request for precautionary measures need not be proven beyond doubt; rather, the purpose of the assessment of the information provided should be to determine *prima facie* if a serious and urgent situation exists.²⁶ The Commission also recalls that, by its own mandate, it is not called upon to determine criminal liabilities for the events alleged and denounced. Moreover, it is not appropriate, in the present proceeding, to rule on violations of rights enshrined in the American Convention. The analysis carried out hereafter refers exclusively to the requirements of Article 25 of the Rules of Procedure, which can be done without carrying out assessments on the merits.

108. As a preliminary issue, the IACHR notes that the universe of proposed beneficiaries amounts to 41 persons deprived of their liberty. Although the applicants initially identified 42, they later indicated that one of them, Giovanni Jareth Guido Morales, was released on July 14, 2020 “therefore the circumstances that motivated the request for precautionary measures in his favor have changed,” without providing any further information in light of his new situation. In this regard, the IACHR will only rule on the 41 persons²⁷ who continue to be deprived of their liberty in the 7 abovementioned prisons, who will be considered proposed beneficiaries hereafter.

109. When analyzing the requirement of seriousness, the Commission takes into account that the information provided is framed in a context characterized by serious access difficulties for family members or legal representatives to know about the situation of the persons deprived of their liberty in Nicaragua, especially after the events of April 2018 and in the current context of the pandemic. In this framework, as indicated in May 2020, the Commission is particularly concerned about the lack of reliable information and the persistence of official disinformation about the scope of the COVID-19 pandemic in Nicaragua, which is crucial for the individuals’ health in the face of the health emergency and for the response by the state authorities.²⁸

110. In addition to the foregoing, the Commission notes that the situation presented refers to persons who have been deprived of their liberty for various periods of time in Nicaragua and who are under different charges or convictions, and who are also currently in different legal situations. At the same time, the Commission also notes that these persons are described by the applicants as “political prisoners,” with a view to distinguishing them from those considered ordinary prisoners, noting that there is reportedly special animosity or hostility on the part of the prison or penitentiary authorities toward the persons identified. This description made by the applicants is based on the fact that the deprivations of liberty that

²⁶ In this regard, for instance, referring to the provisional measures, the Inter-American Court has indicated that a minimum of detail and information is required to assess *prima facie* a situation of extreme seriousness and urgency. I/A Court H.R., Matter of the children and adolescents deprived of their liberty in the “Complexo do Tatuapé” of the Fundação CASA. Request for extension of precautionary measures. Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of July 4, 2006. Considerandum 23.

²⁷ The proposed beneficiaries identified are: (1) Maycol Antonio Arce, (2) Walter Antonio Montenegro Rivera, (3) Norlan Josué Cárdenas Ortiz, (4) Richard Alexander Saavedra Cedeño, (5) Jaime Enrique Navarrete Blandon, (6) Edwin Antonio Hernández Figueroa, (7) Wilber Antonio Prado Gutiérrez, (8) Steven Moisés Mendoza, (9) Mauricio Javier Valencia Mendoza, (10) Max Alfredo Silva Rivas, (11) Osman Marcel Aguilar Rodríguez, (12) Ezequiel de Jesús González Alvarado, (13) Samuel Enrique González, (14) Alexander Rafael Martínez López, (15) Gabriel Renán Ramírez Somarrriba, (16) Denis Javier Palacios Hernández, (17) Uriel José Pérez, (18) Jorge Adolfo García Arancibia, (19) Lester José Selva, (20) Víctor Manuel Díaz Pérez, (21) Leyving Eliezer Chavarria, (22) Edman Jheancarlos Mora Ortiz, (23) Edwin Javier Mora Cajina, (24) Carlos Antonio López Cano, (25) Nilson José Membreño, (26) Francisco Xavier Pineda Guatemala, (27) Eliseo de Jesús Castro Baltodano, (28) Luis Carlos Valle Tinoco, (29) Manuel de Jesús Sobalvarro Bravo, (30) Edward Enrique Lacayo Rodríguez, (31) Ernesto Antonio Ramírez García, (32) Néstor Eduardo Montealto Núñez, (33) Michael Rodrigo Samorio Anderson, (34) Fanor Alejandro Ramos, (35) Justo Emilio Rodríguez López, (36) Víctor Manuel Soza Herrera, (37) Celia Cerda Cruz (identificada por el Estado como Amílcar José Cerda Cruz), (38) Karla Vanessa Escobar Maldonado, (39) María Esperanza Sánchez García, (40) Juana Estela López Alemán, and (41) John Christopher Cerna Zúñiga.

