
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 34/2023**

Precautionary Measure No. 304-23
J.N.S.R. regarding Nicaragua
June 19, 2023
Original: Spanish

I. INTRODUCTION

1. On May 2, 2023, the Inter-American Commission on Human Rights (“the Inter-American Commission”, “the Commission” or “the IACHR”) received a request for precautionary measures submitted by Oswaldo León Gómez, Daysi Miranda Martínez, Norma Diaz, and Valeska Valle of the April 19 University Movement (“the applicants”) urging the Commission to require that the State of Nicaragua (“the State” or “Nicaragua”) adopt the necessary measures to protect the rights to life, personal integrity, and health of J.N.S.R., vice president of the April 19 University Movement (MU19A), who has been deprived of his liberty since April 4, 2023, in incommunicado detention.

2. Pursuant to Article 25 of its Rules of Procedure, the IACHR requested additional information from the applicants on May 10, 2023. The applicants submitted information on May 11, May 30, and June 2, 2023. The IACHR also requested information from the State on May 22, 2023. To date, the State has not submitted any information and the granted term has since expired.

3. Upon analyzing the submissions of fact and law furnished by the applicants, the Commission considers that the information presented shows *prima facie* that the proposed beneficiary is in a serious and urgent situation, given that his rights to life, personal integrity, and health are at risk of irreparable harm. Therefore, the IACHR requests that Nicaragua: a) adopt the necessary measures to protect the rights to life, personal integrity, and health of J.N.S.R.; b) adopt the necessary measures to ensure that the beneficiary’s detention conditions are compatible with the applicable international standards on this subject, *inter alia*: i. guaranteeing access to adequate and specialized medical care, and immediately carrying out a specialized medical evaluation of his health; ii. providing the necessary treatments and medications to treat his illnesses; and iii. guaranteeing regular contact with and access to his family members, lawyers, and representatives; c) consult and agree upon the measures to be adopted with the beneficiary and his representatives; and d) report on the actions taken to investigate the alleged facts that gave rise to the adoption of this resolution, so as to prevent them from reoccurring.

II. CONTEXT IN THE COUNTRY

4. Between May 17 and 21, 2018, the Commission visited Nicaragua. During this visit, it collected numerous testimonies on human rights violations committed in the framework of protests that began the previous month. Subsequently, on June 21, 2018, the IACHR published a report on the serious human rights situation in the country.¹ In order to follow up on the recommendations issued in this report, the Special Monitoring Mechanism for Nicaragua (MESENI) was created, which remained in the country until the State suspended its presence on December 19, 2018.² For its part, the Interdisciplinary Group of Independent Experts (GIEI, for its Spanish acronym) for Nicaragua issued a report that analyzed the events that took place between April 18 and May 30, 2018, confirming the IACHR findings.³ In its Annual Report 2018, the IACHR included Nicaragua in Chapter IV.B, in accordance with the grounds established in its Rules of Procedure.⁴

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

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

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

⁴ IACHR. [2018 Annual Report](#). Chapter IV.B Nicaragua.

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

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

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

8. In 2021, the Commission condemned the increasing acts of harassment in Nicaragua. These acts were against persons identified as government opponents, human rights defenders, and the independent press.¹⁵ The IACHR also condemned the widespread impunity and the prolonged breakdown of the rule of law that persists in Nicaragua.¹⁶ On June 9, 2021, the IACHR and the Regional Office of the United Nations High Commissioner for Human Rights for Central America and Dominican Republic (OHCHR) condemned the criminal prosecution of Nicaraguan opposition leaders and urged the State to release all the persons detained

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

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

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

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

⁹ IACHR. [2019 Annual Report. Chapter IV.B Nicaragua](#). OAS/Ser.L/V/II. Doc. 5, February 24, 2020, paras. 5 and 6.

¹⁰ IACHR. [2019 Annual Report. Chapter IV.B Nicaragua](#). OAS/Ser.L/V/II. Doc. 5, February 24, 2020, para. 19.

¹¹ 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.

