
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 71/2021**

Precautionary Measures Nos. 593-21, 665-21 and 680-21
Ana Margarita Vijil Gurdíán et al. for Nicaragua
August 30, 2021
Original: Spanish

I. INTRODUCTION

1. In June and July 2021, the Inter-American Commission on Human Rights ("the Inter-American Commission", "the Commission" or "the IACHR") received three requests for precautionary¹ measures from the Nicaraguan Center for Human Rights (CENIDH), the Center for Justice and International Law (CEJIL) and the International Institute on Race, Equality and Human Rights ("the requesting organizations"), urging the Commission to require that the State of Nicaragua ("the State" or "Nicaragua") adopt the necessary measures to protect the rights to life, humane treatment and health of Ana Margarita Vijil Gurdíán, Dora María Téllez Arguello, Suyen Barahona Cuán, Jorge Hugo Torres Jiménez, Víctor Hugo Tinoco Fonseca, Arturo José Cruz Sequeira and Luis Alberto Rivas Anduray ("the proposed beneficiaries"). According to the requesting organizations, the persons proposed as beneficiaries are at risk in the context of their deprivation of liberty because their conditions of detention are unknown, in addition to the fact that some suffer from serious chronic illnesses, while the whereabouts of others are unknown.

2. Pursuant to Article 25.5 of its Rules of Procedure, in respect of MC-593-21, MC-665-21 and MC-680-21, the Commission requested information from the State on 9 July, 11 and 13 August 2021 respectively. The State replied, in the context of MC-665-21, on 14 August. With regard to MC-593-21 and MC-680-21, despite a reiteration and a resubmission by the Commission on August 13 and 16, respectively, the State has not replied. The requesting organizations submitted information most recently on 19 July, 17 and 19 August 2021 in MC-593-21, MC-665-21 and MC-680-21 respectively.

3. After analyzing the allegations of fact and law provided by the parties in the context in which they take place, the Commission considers that the information presented demonstrates *prima facie* that Ana Margarita Vijil Gurdíán, Dora María Téllez Arguello, Suyen Barahona Cuán, Jorge Hugo Torres Jiménez, Víctor Hugo Tinoco Fonseca, Arturo José Cruz Sequeira and Luis Alberto Rivas Anduray are in a serious and urgent situation, since their rights to life, personal integrity and health are at risk of irreparable harm. Consequently, Nicaragua is requested to: (a) adopt the necessary measures to protect the rights to life, personal integrity and health of Ana Margarita Vijil Gurdíán, Dora María Téllez Arguello, Suyen Barahona Cuán, Jorge Hugo Torres Jiménez, Víctor Hugo Tinoco Fonseca, Arturo José Cruz Sequeira and Luis Alberto Rivas Anduray. In particular, please provide information on the whereabouts or location of the beneficiaries who are in your custody; (b) ensure that their conditions of detention are compatible with the applicable international standards on the matter; (c) taking into account the risk to their lives, personal integrity and health resulting from the circumstances surrounding their current detention, immediately evaluate the possibility of granting alternative measures to the deprivation of liberty, in accordance with its domestic legislation and in light of the applicable inter-American standards; and, (d) report on the actions taken to investigate the alleged facts that gave rise to the adoption of this resolution and thus avoid their repetition.

¹ **MC-593-21 was lodged** on 20 June 2021 on behalf of Dora María Téllez Arguello, Ana Margarita Vijil Gurdíán, Suyen Barahona Cuán, Víctor Hugo Tinoco Fonseca and Jorge Hugo Torres Jiménez on behalf of CENIDH and CEJIL. **MC-665-21** was filed on 23 July 2021 on behalf of Arturo José Cruz Sequeira by the International Institute on Race, Equality and Human Rights. **MC-680-21 was lodged** on 28 July 2021 on behalf of Luis Alberto Rivas Anduray by the International Institute on Race, Equality and Human Rights.

II. BACKGROUND

4. Between May 17 and 21, 2018, the Commission conducted a visit to Nicaragua during which it gathered numerous testimonies on human rights violations committed in the context of protests that began the previous month. Subsequently, on June 21, 2018, the IACHR published a report on the serious human rights situation in the country². In order to follow up on the recommendations issued in this report, the Special Follow-up Mechanism for Nicaragua (MESENI) was formed, with a presence in the country until the State suspended its stay on 19 December 2018³. For its part, the Interdisciplinary Group of Independent Experts (GIEI) of Nicaragua issued a report that analyzed the events that occurred between April 18 to May 30, 2018, confirming the findings of the IACHR⁴. In its 2018 Annual Report, the IACHR included Nicaragua in Chapter IV.B, in accordance with the grounds established in its Rules of Procedure⁵.

5. During 2019, the Commission continued to condemn the persistence of acts of persecution, urging the State to comply with its human rights obligations⁶. In June, the State passed a Law on Comprehensive Attention to Victims and an Amnesty Law that drew criticism for failing to comply with international standards on truth, justice, reparation, and guarantees of non-repetition⁷. In September 2019, the IACHR denounced the intensification of harassment against human rights defenders and individuals who, despite having been released from prison, continued to be threatened⁸. In the same vein, in November, the Commission once again drew attention to the continuity of repression, noting that "[...] to the closure of democratic spaces that characterizes the human rights crisis that persists in Nicaragua, has been added a growing focus of state persecution of the families of persons deprived of liberty in the context of the crisis, through surveillance and obstruction of their peaceful actions"⁹.

6. Subsequently, the Commission again included Nicaragua in Chapter IV.B of its 2019 Annual Report¹⁰, in which it warned that the serious human rights crisis in the country extended during 2019, due to the de facto installation of a state of exception characterized by the abusive exercise of public force to repress dissident voices to the Government, the raid, closure, and censorship of media outlets, the imprisonment or exile of journalists and social leaders, the closure of civil society organizations without the guarantees of due process, as well as the interference and control of the Executive Branch in the other branches of government. The Commission also observed that the prolonged weakening of democratic institutions in Nicaragua has led to the perpetuation of the human rights crisis in the country, as well as to the creation of a situation of structural impunity with respect to the serious human rights violations committed¹¹.

² IACHR. [Grave violations of human rights in the context of the social protests in Nicaragua](#). OEA/Ser.L/V/II. Doc. 86, June 21, 2018, para. 1.

³ IACHR. [Press Release No. 135/18](#). IACHR installs the Special Follow-up Mechanism for Nicaragua (MESENI). June 24, 2018; IACHR. [Press Release No. 274/18](#). Communiqué on Nicaragua. December 19, 2018. See also: IACHR. [Press Release No. 113/20](#). Two years after its visit to Nicaragua, the IACHR warns and condemns the non-compliance with its recommendations and urgently calls on the State to implement them. May 16, 2020.

⁴ Interdisciplinary Group of Independent Experts (GIEI) of Nicaragua. [Report on the events of violence that occurred between 18 April and 30 May 2018](#). December 2018.

⁵ IACHR. [Annual Report 2018. Chapter IV.B Nicaragua](#).

⁶ See in this regard: IACHR. [Press Release No. 6/19](#). IACHR Denounces the Weakening of the Rule of Law in the Face of Grave Human Rights Violations and Crimes against Humanity in Nicaragua. January 10, 2019; IACHR. [Press Release No. 26/19](#). IACHR Denounces Escalation of Attacks on the Press and Persistence of Human Rights Violations in Nicaragua. February 6, 2019; IACHR. [Press Release No. 90/19](#). IACHR condemns persistent acts of repression in Nicaragua in the context of the Negotiating Table. April 5, 2019.

⁷ IACHR. [Press Release No. 137/19](#). IACHR and OHCHR express concern over the approval of the Law on Comprehensive Attention to Victims in Nicaragua. June 3, 2019; IACHR. [Press Release No. 145/19](#). IACHR expresses concern over approval of Amnesty Law in Nicaragua. June 12, 2019.