²⁸ IACHR, IACHR, OSFRE, and OSRESCER Express Serious Concern Over Violations of the Right to Information in Nicaragua and the Impact of These on Access to Health During the COVID-19 Pandemic, May 27, 2020.

are subject to analysis have as a common element that they occur in the context of a human rights crisis, which began in April 2018 and persists to date, unceasingly, as the Commission has repeatedly stressed and as has been developed in paragraphs 4-17 *supra*.

111. Based on the above and with regard to the actual matter, the Commission proceeds to analyze the particular and common situation of the persons proposed as beneficiaries and identified in the 7 penitentiary centers where they are held: the SPN “La Modelo,” the SPN of Waswalí, the SPN of Granada, the SPN of Jinotepe, the SPN of Matagalpa, the SPN of Chinandega, and the Comprehensive Women's Penitentiary Center (EPIM).

112. When carrying out this analysis, the Commission recalls that the persons identified are deprived of their liberty by the Nicaraguan authorities, hence the State is in a special position of guarantor, since its authorities exercise a strong control or command over the persons in their custody.²⁹ This is due to the unique relation and interaction of subordination between the person deprived of liberty and the State, characterized by the particular intensity with which the State can regulate their rights and obligations, and by the inherent circumstances of imprisonment, where prisoners are prevented from satisfying on their own a series of basic needs that are essential for the development of a dignified life.³⁰

113. The Commission notes that the persons identified are purportedly held in an environment that is hostile to them, allegedly promoted by the prison authorities themselves, who reportedly seek to pit them against so-called “ordinary prisoners.” Furthermore, there have been alleged threats and aggressions against specific proposed beneficiaries. As an example of the above, it is worth stressing the particular situation of one proposed beneficiary, a transgender woman, who is allegedly being threatened and insulted while deprived of her liberty in a penitentiary for men in “La Modelo.” Similarly, acts of harassment and threats against the [female] proposed beneficiaries were reported in the Comprehensive Women's Penitentiary Center (EPIM).

114. In addition, the Commission notes that, both in the abovementioned penitentiaries and in the Waswalí SPN, Granada SPN, Jinotepe SPN, Matagalpa SPN, and Chinandega SPN, the proposed beneficiaries, given the profile with which they are reportedly described, do not receive any medical care for their health conditions. Furthermore, it is noted that, according to the applicants, when receiving any, an adequate medical assessment or the corresponding follow-up is not carried out. The Commission also notes that in those cases in which the proposed beneficiaries have expressly made requests before the competent authorities to receive medical care given their health conditions, they do not respond in a timely manner, having even been informed of situations in which the legal representatives or relatives of the persons proposed as beneficiaries have been precluded from making such requests for care before the competent entities. According to the applicants, in the cases in which judicial authorities have ordered that medical care be provided, or transfers be made, such orders are reportedly not complied with, are delayed or are not carried out properly. While there is insufficient medical information to analyze the seriousness of all the health situations on a case-by-case basis, it is possible to note that the alleged context of animosity and hostility may have come to fruition in the refusal or delay of timely medical care, even despite administrative requests and court orders. Such situations may result in a worsening of their medical conditions if not treated in a timely manner and if time passes under these circumstances.