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

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

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

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

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

in the context of the crisis.¹⁷ Moreover, on August 11, 2021, the Commission condemned the systematic set of state actions carried out in recent months with the aim of preventing the opposition from participating in the general elections to be held in Nicaragua in November 2021, as well as the ongoing human rights violations in this context, urging the State to cease repression against people opposed to the Government.¹⁸ On September 10, 2021, the Commission and the OHCHR condemned the criminalization of individuals who are identified as political opponents in Nicaragua.¹⁹

9. On October 25, 2021, the IACHR published the report “Concentration of Power and the Undermining of the Rule of Law in Nicaragua.” In this regard, the Commission identified acts of harassment, threats, raids, arbitrary detentions, and mistreatment against any person considered to be an opponent of the current Government, all this at the hands of police and vigilante groups.²⁰ Subsequently, on November 4, 2021, the IACHR and OHCHR expressed concern regarding the increasing repression against opponents in Nicaragua within the framework of the electoral process, and highlighted the attacks against journalists.²¹ On November 10, 2021, the IACHR condemned the human rights violations that occurred in the framework of the elections. These violations occurred from acts of police siege, harassment, raids, threats, and arbitrary detentions against opposition leaders, human rights activists, members of civil society organizations, and journalists. The Commission further urged the State to release all those who had been arbitrarily detained in the electoral context since the beginning of the crisis, in addition to ceasing attacks against political opponents.²²

10. On November 20, 2021, the IACHR made a statement in which it looked unfavorably upon the State of Nicaragua’s decision to denounce the Charter of the Organization of American States on November 19, 2021 during the ongoing context of serious crisis in the country in recent years. On the occasion, the Commission reaffirmed its jurisdiction over Nicaragua and stated that it would continue to exercise its monitoring mandates through the Special Monitoring Mechanism for Nicaragua (MESENI), as well as continue to analyze and process cases, petitions, and precautionary measures.²³ On December 20, 2021, the Commission called for international solidarity for States to adopt measures for the protection of people forced to flee the country. In this sense, the main groups of people who have fled Nicaragua are human rights defenders, journalists, leaders of social movements, relatives of persons deprived of liberty, and persons identified as political opponents.²⁴ According to data from the United Nations Refugee Agency (UNHCR), since April 2018, over 110,000 people have been forced to flee Nicaragua.²⁵

11. In January 2022, the IACHR urged the State of Nicaragua to release the individuals who are reportedly still in arbitrary detention and under unsanitary detention conditions while they suffer ill-treatment and are subject to the arbitrary application of maximum-security regimes, in addition to the lack of adequate, timely, and specialized medical care. According to MESENI, most of these individuals, who have been identified as government opponents are beneficiaries of protective measures granted by the bodies of

¹⁷ IACHR. [Press Release No. 145/21](#). IACHR and OHCHR Categorically Condemn Criminal Prosecution of Presidential Precandidates and Urge State of Nicaragua to Release Them Immediately. June 9, 2021; IACHR. [Press Release No. 171/21](#). IACHR and OHCHR Demand an End to Arbitrary Arrests and the Release of All Individuals Detained Since the Start of the Crisis in Nicaragua. July 9, 2021.

¹⁸ IACHR. [Press Release No. 238/21](#). IACHR, OHCHR Condemn Criminalization, Harsh Conditions of Detention, and Failure to Enforce Due Process for Individuals Who are Perceived to Be Government Critics in Nicaragua. September 10, 2021; IACHR. [Press Release No. 209/21](#). IACHR Condemns the State Actions Aimed at Ending Opposition Participation in Nicaragua’s Upcoming Election. August 11, 2021.

¹⁹ IACHR. [Press Release No. 238/21](#). IACHR, OHCHR Condemn Criminalization, Harsh Conditions of Detention, and Failure to Enforce Due Process for Individuals Who are Perceived to Be Government Critics in Nicaragua. September 10, 2021.

²⁰ IACHR. [Press Release 284/2021](#). IACHR Publishes Report on the Concentration of Power and the Weakening of the Rule of Law in Nicaragua. October 28, 2021.

²¹ IACHR. [Press Release 292/21](#). Four Days Ahead of Nicaraguan Election, IACHR and OHCHR Denounce Lack of Guarantees for Rights and Liberties in the Country. November 4, 2021.

²² IACHR. [Press Release 300/21](#). IACHR Condemns Human Rights Violations Reported During Elections in Nicaragua. November 10, 2021

²³ IACHR. [Press Release 312/2021](#). The IACHR Stresses Its Competent Jurisdiction Concerning Nicaragua and laments Nicaragua’s Decision to Denounce the Charter of the OAS in a Context of Serious Human Rights Violations.