⁸ IACHR. [Press Release No. 220/19](#). IACHR denounces the persistence of repression and expresses its concern over increased harassment against human rights defenders and those released from prison in Nicaragua. September 6, 2019.

⁹ IACHR. [Press Release No. 297/19](#). IACHR condemns the persecution of victims of repression in Nicaragua and calls on the State to avoid re-victimization and to promote truth, justice, reparation, and measures of non-repetition. November 19, 2019.

¹⁰ IACHR. [Annual Report 2019. Chapter IV.B Nicaragua](#). OEA/Ser.L/V/II. Doc. 5, February 24, 2020, paras.5 and 6.

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

7. During 2020, the IACHR identified the consolidation of a fifth stage of State repression in the country, characterized by the intensification of acts of surveillance, harassment and selective repression against persons considered to be opponents of the Government¹². Thus, in May 2020, the Commission condemned the non-compliance with its recommendations and urgently called on the State to implement them¹³. In October 2020, the IACHR again called for the immediate cessation of acts of persecution against persons identified as opponents of the Government and the reestablishment of democratic guarantees in Nicaragua¹⁴. Subsequently, the Commission again included Nicaragua in Chapter IV.B of its 2020 Annual Report¹⁵.

8. In 2021, the Commission condemned the intensification of acts of harassment in the country against persons identified as opponents of the government, human rights defenders, and the independent press¹⁶, as well as the widespread impunity and the prolonged breakdown of the rule of law that persists in Nicaragua¹⁷. More recently, the IACHR and the Regional Office of the United Nations High Commissioner for Human Rights for Central America and the Dominican Republic (OHCHR) condemned the criminal prosecution of Nicaraguan opposition leaders, and urged the State to release all persons detained in the context of the crisis¹⁸. Furthermore, on August 11, 2021, the Commission condemned the systematic set of State actions carried out in recent months aimed at preventing the participation of the opposition in the general elections to be held in Nicaragua in November of this year, as well as the persistence of human rights violations in this context, urging the State to cease repression against persons opposed to the Government¹⁹.

III. SUMMARY OF FACTS AND ARGUMENTS

A. Information provided by the requesting organizations

1. MC-593-21 (Dora María Téllez Arguello, Ana Margarita Vijil Gurdián, Suyen Barahona Cuán, Víctor Hugo Tinoco Fonseca and Jorge Hugo Torres Jiménez)

9. The proposed beneficiaries are members of the opposition party Unión Democrática Renovadora (Unamos)²⁰. According to the requesting organizations, the Unamos party is part of the National Blue and White Unity (UNAB) created in the context of the political and social crisis facing Nicaragua.

¹² IACHR. [Press Release No. 80/20](#). Two years after the beginning of the human rights crisis in Nicaragua, the IACHR reiterates its permanent commitment to the victims and notes the consolidation of a fifth stage of repression. April 18, 2020.

¹³ IACHR. [Press Release No. 113/20](#). Two years after its visit to Nicaragua, the IACHR warns and condemns the non-compliance with its recommendations and urgently calls on the State to implement them. May 16, 2020.

¹⁴ IACHR. [Press Release No. 249/20](#). The IACHR calls for the immediate cessation of acts of persecution against persons identified as opponents of the government and the reestablishment of democratic guarantees in Nicaragua. October 10, 2020.

¹⁵ IACHR. [Annual Report 2020. Chapter IV.B Nicaragua](#), February 2021, paras. 5-29.

¹⁶ IACHR. [Press Release No. 152/21](#). The IACHR condemns the serious escalation of repression in Nicaragua. June 18, 2021.

¹⁷ IACHR. [Press Release No. 93/21](#). Three years after the beginning of the human rights crisis in Nicaragua, the IACHR condemns the persistence of impunity. April 19, 2021.

¹⁸ IACHR. [Press Release No. 145/21](#). The IACHR and the OHCHR categorically condemn the criminal prosecution of presidential pre-candidates and urge the State of Nicaragua to immediately release them. June 9, 2021; IACHR. [Press Release No. 171/21](#). Nicaragua: IACHR and OHCHR urge an end to arbitrary detentions and the release of all persons detained since the beginning of the crisis. 9 July 2021.

¹⁹ IACHR. [Press Release No. 209/21](#). IACHR condemns the set of State actions that have the effect of putting an end to the participation of the opposition in the upcoming elections in Nicaragua. August 11, 2021.

²⁰ According to the petition, the political party Unión Democrática Renovadora (Unamos) is the new name of the Movimiento Renovador Sandinista (MRS), a known dissident party of the current Nicaraguan government. In 2008, the Supreme Electoral Council arbitrarily cancelled the legal status of the MRS political party, preventing its candidates from participating in the 2008 and subsequent elections. Thus, the cancellation of the legal personality of the MRS has had the effect of excluding its participation in the municipal elections of 2008, 2012 and 2017, and in the national elections of 2011 and 2016 independently. Similarly, in June 2011, the Supreme Electoral Council rejected the registration of Ana Margarita Vijil's candidacy as alternate deputy for the department of Managua on the grounds that she belonged to the MRS. More recently, on January 17, 2021, in the framework of the IX Extraordinary Convention, the MRS approved the modification of Article 1 of its Statute, in the following terms: "Article 1: Our

10. According to the requesting organizations, the proposed beneficiaries are reportedly in a prolonged situation of incommunicado detention, with no official information from the State as to the location of Suyen Barahona Cuán, Víctor Hugo Tinoco Fonseca, and Jorge Hugo Torres Jiménez, which they allege is a case of forced disappearance. They also indicated that the food taken by the families of the persons proposed as beneficiaries to the Directorate of Judicial Assistance, where they are supposed to be, has been rejected, and only water has been accepted. On 12 July 2021, the respective families went to one of the National Police offices in Managua to lodge a complaint alleging violations of the rights of the proposed beneficiaries, including incommunicado detention. However, the authorities reportedly refused to receive the complaint, claiming that they were not the competent institution, and harassed the families.

- **Ana Margarita Vijil Gurdián and Dora María Téllez Arguello**

11. On June 13, 2021, at approximately 11:30 a.m., more than 60 riot police and unidentified civilians raided the home of Mrs. Vijil Gurdián, where Mrs. Téllez Arguello also lives. According to the requesting organizations, the proposed beneficiaries were beaten by the police officers and detained along with two other people who were in the house, and taken to the Judicial Aid Office (known as "El Chipote"). The National Police confirmed by press release the detention of the proposed beneficiaries and indicated that they are being investigated for the alleged commission of crimes under the "Law for the Defense of the Rights of the People to Independence, Sovereignty and Self-Determination for Peace". On June 13, 2021, prison authorities confirmed to their relatives that both women were being held under investigation at the El Chipote facility. At 11 p.m., the two other persons were reportedly released after being interrogated.

12. According to the requesting organizations, since their detention, the relatives and legal representatives of the proposed beneficiaries have not been allowed to have contact with them. On June 14, 2021, Ms. Vijil Gurdián's family filed an application for habeas corpus in favor of both proposed beneficiaries, which was declared inadmissible by the Court of Appeals of Managua. On the same day, the Public Ministry reported that a special hearing was held to protect their constitutional guarantees, during which the period of investigation and detention was extended by 90 days. The requesting party stated that this hearing was held without the proposed beneficiaries' legal representation.

13. Subsequently, on 16 June 2021, a request was made to the responsible court to appoint a trusted lawyer as representative of the proposed beneficiaries and a request was submitted to the same court for family visits and communication with a lawyer, as well as requests for copies of the court files of the proposed beneficiaries and for medical assessments to be carried out. However, the requesting organizations indicated that, to date, these requests have not been answered.