115. In the current pandemic context, the Commission has learned that several proposed beneficiaries

²⁹ I/A Court H.R. *Case Mendoza and others Vs. Argentina*. Preliminary Exceptions, Merits and Reparations. Judgment of May 14, 2013. Series C No. 260, para. 188. Also, see: IACHR, *Report on the human rights of persons deprived of liberty in the Americas*, December 31, 2011, para. 49.

³⁰ IACHR, *Report on the Human Rights of Persons Deprived of Liberty in the Americas*, December 31, 2011, para. 49 *et seq*.

have characteristic symptoms of COVID-19, and that they are generally not examined and treated, which reportedly continues to date. In this regard, the Commission does not have sufficient information, or relevant medical documentation, to indicate that all the persons proposed as beneficiaries do indeed have COVID-19, even after medical assessments that have allegedly been conducted in some cases by government and non-government entities. However, and in line with the above, the Commission is particularly concerned that the prison authorities are not providing them with the appropriate medical care that would at least make it possible to rule out the possibility of them having the disease and to determine the appropriate medical treatment, if needed, particularly for the pre-existing medical conditions that many of them allegedly have. In addition, the State has not provided any information on how it has been handling and treating the prison population in view of the COVID-19 and in the conditions of detention reported by the applicants. In this regard, it is worth noting the lack of investigation into alleged epidemiological outbreaks in the SPN "La Modelo," the SPN of Granada, and the SPN of Chinandega, as indicated in the request.

116. Furthermore, taking into account that many of the proposed beneficiaries purportedly have previous medical conditions that are not being taken care of, the risk is likely to increase, insofar as the corresponding illnesses may be worsened by the conditions of detention in which the proposed beneficiaries currently allegedly find themselves. Taking into consideration the treatment given to these persons, the Commission notes that, in principle, the State is not adequately mitigating the risk factors in question, thus suggesting that, as a whole, the persons deprived of their liberty -whether or not they have previous illnesses- may eventually be faced with a future situation in which they do not receive timely medical treatment. Additionally, according to the applicants, the proposed beneficiaries are in unhealthy conditions characterized by cases of overcrowding, limited access to water and limited access to medicines that are provided by the very relatives on their own. In this regard, it is noted that, in specific cases, the current conditions of detention are already reportedly affecting their health.

117. In this regard, in addition to the reasonable possibility that threats and acts of aggression will continue over time, some persons also suffer from health problems that are apparently not being adequately taken care of. While the information is not sufficient to accurately assess specifically the seriousness of these issues, the context of deprivation of liberty, the hostility towards the proposed beneficiaries, and the history of threats and violence reported do not rule out the risk that, in the face of a possible medical complication or emergency, the authorities will not intervene as they should. In sum, the Commission understands that, if this scenario persists, the proposed beneficiaries may be subject to greater harm to their rights.

118. The Commission regrets the State's failure to respond to the request for information made to it. Although this is not sufficient per se to justify the granting of a precautionary measure, it does prevent the Commission from considering its observations and thus from analyzing whether the applicants' allegations are disproved. This is particularly relevant in a situation whose gravity is amplified by the context in which it is inserted and taking into account the obligations imposed regarding those who are deprived of their liberty.

119. In these circumstances, the Commission concludes, from the applicable *prima facie* standard and in light of the current context, that there is sufficient evidence of the existence of a serious risk to the rights to life, personal integrity, and health of the 41 persons identified in the current circumstances surrounding their deprivation of liberty.

120. As regards the requirement of urgency, the Commission considers that it has also been met, given that attacks against the proposed beneficiaries have already come to fruition and that these attacks are likely to continue and worsen over time, together with the consequences of a prolonged lack of access to

adequate medical treatment and in accordance with the medical prescriptions by the competent authorities.

121. As it pertains to the requirement of irreparable harm, the Commission considers that it is met, to the extent that the possible impact to the rights to life, personal integrity, and health, by its very nature, constitutes the maximum situation of irreparability.