²⁴ IACHR. [Press Release 346/2021](#). IACHR Calls for International Solidarity, Urges States to Protect the People Who Have Been Forced to Flee from Nicaragua. December 20, 2021.

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

the inter-American system.²⁶ In February 2022, the IACHR condemned the manipulation of criminal law and criminalization of persons identified as opponents due to the lack of judicial independence and separation of powers. These acts have gravely affected the judicial guarantees for political prisoners in Nicaragua.²⁷

12. On March 7, 2022, the High Commissioner for the situation of human rights in Nicaragua presented a report before the Human Rights Council of the United Nations. The report communicated concern that the State continues to fail to ensure accountability for human rights violations. At the same time, it documented arbitrary arrests and harassments against human rights defenders, journalists, and attorneys at the hands of State agents.²⁸ On March 31, 2022, at the 49th session of the Human Rights Council, a resolution was issued. This resolution established a group of experts in Nicaragua to conduct an independent investigation into human rights violations that have taken place in the country since April 2018.²⁹ According to data from the United Nations Refugee Agency (UNHCR), over 150,000 Nicaraguans have requested protection in Costa Rica.³⁰ On March 23, 2022, the IACHR affirmed that the statement made by Ambassador Arturo McFields, then Permanent Representative of Nicaragua to the OAS, confirmed the serious human rights violations, the institutional deterioration, and the Executive's strategy to silence dissident and opposition voices, according to the IACHR.³¹

13. In April 2022, four years after social protests began in 2018, the Inter-American Commission reaffirmed its commitment to the Nicaraguan population in the search for justice, reparation, the reconstruction of their democracy, and national reconciliation based on the right to memory and truth. Since April 2018, serious human rights violations remain entirely unpunished. These violations resulted in 355 deaths, over 2,000 persons injured, and 171 arbitrary detentions in conditions that are contrary to personal dignity and integrity.³²

14. On May 13, 2022, the IACHR urged the State to guarantee political prisoners' regular and dignified direct contact with their family members. According to information received by its MESENI, deplorable conditions of detention, ill-treatment, isolation, incommunicado detention, and lack of access to timely, adequate, and specialized medical care for detainees in "El Chipote" persist.³³ In July 2022, the Special Rapporteurship for Freedom of Expression (SRFoE) condemned the authorities' repressive escalation against journalists and the media, achieved by persecuting and intimidating the independent press. These acts have increased the number of journalists who have fled or are in forced exile.³⁴ On August 19, 2022, the IACHR condemned the escalation of repression against members of the Catholic Church due to their critical role in denouncing human rights violations.³⁵ On September 5, 2022, the IACHR and its SRESCER urged the immediate release of the political prisoners who are held in deplorable conditions in Nicaragua.³⁶

15. On September 28, 2022, the rapporteurs of the UN and IACHR urged the State to restore and make effective the full enjoyment of civil and political rights in the face of the closure and governmental co-

²⁶ IACHR. [Press Release 023/022](#). IACHR Urges State of Nicaragua to Release All People Held in Arbitrarily Detained. January 31, 2022.

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

²⁸ OHCHR. [Address by the High Commissioner on the situation of human rights in Nicaragua to the 49th session of the Human Rights Council](#). March 7, 2022.

²⁹ United Nations Human Rights Council. [Human Rights Council concludes forty-ninth regular session after adopting 35 resolutions](#). April 1, 2022.

³⁰ UNHCR. [The number of Nicaraguans displaced in Costa Rica has doubled in less than a year](#). March 25, 2020.

³¹ IACHR. [Press Release 065/2022](#). Comments Made by Nicaraguan Ambassador to the OAS and His Subsequent Dismissal Confirm Serious Human Rights Violations in Nicaragua. March 29, 2022.

³² IACHR. [Press Release 081/2022](#). Four Years into Nicaragua's Human Rights Crisis, the IACHR Stresses Its Commitment to the Country. April 18, 2022.

³³ IACHR. [Press Release 103/2022](#). IACHR Urges Nicaragua To Guarantee that Political Prisoners Have Regular Contact with Their Families in Conditions of Dignity. May 13, 2022.