- **Suyen Barahona Cuán**

14. On June 13, 2021, around noon, eight police patrol cars, with at least twenty officers in each vehicle, raided the home of Ms. Barahona Cuán, who is President of the opposition party Unamos. According to the requesting organizations, the state agents destroyed the gate of the house and detained the proposed beneficiary without presenting a warrant, and in front of her 4-year-old son, her mother, her husband and a third person. At the same time, police agents violently entered the house, where they spent more than 6 hours searching the house and from which they took various personal objects, such as computers, books and surveillance cameras. On the same day, the National Police confirmed the arrest of the proposed beneficiary, informing that she was being investigated for allegedly committing crimes under the "Law for the Defense of the Rights of the People to Independence, Sovereignty and Self-Determination for Peace".

party is called Unión Democrática Renovadora (Democratic Renewal Union), whose abbreviated expression is Unamos. Its flag will be an orange rectangle and its emblem will be the word Unamos with an arc representing the sun over it". See: Associated Press. "[Dissident Nicaraguan ruling party changes name](#)". January 15, 2021.

15. On June 14, 2021, the family members of Mrs. Barahona Cuán filed an habeas corpus in her favor, which was declared inadmissible by the presiding court that same day. The following day, June 15, the Public Ministry reported that a special hearing had been held to protect the constitutional guarantees of the proposed beneficiary, during which the investigation and detention period was extended by 90 days. The requesting party stated that the hearing was conducted without the presence of Ms. Barahona Cuán's legal representation. On June 16, 2021, a letter was submitted to the presiding court, requesting the appointment of a trusted lawyer, as well as authorization for communication channels and visits from family members, as well as requests for a medical evaluation and copies of her legal file. However, the requesting organizations reported that, to date, these requests have not been answered.

16. It was also noted that, since her detention, the relatives and legal representatives of the proposed beneficiary have not been allowed to establish contact of any kind with her, nor have they been allowed to know about her state of health. This is of particular concern to the relatives of the proposed beneficiary, given that the state authorities have allegedly given them a prescription for a controlled medication for her, which would require close medical supervision.

- **Jorge Hugo Torres Jimenez**

17. On June 13, 2021, at approximately 13:20 p.m., a large number of police officers violently entered the home of Mr. Torres Jiménez, who is Vice President of the opposition party Unamos. The police entered shouting and pointing their firearms at the heads and chests of the persons present. According to the requesting organizations, two officers held Mr. Torres Jiménez by the back of the neck and forced him to walk outside to take him into custody, while other officers threatened the people in the house. The police reportedly remained at his home for about 6 hours, interrogating and taking personal items, such as documents, cell phones, and computers. This same day, the National Police confirmed the detention of the proposed beneficiary, informing that he is being investigated for allegedly committing crimes under the "Law for the Defense of the Rights of the People to Independence, Sovereignty and Self-Determination for Peace".

18. On June 15, 2021, the Public Prosecutor's Office reportedly reported that a special hearing on guarantees had been held, at which a request for a 90-day extension of the investigation and detention period was admitted. The requesting organizations stated that this hearing was held without Mr. Torres Jiménez's legal representation. The following day, on June 16, 2021, the relatives of the proposed beneficiary reportedly filed an application for habeas corpus in his favor. Despite this, to date, his relatives had not been able to establish any contact with him and his state of health was unknown, expressing particular concern because Mr. Torres Jiménez is an elderly person.

- **Víctor Hugo Tinoco Fonseca**

19. On June 13, 2021, Mr. Tinoco Fonseca, upon leaving his home in the morning, noticed private vehicles following him. At approximately 6 p.m. that same day, the proposed beneficiary was stopped by the National Police at the entrance to the Planetarium Residence, located on the old road to León. The officers indicated to him that it was a routine stop and although they allowed him to continue on his way, the following by private vehicles did not cease. According to the application, later, at around 9 p.m., Mr. Tinoco Fonseca was arrested by the police. Mr. Tinoco Fonseca was violently detained by persons dressed as police officers and carrying rifles who had gotten out of a van, without an arrest warrant being presented. The children of the proposed beneficiary were present and one of them reportedly tried to record what had happened, but three of the hooded men attacked him and stole his cell phone. According to the requesting organizations, from this moment on, the relatives of Mr. Tinoco Fonseca have denounced that they are unaware of his whereabouts and state of health. That same day, the National Police confirmed the detention of the proposed beneficiary, informing that he was being investigated for allegedly committing crimes under the "Law for the Defense of the Rights of the People to Independence, Sovereignty, and Self-Determination for Peace".

20. On June 14 and 15, 2021, Mr. Tinoco Fonseca's relatives reportedly went to the Judicial Assistance Directorate on several occasions, requesting information on his whereabouts; however, on none of those occasions were they allowed to see him, nor were they or their legal representatives given any information whatsoever. In this regard, the requesting organizations noted that the proposed beneficiary suffers from asthma, hypertension, chronic insomnia, and complications from having had COVID-19. On June 15, the Public Prosecutor's Office reported that a special hearing had been held to protect the constitutional guarantees of the proposed beneficiary, during which the investigation and detention period was extended for 90 days. The requesting organizations stated that the hearing was held without the presence of their legal representatives. On June 16, Mr. Tinoco Fonseca's relatives reportedly filed an application for habeas corpus in his favor.

21. Then, on June 16, 2021, at approximately 4 p.m. Then, on June 16, 2021, at approximately 4 p.m., Mr. Tinoco's daughter reported the presence of more than 60 police officers at her father's house and the search of it, where she lives, along with her 65-year-old mother, her 90-year-old grandmother and other persons. The police officers allegedly forced the people present to leave the house for more than three hours while they searched the house, without producing any warrant.

22. The requesting organizations added that the authorities allegedly gave the relatives of the proposed beneficiary a prescription for an ankle brace, which he had not previously needed, which is why they suspect that he is being ill-treated.

2. MC-665-21 (Arturo José Cruz Sequeira)

23. Mr. Cruz Sequeira, is a renowned Nicaraguan professor, political scientist and socio-political analyst. Since the beginning of the political crisis in Nicaragua in 2018, Mr. Cruz Sequeira has played an important role in the political opposition, among them, as part of the advisors of the Civic Alliance for Justice and Democracy before the national dialogue with the Government in 2018. Also, on April 27, 2021, he registered as a presidential pre-candidate for the opposition political party Alianza Ciudadana and, since then, police sieges against him have intensified. On June 2, 2021, he gave an interview to a radio station "in which he called to close ranks against the dictatorship in Nicaragua". Subsequently, on June 3, he traveled to the United States and from there gave an interview on the program stating that Nicaragua "is an authoritarian regime, a dictatorship with which there is no longer any room for understanding".

24. On June 5, 2021, the proposed beneficiary was detained at the Managua International Airport at 9:10 a.m., upon landing in Nicaragua on his return to the United States, without a warrant. on landing in Nicaragua on his return from the United States, without an arrest warrant. That same day, the Public Prosecutor's Office confirmed his arrest, indicating that they had evidence that Mr. Cruz Sequeira had attempted against Nicaraguan society and the rights of the people. Thus, the National Police specified that the arrest of the proposed beneficiary had been carried out in accordance with the "Law for the Defense of the Rights of the People to Independence, Sovereignty and Self-determination for Peace." On the same day, a letter was submitted to the Judicial Assistance Directorate requesting the release of the proposed beneficiary; however, no response was received.