122. Lastly, having identified compliance with the procedural requirements, the Commission notes that in the particular case of Nicaragua, in May 2019, when assessing compliance with the requirements of Article 63(2) of the Convention and deciding to grant urgent measures in favor of 17 persons deprived of their liberty, the President of the Inter-American Court of Human Rights indicated, at the time, that in the Nicaraguan legal system there are possibilities for alternative measures of liberty for persons even when they are subject to criminal proceedings or have already been convicted.³¹ On that occasion, in light of the risk assessment based on the conditions of confinement in which the persons deprived of their liberty were held, the President of the Court requested that the State immediately evaluated the granting of alternative measures to the deprivation of liberty, in accordance with its domestic regulations and the Inter-American standards.³² In this regard, the President of the Inter-American Court reminded the State of Nicaragua, in cases of persons who are in pretrial detention, that the personal characteristics of the alleged perpetrator and the seriousness of the crime with which they are charged are not, *per se*, sufficient to justify pretrial detention,³³ since it is ultimately a precautionary measure and not a punitive one.³⁴ Subsequently, such provisional measures were lifted by the full Inter-American Court when all the beneficiaries were released.³⁵

123. In addition, in a recent request for provisional measures, in the current context, with respect to persons deprived of their liberty, some of them with COVID-19, who had been serving sentences for the crime of terrorism in Peru, the Court recalled that “depending on factors such as health situation, risk to life, conditions of detention and facilities for adequate care (either in the penitentiary or through transfer to a medical facility), it is up to the State to assess in a proportional manner the administrative or legal measure that will protect the life and integrity of the convicted person, provided that it is duly granted and for a legitimate purpose that does not merely mean failing to ensure the enforcement of the sentence.”³⁶

124. On that occasion, the Court decided not to adopt provisional measures, considering that the Peruvian courts had been dealing with the situation of the proposed beneficiaries, urging the prison authorities to provide information on their conditions of detention and health and to provide the necessary medical treatment, hence the proposed beneficiaries were examined, diagnosed and treated, as can be inferred from the numerous reports and medical proofs provided by the State, and with respect to which it was not specified to what extent the treatments recorded therein resulted inappropriate.³⁷ The Court also found that the domestic authorities have been attentive to the situation of the proposed beneficiaries and have reacted to the facts that gave rise to the request for provisional measures, which,

³¹ 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, Considerandum 30.

³² *Ibidem*. Operative paragraph 3

³³ *Ibidem*. Considerandum 29

³⁴ *Ibidem*

³⁵ I/A Court H.R. *Matter of seventeen persons deprived of liberty in respect of Nicaragua*. Provisional Measures. Order of the Inter-American Court of Human Rights of October 14, 2019.

³⁶ I/A Court H.R. *Matter of Miguel Castro Castro Prison vs. Peru. Request for Provisional Measures and Sentence Compliance Supervision*. Resolution of the Inter-American Court of Human Rights of July 29, 2020, Considerandum 28; and case of Barrios Altos and case of La Cantuta Vs. Peru. Sentence Compliance Supervision.

³⁷ I/A Court H.R. *Matter of Miguel Castro Castro Prison vs. Request for Provisional Measures and Sentence Compliance Supervision*. Resolution of the Inter-American Court of Human Rights of July 29, 2020, Considerandum 39

in the Court's view, were sufficient to infer that, reasonably, the authorities will continue to do so.³⁸ Furthermore, the Court concluded that Peru has been guaranteeing access to justice and complaint mechanisms and has made the important task of the Ombudsman's Office possible, and that it will continue to do so.³⁹ In summary, and considering that the request for provisional measures was related to a judgment that had as a reparative measure the provision of medical and psychological treatment to the victims, the Court decided to carry out a reinforced oversight.

125. In light of these criteria, the Commission notes that in the present case Nicaragua has not provided any information in this proceeding that could disprove the allegations of the applicants, or information that indicates that the Nicaraguan authorities have reacted in view of the facts alleged in the request. Nor has the State provided information on the measures adopted to mitigate the risk that has been alleged and reiterated since the request was filed. In this sense, as already indicated, the Commission considers that the requirements established in Article 25 of the Rules of Procedure are met.