³⁴ IACHR. [Press Release R163/22](#). Nicaragua must cease persecution of independent press and be held accountable for its actions. July 15, 2022.

³⁵ IACHR. [Press Release 184/22](#). IACHR Condemns Repression and Arrests of Members of the Roman Catholic Church in Nicaragua. August 19, 2022.

³⁶ IACHR. [Press Release 197/2022](#). IACHR and Its SRESCER Call for Immediate Release of Political Prisoners Being Held in Appalling Conditions in Nicaragua. September 5, 2022.

optation of civic spaces and democratic participation in Nicaragua.³⁷ Moreover, on November 4, 2022, the IACHR warned about the lack of conditions to carry out free and fair elections in the country, taking into account the increasing repression and persecution against political opponents implemented through measures aimed at preventing their participation in these elections.³⁸

16. More recently, on February 9, 2023, the IACHR learned about the release of 222 persons detained for political reasons in Nicaragua, who were deported to the United States of America on the same day of their release in compliance with a judgment issued by Criminal Chamber One of the Court of Appeals of Managua. This chamber ordered the immediate deportation of these persons and the revocation of their Nicaraguan nationality. On the same day, the National Assembly approved reforms to Article 21 of the Nicaraguan Political Constitution establishing the acquisition, loss, and recovery of nationality. It also approved Law 1145 which regulates the loss of Nicaraguan nationality. The IACHR urged the State to release all persons arbitrarily detained in the context of the crisis in Nicaragua, without this implying the loss of nationality and deportation.³⁹

III. SUMMARY OF FACTS AND ARGUMENTS

A. Information provided by the applicants

17. The proposed beneficiary is the vice president of the April 19 University Movement (MU19A) and has been working towards civic advocacy actions in Nicaragua since 2018. He has participated in the Civic Alliance for Justice and Democracy (*Alianza Cívica por la Justicia y la Democracia*), where he reportedly stood out after preparing documents and filling positions of the Civic Alliance and upon being in frequent contact with various advocates. In this sense, between 2021 and 2023, the proposed beneficiary actively participated in several international actions to denounce human rights violations in Nicaragua. Due to the ongoing risk in the country, he has covertly remained in different safe houses, but has not left Nicaraguan territory. Mr. J.N.S.R. was aware that the National Police sought to arrest him, which is why he was allegedly cautious in his communications and the locations where he has been hiding.

18. On April 4, 2023, the proposed beneficiary was visiting his parents in Managua when he was arrested by 20 National Police officers who searched his parents' home. This was described as an illegal search given that no court order was presented. The proposed beneficiary was arrested at that location and transferred to the police headquarters in District III of Managua. In addition, the police officers took the proposed beneficiary's belongings (documents, computer, telephone). On the same day, 20 police officers arrived at the proposed beneficiary's home, with three patrol cars and a red Hyundai Elantra vehicle. They allegedly had the intention of entering the home by force, without a court order and while formal charges had not been filed. A relative of the proposed beneficiary purportedly attempted to prevent the officers from entering, but they detained him in the front garden. Police officers reportedly removed two professional laptops, all electronic device chargers (computers and telephones), an Apple Watch worth 500 USD, cash, identification cards, wallets, and other items from the location. They also allegedly destroyed personal items.

19. The following day, on April 5, a hearing was held in the Courts of Managua even though there were no formal charges against Mr. J.N.S.R. On May 19, 2023, the proposed beneficiary had a preliminary hearing in which he was charged with cybercrimes and treason. Furthermore, the complex procedure [Article 134 of the Nicaraguan Code of Criminal Procedure] of the case was ordered, and an initial hearing was scheduled for June 7, 2023.

20. Since April 4, 2023, the proposed beneficiary has been held incommunicado, as neither his family members nor his lawyer have been able to visit him. They only accept parcels, but deny visits where he is detained. The officers of District III reported that Mr. J.N.S.R. is in custody at the Judicial Assistance

³⁷ IACHR. [Press Release R218/22](#). In light of serious allegations regarding the closure of civic spaces in Nicaragua, UN and IACHR Special Rapporteurs urge authorities to comply with their international obligations to respect and guarantee fundamental freedoms. September 28, 2022.