25. On June 7, 2021, an application for habeas corpus was filed with the Managua Court of Appeals, which was rejected almost immediately. Subsequently, the Public Prosecutor's Office reported that a special hearing for the protection of constitutional guarantees had been held, without the participation of his lawyer of choice having been allowed, at which the investigation and detention period was extended for 90 days. According to the requesting organizations, on the same day, police officers raided Mr. Cruz Sequeira's home without anyone being present. On June 21, 2021, a relative of Mr. Cruz Sequeira requested the court responsible to appoint an attorney to defend the proposed beneficiary, as well as access to his judicial file. However, to date, the file has not been received.

26. On July 20, 2021, a new letter was submitted to the responsible court requesting a medical evaluation of the proposed beneficiary. In the absence of a response, on July 28, 2021, the same request was filed again, reiterating that Mr. Cruz Sequeira has health conditions that require heart and blood pressure pills. The requesting organizations stated that it was not known whether Mr. Cruz had received the medication he was supposed to take during his detention.

27. According to the requesting organization, to date, the relatives of the proposed beneficiary have not been informed of his whereabouts, nor have they been allowed to communicate with him or visit him, so that they are unaware of his conditions, despite having presented and reiterated a formal request to see him. Despite the lack of official communication, it is presumed that Mr. Cruz Sequeira remains detained at the Directorate of National Judicial Aid Complex “Evaristo Vásquez” known as the “Nuevo Chipote”. The requesting party indicated that only the lawyer of the proposed beneficiary was able to see him, on a single occasion on June 6, 2021, when he was just detained for a few minutes, so he was unable to obtain information about his detention conditions or his condition. of health. Likewise, it was added that the responsible authorities would have given a medical prescription to relatives of the proposed beneficiary, on June 21, 2021, for the pills required due to his heart condition. In this regard, the family expressed concern, considering that he is an elderly person and of course deterioration of his health, since the dose of the drug would have doubled and indicated concern about not having received new prescriptions later, not knowing if he receives the necessary medication.

3. MC-680-21 (Luis Alberto Rivas Anduray)

28. Mr. Rivas Anduray is a renowned Nicaraguan economist and businessman, who was Vice President of the Nicaraguan Foundation for Economic and Social Development (FUNIDES) between the years of 2017 and 2018, a body that had positioned itself critically to the Government in the political crisis of 2018 and condemned the arrests of the so-called “political prisoners”. According to the requesting organization, on 9 June 2021, the National Police arrested the former director of FUNIDES, Mr Juan Sebastián Chamorro ²¹, for alleged wrongdoing committed through the foundation. On June 11, 2021, the Public Prosecutor's Office reported that not only Mr. Chamorro, but all of FUNIDES was under investigation.

29. In this regard, the proposed beneficiary was summoned by the Public Prosecutor's Office, where he appeared voluntarily on June 15, 2021. On the same day, Mr. Rivas Anduray was arrested while visiting friends. According to the requesting organization, unidentified police officers took him away in a vehicle without any National Police identification. Later, the National Police issued a press release informing that Mr. Rivas Anduray had been detained and was being investigated for offenses under the “Law for the Defense of the People's Rights to Independence, Sovereignty, and Self-Determination for Peace. In addition, according to the Public Prosecutor's Office, the proposed beneficiary is also being investigated for “the possible commission of illicit acts through FUNIDES,” also in accordance with the aforementioned Law.

30. The following day, on June 16, 2021, at 7 a.m., after spending the night guarding the proposed beneficiary's home, the police violently raided it, asking his wife where her husband was, pointing guns and thoroughly searching the house for 6 hours, as well as taking property. The chief of police addressed Mr. Rivas Anduray's wife, in an intimidating manner, and told her that he knew that the children were at the home of their maternal grandparents and indicated that they had also searched the home of the proposed beneficiary's parents.

31. On June 17, 2021, Mr. Rivas Anduray's relatives learned, through a note from the Public Prosecutor's Office, that a special hearing for the protection of constitutional guarantees had been held, during which the investigation and detention period was extended for 90 days. The requesting organizations stated that the

²¹ See in this regard: I/A Court H.R., Case of Juan Sebastián Chamorro et al. Case of Juan Sebastián Chamorro et al. v. Nicaragua. Provisional Measures regarding Nicaragua. Resolution of the Inter-American Court of Human Rights of June 24, 2021.

hearing was held without the presence of the legal representation of the proposed beneficiary. On June 23, 2021, his wife filed a brief with the responsible court requesting the appointment of a lawyer, as well as a medical evaluation due to the multiple chronic ailments he suffers from, such as serious heart problems. On 29 June, the request was reiterated, but no response has been received to date.

32. According to the requesting organization, since his arrest, there has been no communication with the proposed beneficiary, no access has been provided to his judicial file, and no information has been obtained on his whereabouts. It is presumed that Mr. Rivas Anduray is being held at the National Judicial Assistance Directorate (DAJ), "Evaristo Vásquez" Complex, known as "El Nuevo Chipote", although the prison authorities would not receive the food brought by his wife, but would only accept water.

B. Information provided by the State

1. MC-593-21 (Dora María Téllez Arguello, Ana Margarita Vijil Gurdián, Suyen Barahona Cuán, Víctor Hugo Tinoco Fonseca and Jorge Hugo Torres Jiménez)

33. The Commission requested information from the State on July 9, 2021, and reiterated this request on August 13. However, to date, the State has not provided the requested information.

2. MC-665-21 (Arturo José Cruz Sequeira)

34. The State reported that Mr. Cruz Sequeira is under criminal investigation for committing acts that undermine independence, sovereignty, and self-determination, inciting foreign interference in the internal affairs of the country. At the same time, it was affirmed that the human rights of the proposed beneficiary are protected, without there being any situation that endangers his life, integrity, dignity, health or any other human right, more than those that the Political Constitution establishes as a limit to guarantee the internal legal order.

35. The State recalled that "[its] Political Constitution, like the American Convention on Human Rights, establishes the correlation between the duties and rights of persons, by means of which it imposes that all citizens must respect their obligations to the nation and the rights of other persons; therefore, if persons break the previously established legal rules, they will be subject to investigation and determination of their responsibility; in other words, they must assume the legal consequences of their acts, as in the instant case, in which Mr. Cruz Sequeira is being investigated.

36. The State "vigorously reject[ed] any interference by the Commission in matters that form part of [its] sovereignty and independence, as in the instant case, because it is up to the State of Nicaragua, as a free State, to apply the laws in force against persons who have harmed the legal interests protected by [its] legislation. In addition, it stated that "the Commission continues to support the dissemination of falsehoods originating from a group of opponents who are selling their homeland and who seek to become an internal investigative body, before which sectors of the opposition seek to have precautionary measures granted, with the deceitful intention of hiding behind them to evade the application of the law. The State demanded that the IACHR "cease its interference in [its] internal affairs, that it no longer lend itself to the media's interference and defamatory game against [its] legally constituted government, and that it not allow precautionary measures to become a way to evade justice in the face of criminal acts.

3. MC-680-21 (Luis Alberto Rivas Anduray)

37. The Commission requested information from the State on August 11, 2021. On August 14, the State informed that not all of the documents could be downloaded, so the IACHR forwarded them to the State on August 16. However, to date, the State has not provided the requested information.

IV. ANALYSIS OF THE ELEMENTS OF SERIOUSNESS, URGENCY AND IRREPARABILITY

38. The precautionary measures mechanism is part of the Commission's function of supervising compliance with the human rights obligations established in Article 106 of the Charter of the Organization of American States. These general supervisory functions are in turn established in Article 18(b) of the IACHR Statute, while the precautionary measures mechanism is described in Article 25 of the Commission's Rules of Procedure. Pursuant to that article, the Commission grants precautionary measures in situations that are serious and urgent, and in which such measures are necessary to prevent irreparable harm.