126. Considering the above, and in view of the fact that various requests have been filed at the domestic level to assess the legal situation of the proposed beneficiaries in light of the current conditions in which they find themselves, the Commission requires the State to respond to such requests and to evaluate the possibility of granting alternative measures to the deprivation of liberty in light of the particular health situations of the beneficiaries, as well as their legal situation, in the current context of the pandemic, with a view to protecting their rights to life, personal integrity and health, and in view of the assessments made in this resolution in light of the available information.

V. BENEFICIARIES

127. The Commission declares that the beneficiaries of this precautionary measure are the following 41 persons, duly identified in the present proceeding: (1) Maycol Antonio Arce, (2) Walter Antonio Montenegro Rivera, (3) Norlan Josué Cárdenas Ortiz, (4) Richard Alexander Saavedra Cedeño, (5) Jaime Enrique Navarrete Blandon, (6) Edwin Antonio Hernández Figueroa, (7) Wilber Antonio Prado Gutiérrez, (8) Steven Moisés Mendoza, (9) Mauricio Javier Valencia Mendoza, (10) Max Alfredo Silva Rivas, (11) Osman Marcel Aguilar Rodríguez, (12) Ezequiel de Jesús González Alvarado, (13) Samuel Enrique González, (14) Alexander Rafael Martínez López, (15) Gabriel Renán Ramírez Somarriba, (16) Denis Javier Palacios Hernández, (17) Uriel José Pérez, (18) Jorge Adolfo García Arancibia, (19) Lester José Selva, (20) Víctor Manuel Díaz Pérez, (21) Leyving Eliezer Chavarria, (22) Edman Jheancarlos Mora Ortiz, (23) Edwin Javier Mora Cajina, (24) Carlos Antonio López Cano, (25) Nilson José Membreño, (26) Francisco Xavier Pineda Guatemala, (27) Eliseo de Jesús Castro Baltodano, (28) Luis Carlos Valle Tinoco, (29) Manuel de Jesús Sobalvarro Bravo, (30) Edward Enrique Lacayo Rodríguez, (31) Ernesto Antonio Ramírez García, (32) Néstor Eduardo Montealto Núñez, (33) Michael Rodrigo Samorio Anderson, (34) Fanor Alejandro Ramos, (35) Justo Emilio Rodríguez López, (36) Víctor Manuel Soza Herrera, (37) Celia Cerda Cruz (identified by the State as Amílcar José Cerda Cruz), (38) Karla Vanessa Escobar Maldonado, (39) María Esperanza Sánchez García, (40) Juana Estela López Alemán, and (41) John Christopher Cerna Zúniga.

VI. DECISION

128. The Inter-American Commission on Human Rights deems that the present matter meets *prima facie* the requirements of seriousness, urgency and irreparable harm contained in Article 25 of its Rules of Procedure. Consequently, the Commission requests that the State of Nicaragua:

³⁸ Ibidem

³⁹ Ibidem

- a) adopt the measures necessary to guarantee the rights to life, personal integrity, and health of the beneficiaries identified herein;
- b) adopt the measures necessary so that the beneficiaries can immediately have access to specialized medical assessments that are necessary to determine the health status in which they find themselves, and the medical attention that may be necessary, as well as to ensure that this attention is accordingly received; and
- c) taking into consideration the context of the COVID-19 pandemic and the risk to life and personal integrity as a result of the circumstances surrounding their deprivation of liberty, evaluate, immediately, 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.

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

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

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

132. Approved on November 2, 2020, by: Joel Hernández García, President; Antonia Urrejola Noguera, First Vice-President; Flávia Piovesan, Second Vice-President; Margarette May Macaulay; Esmeralda Arosemena de Troitiño; and Julissa Mantilla Falcón, members of the IACHR.

María Claudia Pulido
Acting Executive Secretary