³⁸ IACHR. [Press Release No. 248/22](#). IACHR Warns of the Lack of Appropriate Conditions for Holding Free, Fair Municipal Elections in Nicaragua. November 4, 2022.

³⁹ IACHR. [Press Release No.021/23](#). IACHR Welcomes Release of Political Prisoners in Nicaragua but Rejects Arbitrary Deprivation of Nationality. February 13, 2023.

known as “Nuevo Chipote,” and therefore does not have the right to visits. Since his arrest, the proposed beneficiary’s family members have visited “Nuevo Chipote” five times to obtain information about his situation; however, they were only told that the proposed beneficiary is being investigated. The right to visit was requested directly to the Director of Judicial Assistance, yet no response has been received.

21. On April 11, the proposed beneficiary’s father filed a writ of habeas corpus (*exhibición personal*) in favor of Mr. J.N.S.R., which was rejected as inadmissible, alleging that on April 5, 2023, the proposed beneficiary was placed before the competent authority. Nevertheless, neither the lawyer nor the family members of J.N.S.R. have had access to the case, neither physically nor through the technological system. When searching for the case in the system, the result is “NOT INTERVENING” (“*NO INTERVENIENTE*”), which is the equivalent of stating that it does not exist in the system.

22. Mr. J.N.S.R. allegedly has rhinitis, headaches, and joint pain in his knees. His family members have only been able to bring him non-prescription medications as they were unable to obtain a physician’s order, since health professionals fear reprisals if they issue a medical order in favor of a detainee. However, they reportedly do not have detailed information regarding his health conditions.

23. Given the incommunicado detention which the proposed beneficiary faces, the lack of a specific response about his whereabouts, and the lack of a court order at the time of his capture, the representation has qualified the current situation as an enforced disappearance. Furthermore, applicants consider that the regime is allegedly keeping him in isolation, in confinement as a punishment, and subjected to torture in a context of repression against dissident voices in Nicaragua. In particular, the applicants consider that the interest in detaining and probably torturing the proposed beneficiary is due to the information that the proposed beneficiary reportedly has regarding the activities of the civic movement in Nicaragua, especially the activities of student and *campesino* groups. It is feared that the proposed beneficiary is being subjected to the pattern of torture which may include forced interrogation, threats, poor diet, excessive punishment, forced confinement, in assessment with regard to other political prisoners. Moreover, there is a well-founded fear that Mr. J.N.S.R. will be stripped of his nationality and citizen rights.

B. Information provided by the State

24. In this matter, the IACHR requested information from the State on May 22, 2023. However, the State has not submitted information to date.

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

25. 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, based on Article 41(b) of the American Convention on Human Rights and Article 18(b) of the IACHR Statute. Furthermore, the mechanism of precautionary measures is described in Article 25 of the Rules of Procedure, according to which the Commission grants precautionary measures in situations that are serious and urgent as well as necessary to prevent irreparable harm.

26. The Inter-American Commission and the Inter-American Court of Human Rights (“the Inter-American Court” or “I/A Court H.R.”) have repeatedly established that precautionary and provisional measures have a dual nature, both protective and precautionary.⁴⁰ Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.⁴¹ To do this, the IACHR shall assess the problem raised, the effectiveness of state actions to address the situation described, and how

⁴⁰ See in this regard: I/A Court H.R. Matter of the Yare I and Yare II Capital Region Penitentiary Center. Request for Provisional Measures submitted by the IACHR regarding the Bolivarian Republic of Venezuela. Order of the Inter-American Court of Human Rights of March 30, 2006, considerandum 5; I/A Court H.R. Case of Carpio Nicolle et al. v. Guatemala. Provisional Measures. Order of July 6, 2009, considerandum 16.

⁴¹ See in this regard: I/A Court H.R. Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center. Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, considerandum 8; I/A Court H.R. Case of Bámaca Velásquez. Provisional Measures regarding Guatemala. Order of the Court of January 27, 2009, considerandum 45; I/A Court H.R. Matter of Fernández Ortega et al. Provisional Measures regarding Mexico. Order of the Court of April 30, 2009, considerandum 5; I/A Court H.R. Matter of Milagro Sala. Request for Provisional Measures regarding Argentina. Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5 [only in Spanish].