39. The Inter-American Commission and the Inter-American Court of Human Rights ("the Inter-American Court" or "I/A Court H.R.") have repeatedly established that precautionary and provisional measures have a dual character, one tutelary and the other precautionary²². With respect to the tutelary character, the measures seek to avoid irreparable harm and preserve the exercise of human rights²³. To this end, an assessment must be made of the problem posed, the effectiveness of the State's actions in the situation described, and the degree of unprotection in which the persons for whom measures are requested would be left if they are not adopted²⁴. With respect to precautionary measures, the purpose of precautionary measures is to preserve a legal situation while it is being considered by the IACHR. The purpose of precautionary measures is to preserve rights that may be at risk until the petition before the Inter-American system is resolved. Its object and purpose are to ensure the integrity and effectiveness of the decision on the merits and, in this way, to prevent the alleged rights from being harmed, a situation that could render the final decision harmless or undermine its useful effect (*effet utile*). In this sense, the precautionary or provisional measures thus allow the State in question to comply with the final decision and, if necessary, to comply with the reparations ordered²⁵. For the purposes of making a decision, and in accordance with Article 25(2) of its Rules of Procedure, the Commission considers that:

- a. The "gravity of the situation" implies the serious impact that an act or omission may 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. The "urgency of the situation" is determined by the information provided, indicating the risk or threat that may be imminent and materialize, thus requiring preventive or protective action; and,

²² See in this regard: I/A Court H.R., Inter-American Court of Human Rights. [Case of the Yare I and Yare II Capital Region Penitentiary Center \(Yare Prison\)](#). Request for Provisional Measures presented by the IACHR with respect to the Bolivarian Republic of Venezuela. Order of the Inter-American Court of Human Rights of March 30, 2006, Whereas 5; I/A Court H.R., Case of Carpio Nicolle et al. [Case of Carpio Nicolle et al. v. Guatemala](#). Provisional Measures. Judgment of July 6, 2009, para. 16.

²³ See in this regard: I/A Court H.R., Case of El Rodeo I and El Rodeo II Capital Judicial Prison. [Case of the Internado Judicial Capital El Rodeo I and El Rodeo II](#). Provisional Measures regarding Venezuela. Judgment of the Court of February 8, 2008, Whereas 8; I/A Court H.R., Case of Bámaca Velásquez. [Case of Bámaca Velásquez](#). Provisional Measures with respect to Guatemala. Judgment of the Court of January 27, 2009, Whereas 45; I/A Court H.R., Case of Fernández Ortega et al. [Case of Fernández Ortega et al.](#) Provisional Measures with respect to Mexico. Judgment of the Court of April 30, 2009, Whereas 5; I/A Court H.R., Matter of Milagro Sala. [Case of Milagro Sala](#). Request for Provisional Measures with respect to Argentina. Resolution of the Inter-American Court of Human Rights of November 23, 2017, Whereas 5.

²⁴ See in this regard: I/A Court H.R., Case of Milagro Sala. [Milagro Sala Case](#). Request for Provisional Measures against Argentina. Resolution of the Inter-American Court of Human Rights of November 23, 2017, Whereas 5; I/A Court H.R., Case of El Rodeo I and El Rodeo II Capital Judicial Prison. [Matter of the Internado Judicial Capital El Rodeo I and El Rodeo II](#). Provisional Measures regarding Venezuela. Judgment of the Court of February 8, 2008, Whereas 9; I/A Court H.R., Case of the Plácido de Plácido Penal Institute of Venezuela. [Case of the Plácido de Sá Carvalho Criminal Institute](#). Provisional Measures regarding Brazil. Judgment of the Inter-American Court of Human Rights of February 13, 2017, Whereas 6.

²⁵ See in this regard: I/A Court H.R., Case of El Rodeo I and El Rodeo II Capital Judicial Prison. [Case of the Internado Judicial Capital El Rodeo I and El Rodeo II](#). Provisional Measures regarding Venezuela. Judgment of the Court of February 8, 2008, Whereas 7; I/A Court H.R., Case of "El Nacional" and "Así es Noticia" Newspapers. [Case of "El Nacional" and "Así es la Noticia" Newspapers](#). Provisional Measures with respect to Venezuela. Order of the Court of November 25, 2008, Whereas 23; I/A Court H.R., Case of Luis Uzcátegui. [Case of Luis Uzcátegui](#). Provisional Measures with respect to Venezuela. Order of the Court of January 27, 2009, para. 19.

- c. The "irreparable damage" consists of the affectation of rights that, by their very nature, are not susceptible of reparation, restoration or adequate compensation.

40. In analyzing the aforementioned requirements, the Commission reiterates that the facts that motivate a request for precautionary measures do not need to be fully proven. The information provided, in order to identify a serious and urgent situation, must be assessed on a *prima facie* standard.²⁶ Moreover, it is pertinent to clarify that, in accordance with its mandate, the Commission is not called upon to establish whether the persons proposed as beneficiaries are criminally responsible for the acts with which they are charged, nor to determine, within the framework of the precautionary measures mechanism, whether violations of their rights have occurred, since that analysis must be carried out in a petition or case. It will only examine whether the persons proposed as beneficiaries are at risk, in the terms of Article 25 of the Rules of Procedure, which can be determined without a review of the merits²⁷.

41. In the instant case, the Commission observes that the alleged situations of risk for the persons proposed as beneficiaries are framed within the current context that Nicaragua is going through²⁸, as well as the special situation of exposure in which the persons indicated as "opponents" and persons who have demonstrated against the actions of the government²⁹ find themselves. In the same sense, as observed by the IACHR through its monitoring functions, it is noted that the situation of the persons proposed as beneficiaries is not an isolated situation, but is part of a practice of arbitrary detentions, criminalization of opponents and human rights defenders, and the subsequent lack of adequate medical care for persons deprived of liberty for political reasons³⁰. In this regard, the IACHR has granted several precautionary measures³¹ and the Inter-

²⁶ See in this regard: I/A Court H.R., Inter-American Court of Human Rights. [Case of the Residents of the Communities of the Miskitu Indigenous People of the Northern Caribbean Coast Region with respect to Nicaragua](#). Extension of Provisional Measures. Resolution of the Inter-American Court of Human Rights of August 23, 2018, Whereas 13; I/A Court H.R.. [Matter of children and adolescents deprived of liberty in the "Complexo do Tatuapé" of the Fundação CASA](#). Request for extension of provisional measures. Provisional Measures with respect to Brazil. Judgment of the Inter-American Court of Human Rights of July 4, 2006, Whereas 23.

²⁷ In this regard, the Court has indicated that it "cannot, in a provisional measure, consider the merits of any relevant argument other than those that are strictly related to extreme gravity, urgency and the need to avoid irreparable harm to persons. See in this regard: I/A Court H.R., James et al. [James et al. v. Trinidad and Tobago](#). Provisional Measures. Judgment of the Inter-American Court of Human Rights of August 29, 1998, Whereas 6; I/A Court H.R., Case of the Barrios Family v. Venezuela. [Case of the Barrios Family v. Venezuela](#). Provisional Measures. Resolution of the Inter-American Court of Human Rights of April 22, 2021, Whereas 2.

²⁸ See in this regard: IACHR. [PressReleaseNo. 80/20](#). Two years after the beginning of the human rights crisis in Nicaragua, the IACHR reiterates its permanent commitment to the victims and notes the consolidation of a fifth stage of repression. April 18, 2020; IACHR. [PressReleaseNo. 220/19](#). IACHR denounces the persistence of repression and expresses its concern over increased harassment against human rights defenders and those released from prison in Nicaragua. September 6, 2019.

²⁹ IACHR. [PressReleaseNo. 80/20](#). Two years after the beginning of the human rights crisis in Nicaragua, the IACHR reiterates its permanent commitment to the victims and notes the consolidation of a fifth stage of repression. April 18, 2020; IACHR. [PressReleaseNo. 220/19](#). IACHR denounces the persistence of repression and expresses its concern about the increase in harassment against human rights defenders and those released from prison in Nicaragua. September 6, 2019; IACHR Court. [Case of Juan Sebastián Chamorro et al. v. Nicaragua](#). Provisional Measures with respect to Nicaragua. Resolution of the Inter-American Court of Human Rights of June 24, 2021, para. 24.

³⁰ IACHR. [Press Release No. 209/21](#). IACHR condemns the set of State actions that have the effect of putting an end to the participation of the opposition in the upcoming elections in Nicaragua. August 11, 2021; IACHR. [Grave human rights violations in the context of social protests in Nicaragua](#). OEA/Ser.L/V/II. Doc. 86. 21 June 2018; Interdisciplinary Group of Independent Experts (GIEI) Nicaragua. [Report on the events of violence that occurred between 18 April and 30 May 2018](#). December 2018, p. 194; IACHR. [Persons deprived of liberty in Nicaragua in the context of the human rights crisis that began on April 18, 2018](#). OEA/Ser.L/V/II. Doc. 287. 5 October 2020, para. 5; IACHR. [Annual Report 2020. Chapter IV.B Nicaragua](#), February 2021, para. 154.

³¹ See in this regard: IACHR. [Resolution 49/2021](#). Precautionary Measure No. 480-21. Cristiana María Chamorro Barrios et al. v. Nicaragua. June 24, 2021; IACHR. [Resolution 37/2021](#). Precautionary Measure No. 96-21. Gustavo Adolfo Mendoza Beteta and family with respect to Nicaragua. April 30, 2021; IACHR. [Resolution 33/2021](#). Precautionary Measure No. 205-21. Kevin Roberto Solís with respect to Nicaragua. April 22, 2021; IACHR. [Resolution 82/2020](#). Precautionary Measures No. 489-20. Maycol Antonio Arce and 40 other persons deprived of their liberty with respect to Nicaragua. November 2, 2020; IACHR. [Resolution 62/2019](#). Precautionary Measure No. 1105-19. Amaya Coppens et al. with respect to Nicaragua. 24 December 2019.

American Court has granted a provisional measure to persons identified as opponents who are deprived of their liberty in Nicaragua³².

42. On the other hand, the Commission recalls that, in relation to persons deprived of liberty in general, the State is in a special position of guarantor that implies the duty to respect their life and personal integrity, inasmuch as the prison authorities exercise a strong control or command over the persons who are subject to their custody³³. This is the result of the unique relationship and interaction of subordination between the person deprived of liberty and the State, characterized by the particular intensity with which the State can regulate their rights and obligations, and by the circumstances of confinement, in which inmates are prevented from satisfying on their own a series of basic needs essential for the development of a dignified life³⁴. More specifically, and in light of the facts narrated by the requesting organizations, the Commission recalls that the Inter-American Court has indicated that the State must ensure that a person is detained in conditions that are compatible with respect for his human dignity, that the manner and method of the measure does not subject him to anguish or hardship that exceeds the inevitable level of suffering intrinsic to detention, and that, given the practical demands of incarceration, his health and well-being are adequately ensured³⁵.

43. Taking into account the aforementioned particular context that Nicaragua is going through, the Commission will proceed to analyze the regulatory requirements with respect to the persons proposed as beneficiaries.

44. With respect to the requirement of seriousness, the Commission considers that it has been met. In assessing that requirement, in keeping with the above context, the Commission notes that the alleged risk situations of the persons proposed as beneficiaries are related to their profiles as opponents of the government. Thus, it notes that Dora María Téllez Arguello, Ana Margarita Vijil Gurdíán, Suyen Barahona Cuán, Víctor Hugo Tinoco Fonseca, and Jorge Hugo Torres Jiménez are members of the opposition party Unión Democrática Renovadora (Unamos); Arturo José Cruz Sequeira is a presidential pre-candidate of the opposition party Alianza Ciudadana; and Luis Alberto Rivas Anduray was Vice President of the Nicaraguan Foundation for Economic and Social Development (FUNIDES), which would be perceived as critical of the current government. In addition, the Commission notes that all the persons proposed as beneficiaries are deprived of their liberty, in a situation of incommunicado detention, and that the alleged facts are being attributed to State authorities. It also notes that Mr. Tinoco Fonseca, Mr. Cruz Sequeira, and Mr. Rivas Anduray suffer from various chronic illnesses, and that Mr. Torres Jiménez and Mr. Cruz Sequeira are elderly.

45. The Commission notes that the arrests of the persons proposed as beneficiaries allegedly took place violently and presumably without the police officers having presented arrest warrants. Thus, Ms. Vijil Gurdíán and Ms. Téllez Arguello were allegedly beaten by police officers in their home; the police allegedly destroyed the gate of Ms. Barahona Cuán's home; agents entered shouting and pointing their firearms at the people present in Mr. Torres Jimenez's house, later holding him by the back of his neck to take him into custody; and three hooded individuals attacked the daughter of Mr. Torres Jimenez, stealing her cell phone, while she was

³² I/A Court H.R., Case of Juan Sebastián Chamorro et al. Case of Juan Sebastián Chamorro et al. v. Nicaragua. Provisional Measures regarding Nicaragua. Resolution of the Inter-American Court of Human Rights of June 24, 2021. See also: I/A Court H.R., Case of Juan Sebastián Chamorro et al. Case of Juan Sebastián Chamorro et al. v. Nicaragua. Adoption of urgent measures in favor of Daisy Tamara Dávila Rivas and her relatives. Resolution of the President of the Inter-American Court of Human Rights. July 19, 2021.

³³ See in this regard: I/A Court H.R., Case of Juan Sebastián Chamorro et al. Case of Juan Sebastián Chamorro et al. v. Nicaragua. Provisional Measures regarding Nicaragua. Resolution of the Inter-American Court of Human Rights of June 24, 2021, para. 38; I/A Court H.R., Case of Mendoza et al. v. Argentina. Case of Mendoza et al. v. Argentina. Preliminary Objections, Merits and Reparations. Judgment of May 14, 2013. Series C No. 260. para. 188; IACHR. Report on the Human Rights of Persons Deprived of Liberty in the Americas. OEA/Ser.L/V/II. Doc. 64. 31 December 2011; para. 49.

³⁴ IACHR. Report on the Human Rights of Persons Deprived of Liberty in the Americas. OEA/Ser.L/V/II. Doc. 64. December 31, 2011; paras. 49-50.

³⁵ I/A Court H.R., Case of seventeen persons deprived of their liberty regarding Nicaragua. Case of seventeen persons deprived of liberty regarding Nicaragua. Provisional Measures. Adoption of Urgent Measures. Resolution of the President of the Inter-American Court of Human Rights of 21 May 2019. Whereas 23.

trying to record her arrest. In addition, it is noted that the arrests of several of the persons proposed as beneficiaries were carried out in front of their relatives, including children and elderly, and that after their arrests, the police raided their homes in a violent manner with their relatives present. The IACHR also notes that the police searched the homes of Mr. Barahona Cuán, Mr. Torres Jimenez, and Mr. Rivas Anduray, taking various personal items.

46. The Commission also notes that Ms. Téllez Arguello and Ms. Vijil Gurdían were allegedly deprived of their liberty on June 13, 2021, and are currently being held at El Chipote. The Commission takes note of the information provided by the requesting organizations, which indicates that since their detention, their relatives and legal representatives have been unable to communicate with them or visit them, even though they have filed at least three requests with the judicial and police authorities to that effect, so their detention and health conditions are unknown.