vulnerable the persons proposed as beneficiaries would be left in case the measures are not adopted.⁴² Regarding their precautionary nature, these measures have the purpose of preserving legal situations while under the consideration of the IACHR. They aim to safeguard the rights at risk until the petition pending before the inter-American system is resolved. Their object and purpose are to ensure the integrity and effectiveness of an eventual decision on the merits and, thus, avoid any further infringement of the rights at issue, a situation that may adversely affect the useful effect (*effet utile*) of the final decision. In this regard, precautionary or provisional measures enable the State concerned to comply with the final decision and, if necessary, to implement the ordered reparations.⁴³ In the process of reaching a decision, according to Article 25(2) of its Rules of Procedure, the Commission considers that:

- a. “serious situation” refers to a grave impact that an action or omission can have on a protected right or on the eventual effect of a pending decision in a case or petition before the organs of the inter-American system;
- b. “urgent situation” refers to risk or threat that is imminent and can materialize, thus requiring immediate preventive or protective action; and
- c. “irreparable harm” refers to injury to rights which, due to their nature, would not be susceptible to reparation, restoration or adequate compensation.

27. In analyzing these requirements, the Commission reiterates that the facts supporting a request for precautionary measures need not be proven beyond doubt. The information provided should be assessed from a *prima facie*⁴⁴ standard of review to determine whether a serious and urgent situation exists. Similarly, the Commission recalls that, by its own mandate, it is not called upon to determine any individual liabilities for the facts alleged. Moreover, in this proceeding, it is not appropriate to rule on violations of rights enshrined in the American Convention or other applicable instruments.⁴⁵ This is better suited to be addressed by the Petition and Case system. The following analysis relates exclusively to the requirements set forth in Article 25 of the Rules of Procedure, which can be done without making any determinations on the merits.⁴⁶

28. In addition, the Commission recalls that, in the context of the persons deprived of liberty in Nicaragua and 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, health, and personal integrity, as well as other human rights, inasmuch as prison authorities exercise a strong control or command over the persons in their custody.⁴⁷ This is due to the unique relationship and interaction of subordination between the person deprived of liberty and the State. This is characterized by the particular intensity with which the State can regulate their rights and obligations, and by the very circumstances of imprisonment. In these circumstances, prisoners are prevented from satisfying on their own a series of basic needs that are essential for the

⁴² See in this regard: I/A Court H.R. Matter of Milagro Sala. Request for Provisional Measures regarding Argentina. Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5 [only in Spanish]; I/A Court H.R. Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center. Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, considerandum 9; I/A Court H.R. Matter of the Criminal Institute of Plácido de Sá Carvalho. Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of February 13, 2017, considerandum 6 [only in Spanish].

⁴³ See in this regard: I/A Court H.R. Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center. Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, considerandum 7; I/A Court H.R. Matter of “El Nacional” and “Así es la Noticia” newspapers. Provisional Measures regarding Venezuela. Order of the Court of November 25, 2008, considerandum 23; I/A Court H.R. Matter of Luis Uzcátegui. Provisional Measures regarding Venezuela. Order of the Court of January 27, 2009, considerandum 19.

⁴⁴ See in this regard: I/A Court H.R. Matter of Members of the Miskitu Indigenous Peoples of the North Caribbean Coast regarding Nicaragua. Extension of Provisional Measures. Order of the Inter-American Court of Human Rights of August 23, 2018, considerandum 13 [only in Spanish]; I/A Court H.R. Matter of the children and adolescents deprived of their liberty in the “Complexo do Tatuapé” of the Fundação CASA. Request for extension of provisional measures. Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of July 4, 2006, considerandum 23.

⁴⁵ IACHR. Resolution 2/2015. Precautionary Measure No. 455-13. Matter of Nestora Salgado regarding Mexico. January 28, 2015, para. 14; IACHR. Resolution 37/2021. Precautionary Measure No. 96-21. Gustavo Adolfo Mendoza Beteta and family regarding Nicaragua. April 30, 2021, para. 33.

⁴⁶ In this regard, the Court has indicated that “[it] cannot, in a provisional measure, consider the merits of any arguments pertaining to issues other than those which relate strictly to the extreme gravity and urgency and the necessity to avoid irreparable damage to persons”. See in this regard: I/A Court H.R. Matter of James et al. regarding Trinidad and Tobago. Provisional Measures. Order of the Inter-American Court of Human Rights of August 29, 1998, considerandum 6; I/A Court H.R. Case of Barrios Family v. Venezuela. Provisional Measures. Order of the Inter-American Court of Human Rights of April 22, 2021, considerandum 2 [only in Spanish].