47. In the same vein, it notes that Mr. Cruz Sequeira was reportedly detained on June 5, 2021, Ms. Barahona Cuán and Mr. Torres Jimenez and Mr. Tinoco Fonseca on June 13, and Mr. Rivas Anduray on June 15, without any certainty as to their location or conditions of detention, as of the latest information sent by the parties. In this regard, the Commission notes that, although the State has confirmed the detention of these persons proposed as beneficiaries through press releases, to date, their relatives and legal representatives have not been officially informed of their places of detention, nor have they been able to communicate with them or visit them, even though they have filed several requests with the judicial and police authorities to that effect. It also takes note of the information provided by the requesting organizations on the various chronic illnesses from which Mr. Tinoco Fonseca, Mr. Cruz Sequeira, and Mr. Rivas Anduray are suffering, and that their relatives are not aware of their current state of health or whether they are receiving the medical attention they require.

48. In connection with the foregoing, the Commission notes that the lack of access of family members and attorneys to persons deprived of liberty can increase their vulnerability, inasmuch as they remain in a state of defenselessness in the face of possible incidents or circumstances that endanger their rights to life, humane treatment, and health³⁶. The IACHR also notes that, given the particularities of the facts presented, the requesting organizations classified the situation as forced disappearance. This allegation was not contested by the State, which is why it denotes special seriousness in the instant case and is of particular concern to the Commission. On the other hand, the Inter-American Court has considered that "prolonged isolation and coercive solitary confinement represent, by themselves, forms of cruel and inhuman treatment, harmful to the psychological and moral integrity of the person and to the right of all detainees to the respect due to the inherent dignity of the human being."³⁷ This is particularly relevant given that the persons proposed as beneficiaries are political persons and recognized opponents of the current Government of Nicaragua, as well as because of the illnesses from which some of them are allegedly suffering.

49. The Commission takes note of the information provided by the State regarding the situation of Mr. Cruz Sequeira. In this regard, the IACHR observes that, beyond stating that there is no situation of extreme gravity and informing that the criminal proceedings of the proposed beneficiary are being processed in accordance with the principles and guarantees of the Nicaraguan legal system, the State did not provide further evidence to refute the allegations of the requesting organizations based on the applicable *prima facie* standard. In this regard, the IACHR notes that the State did not inform where Mr. Cruz Sequeira would be detained, under what circumstances he would be deprived of liberty, including the alleged situation of incommunicado detention, whether his conditions of detention were in keeping with applicable international standards, and

³⁶ IACHR. [Resolution 49/2021](#). Precautionary Measure No. 480-21. Cristiana María Chamorro Barrios et al. v. Nicaragua. June 24, 2021, para. 29; See also: IACHR Court. [Case of Juan Sebastián Chamorro et al. v. Nicaragua](#). Provisional Measures regarding Nicaragua. Judgment of the Inter-American Court of Human Rights of June 24, 2021, para. 36.

³⁷ I/A Court H.R., Case of Juan Sebastián Chamorro et al. [Case of Juan Sebastián Chamorro et al. v. Nicaragua](#). Provisional Measures regarding Nicaragua. Resolution of the Inter-American Court of Human Rights of 24 June 2021, para. 36.

whether he would be receiving the medical attention he would require. The State also failed to comment on the allegations that State agents were responsible for the alleged facts.

50. At the same time, the Commission regrets the State's failure to respond to the situations of Ana Margarita Vijil Gurdián, Dora María Téllez Arguello, Suyen Barahona Cuán, Jorge Hugo Torres Jiménez, Víctor Hugo Tinoco Fonseca, and Luis Alberto Rivas Anduray. While the foregoing is not sufficient *per se* to justify the granting of a precautionary measure, it does prevent the Commission from having observations from the State and, therefore, from analyzing whether the allegations of the requesting organizations are refuted or not, as well as to know what actions, if any, are being implemented to address the alleged situations of risk.

51. In light of the foregoing, the Commission recalls the situation observed with respect to the conditions of detention of persons deprived of liberty in Nicaragua, which includes mistreatment, reprisals, lack of medical care, and solitary confinement, among others, especially if they are perceived as opponents of the government³⁸. In this regard, it has been observed that most of the arrests carried out in the context of demonstrations and social protests in the country have been accompanied by various forms of cruel, inhuman and degrading treatment, some of the treatment described reaching the threshold of torture, during the time of their apprehension and while they were deprived of their liberty³⁹. According to the information available to the IACHR, such ill-treatment has occurred persistently since the first arrests recorded in the context of the social protests of April 2018, to date.⁴⁰ Further information has been received indicating that complaints persist regarding the lack of adequate and timely medical attention to persons with pre-deprivation of liberty ailments, and that there is excessive bureaucracy to access health services in prison⁴¹. It is important to note that women deprived of their liberty in the context of the human rights crisis have faced aggravated human rights violations based on their gender, including acts of sexual violence, including rape, as well as overcrowded conditions, lack of access to medical care, inadequate food, punishment and other reprisals⁴².

52. The Commission has also found that arbitrary detentions and deprivation of liberty have been used by the Nicaraguan State with the primary intention of repressing any opposition to the current regime and to convey a message of fear and control to the population⁴³. In the same vein, in August 2021, the IACHR condemned the systematic set of State actions carried out in recent months aimed at preventing the participation of the opposition in the elections to be held in Nicaragua in November 2021, highlighting the detention and criminalization of at least 31 leaders, including presidential pre-candidates, through the approval and use of criminal laws with ambiguous content and/or that arbitrarily restrict the political rights of the Nicaraguan population⁴⁴. In this regard, as indicated above, all the persons proposed as beneficiaries have been identified as opponents of the current Government, most of them having political profiles.

53. Although the foregoing does not strictly reflect the particular situation of the persons proposed as beneficiaries, the Commission considers that this contextual information is relevant when assessing the

³⁸ IACHR. [Annual Report 2020. Chapter IV.B Nicaragua](#), February 2021, para. 154; IACHR. [Resolution 62/2019](#). Precautionary Measure No. 1105-19. Amaya Coppens et al. regarding Nicaragua. 24 December 2019.

³⁹ IACHR. [Persons deprived of liberty in Nicaragua in the context of the human rights crisis that began on April 18, 2018](#). OEA/Ser.L/V/II. Doc. 287. 5 October 2020. Para. 152.

⁴⁰ IACHR. [Persons deprived of liberty in Nicaragua in the context of the human rights crisis that began on April 18, 2018](#). OEA/Ser.L/V/II. Doc. 287. 5 October 2020, para. 152; IACHR. [Annual Report 2020. Chapter IV.B Nicaragua](#), February 2021, paras. 156 and 158.

⁴¹ IACHR. [Annual Report 2020. Chapter IV.B Nicaragua](#), February 2021, paras. 159-63.

⁴² IACHR. [Persons deprived of liberty in Nicaragua in the context of the human rights crisis that began on April 18, 2018](#). OEA/Ser.L/V/II. Doc. 287. 5 October 2020, para. 181.

⁴³ IACHR. [Annual Report 2020. Chapter IV.B Nicaragua](#), February 2021, para. 155; IACHR. [Persons Deprived of Liberty in Nicaragua in the Context of the Human Rights Crisis that Began on April 18, 2018](#). OEA/Ser.L/V/II. Doc. 287. 5 October 2020, para. 5; IACHR. [Case of Juan Sebastián Chamorro et al. v. Nicaragua](#). Provisional Measures in respect of Nicaragua. Resolution of the Inter-American Court of Human Rights of 24 June 2021, paras. 34 and 40.

⁴⁴ IACHR. [Press Release No. 209/21](#). IACHR condemns the set of State actions that have the effect of putting an end to the participation of the opposition in the upcoming elections in Nicaragua. August 11, 2021; IACHR. [Press Release No. 171/21](#). Nicaragua: IACHR and OHCHR urge an end to arbitrary detentions and the release of all persons detained since the beginning of the crisis. 9 July 2021.

plausibility or plausibility of the allegations of the requesting organizations, especially after finding that the State, under the *prima facie* standard, has not adequately disproved the existence of a situation of risk with respect to them and taking into account that they have been held incommunicado since their arrests.

54. In light of the foregoing, the Commission considers, from a *prima facie* standard and in the context that Nicaragua is going through, that the rights to life, humane treatment, and health of Ana Margarita Vijil Gurdíán, Dora María Téllez Arguello, Suyen Barahona Cuán, Jorge Hugo Torres Jiménez, Víctor Hugo Tinoco Fonseca, Arturo José Cruz Sequeira, and Luis Alberto Rivas Anduray have been sufficiently proven to be at serious risk.

55. As for the urgency requirement, the Commission considers that it has been met, since, if the situation described above continues, the proposed beneficiaries are likely to be exposed to greater imminent harm to their rights. This, mainly in view of the lack of information about the conditions of detention of Messrs. Téllez Arguello and Vijil Gurdíán, as well as the place and conditions of detention of the other persons proposed as beneficiaries, especially when more than two months have passed since their detention and the alleged absence of protection measures provided by the competent authorities, especially when they would be responsible for their alleged situations of risk. Moreover, in the case of Mr. Tinoco Fonseca, Mr. Cruz Sequeira, and Mr. Rivas Anduray, considering the chronic illnesses from which they suffer, the alleged lack of adequate medical attention could cause or aggravate health problems. The Commission further notes that the lack of knowledge about the places and conditions of detention and the state of health of the persons proposed as beneficiaries prevents their relatives and representatives from being able to timely intervene and ensure that their conditions of detention are adequate, thus requiring the adoption of immediate measures. In this regard, as indicated above, the Commission does not have specific or detailed information provided by the State that would allow it to assess the actions being taken to address the alleged situation of risk of Mr. Vijil Gurdíán, Mr. Téllez Arguello, Mr. Barahona Cuán, Mr. Torres Jiménez, Mr. Tinoco Fonseca, Mr. Cruz Sequeira, and Mr. Rivas Anduray.

56. As for the requirement of irreparability, the Commission considers that it has been met, inasmuch as the potential impact on the rights to life, personal integrity, and health constitutes the maximum situation of irreparability.

57. Finally, having identified compliance with the statutory requirements, the Commission notes that, in the particular case of Nicaragua, on June 24, 2021, the Inter-American Court of Human Rights issued provisional measures in favor of four persons identified as opponents with ties to the Civic Alliance and the Blue and White National Unity, due to "the circumstances in which the arrests were carried out, the subsequent lack of information from the State on the whereabouts and conditions of detention of the proposed beneficiaries, their current situation of incommunicado detention, as well as the allegedly delicate state of their health and the lack of access to medicines and health care required by most of them"⁴⁵. In addition, "the lack of information about the procedural situation, such as the concealment of the place of detention, the impossibility of legal assistance from trusted lawyers, the prolonged incommunicado detention, the condition of active politicians of the detained persons", added to the context of the country already mentioned, led the IACHR Court to conclude that they are "*prima facie*, arbitrary detentions"⁴⁶. In view of the foregoing, the Court considered it necessary, due to the exceptional circumstances of the case, to order the immediate release of the beneficiaries⁴⁷.

58. Moreover, in May 2019, at the time of granting urgent measures in favor of 17 persons deprived of their liberty, the Presidency of the Inter-American Court of Human Rights indicated, at that time, that in the

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

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

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

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 convicted⁴⁸. On that occasion, in view of the assessment of the risk based on the conditions of confinement in which the persons deprived of their liberty were being held, the Presidency of the Court requested the State to immediately evaluate the granting of alternative measures to the deprivation of liberty, in accordance with its domestic legislation and inter-American standards⁴⁹. Subsequently, these provisional measures were lifted by the plenary of the Inter-American Court when all the beneficiaries were released⁵⁰.

59. In light of these criteria, the Commission notes that, in the instant case, the information submitted by the State does not present sufficient evidence to dismiss the allegations made by the requesting organizations, and verified by the Commission through its monitoring mechanisms, regarding the conditions of detention of the persons proposed as beneficiaries and the lack of adequate medical care. In this regard, as indicated above, the Commission considers that the requirements of Article 25 of the Rules of Procedure have been met.

60. In view of the foregoing, the Commission requires the State to evaluate the possibility of granting alternative measures to imprisonment, taking into account the particular situation of the persons proposed as beneficiaries, with a view to protecting their rights to life, humane treatment, and health, and in light of the assessments made in this resolution in the light of the information available.

V. BENEFICIARIES

61. The Commission declares as beneficiaries (1) Ana Margarita Vijil Gurdíán, (2) Dora María Téllez Arguello, (3) Suyen Barahona Cuán, (4) Jorge Hugo Torres Jiménez, (5) Víctor Hugo Tinoco Fonseca, (6) Arturo José Cruz Sequeira and (7) Luis Alberto Rivas Anduray, who are duly identified in this proceeding.

VI. DECISION

62. The Inter-American Commission considers that the instant case meets *prima facie* the requirements of seriousness, urgency, and irreparability contained in Article 25 of its Rules of Procedure. Consequently, Nicaragua is requested to:

- a) adopt the necessary measures to protect the rights to life, personal integrity and health of Ana Margarita Vijil Gurdíán, Dora María Téllez Arguello, Suyen Barahona Cuán, Jorge Hugo Torres Jiménez, Víctor Hugo Tinoco Fonseca, Arturo José Cruz Sequeira and Luis Alberto Rivas Anduray. In particular, please provide information on the whereabouts or location of the beneficiaries who are in your custody;
- b) ensure that their conditions of detention are compatible with applicable international standards;
- c) taking into account the situation of risk to life, personal integrity and health as a result of the circumstances surrounding their current deprivation of liberty, immediately evaluate the possibility of granting alternative measures to deprivation of liberty, in accordance with its domestic legislation and in light of the applicable inter-American standards; and,

⁴⁸ I/A Court H.R., Case of seventeen persons deprived of their liberty regarding Nicaragua. Case of seventeen persons deprived of liberty regarding Nicaragua. Provisional Measures. Adoption of Urgent Measures. Resolution of the President of the Inter-American Court of Human Rights of 21 May 2019. Whereas 30.

⁴⁹ I/A Court H.R., Case of seventeen persons deprived of their liberty regarding Nicaragua. Case of seventeen persons deprived of liberty regarding Nicaragua. Provisional Measures. Adoption of Urgent Measures. Resolution of the President of the Inter-American Court of Human Rights of 21 May 2019. Resolutive Point 3.

⁵⁰ I/A Court H.R., Case of seventeen persons deprived of their liberty regarding Nicaragua. Case of seventeen persons deprived of liberty regarding Nicaragua. Provisional Measures. Resolution of the Inter-American Court of Human Rights of 14 October 2019.

- d) report on the actions taken to investigate the alleged facts that gave rise to the adoption of the present resolution and thus prevent their repetition.

63. The Commission requests the State of Nicaragua to report, within 15 days from the day following notification of this resolution, on the adoption of the precautionary measures requested and to update that information on a regular basis.

64. The Commission emphasizes that, in accordance with Article 25(8) of its Rules of Procedure, the granting of this precautionary measure and its adoption by the State do not constitute a prejudgment of any violation of the rights protected in the applicable instruments.

65. The Commission instructs its Executive Secretariat to notify the State of Nicaragua and the requesting organizations of this resolution.

66. Approved on August 30, 2021 by: Antonia Urrejola Noguera, President; Julissa Mantilla Falcón, First Vice-President; Flávia Piovesan, Second Vice-President; Margarete May Macaulay; Esmeralda Arosemena de Troitino; Joel Hernández García; members of the IACHR.

Tania Reneaum Panszi
Executive Secretary