⁴⁷ See in this regard: I/A Court H.R. Case of Mendoza et al. v. Argentina. Preliminary objections, merits and reparations. Judgment of May 14, 2013. Series C No. 260. Para. 188; IACHR. Report on the Human Rights of Persons Deprived of Liberty in the Americas. OAS/Ser.L/V/II. Doc. 64. December 31, 2011. Para. 49.

development of a dignified life.⁴⁸

29. More specifically, the Commission recalls that the Inter-American Court has indicated that the State must ensure that a person is detained in conditions that are compatible with respect for their human dignity, that the manner and method of exercising the measure does not subject them to distress or hardship exceeding the unavoidable level of suffering inherent in detention, and that, given the practical demands of imprisonment, their health and well-being are adequately ensured.⁴⁹

30. Pursuant to Article 25.6 of the Rules of Procedure, the Commission observes that the alleged risk that the proposed beneficiary faces is framed in the current context of Nicaragua,⁵⁰ in a particularly hostile context for dissenting or critical voices of the current government, which has also intensified over time.⁵¹ Similarly, the IACHR recalls the information gathered on detention conditions in Nicaragua, which referred to “the serious detention conditions of persons deprived of their liberty in different facilities of the National Penitentiary System” such as the Judicial Assistance Directorate where, purportedly, the proposed beneficiary is currently located.⁵² Among other aspects, the complaints alleged “prolonged deprivation of liberty under even more deplorable and unsanitary conditions, persistent acts of mistreatment, isolation, incommunicado detention, constant interrogations, the lack of adequate and sufficient food, as well as the lack of access to timely, adequate, and specialized medical care.”⁵³

31. Considering Nicaragua’s particular context and the proposed beneficiary’s confinement, the Commission will proceed to analyze the procedural requirements regarding J.N.S.R. in Nicaragua.

32. Regarding the requirement of *seriousness*, the Commission considers that it has been met given that the proposed beneficiary has allegedly been deprived of his liberty in the Judicial Assistance Directorate since April 4, 2023, and since then, there has been no information on his detention or health conditions, despite his prior health problems. Preliminarily, the Commission observes that the proposed beneficiary, as vice president of the April 19 University Movement (MU19A), participated in civic activities denouncing human rights violations in the current context of sociopolitical crisis (see *supra* para. 17). Prior to the proposed beneficiary’s detention, the IACHR notes that the applicants alleged that a fear existed which led the proposed beneficiary to remain in different safe houses clandestinely and to be cautious with his communications (see *supra* para. 17), especially in the face of actions by State agents.

33. The Commission identifies that, after his detention, J.N.S.R. has been held incommunicado, has had no contact with either his family members or his lawyer (see *supra* para. 20); the proposed beneficiary’s family members reportedly have no knowledge of his specific whereabouts or his detention conditions. The IACHR takes note of the serious nature of these allegations and notes that, according to the applicants, the aforementioned circumstances of the proposed beneficiary are defined by his critical role in denouncing human rights violations in the current context.

34. With regard to his detention conditions, the IACHR observes that, according to the information provided by the applicants, the proposed beneficiary has been incommunicado since his detention on April 4, 2023. Both his family and his lawyers allegedly lack accurate information regarding his

⁴⁸ IACHR. Report on the Human Rights of Persons Deprived of Liberty in the Americas. OAS/Ser.L/V/II. Doc. 64. December 31, 2011. Paras. 49-50.

⁴⁹ I/A Court H.R. Matter of seventeen persons deprived of liberty regarding Nicaragua. Provisional Measures. Adoption of Urgent Provisional Measures. Order of the President of the Inter-American Court of Human Rights of May 21, 2019 [only in Spanish]. Considerandum 23.

⁵⁰ See in this regard: IACHR. [Press Release No. 93/21](#). Three Years After the Start of the Human Rights Crisis in Nicaragua, IACHR Condemns Ongoing Impunity. April 19, 2021; IACHR. [Press Release No. 80/20](#). Two Years into Nicaragua’s Human Rights Crisis, the IACHR Stresses its Permanent Commitment to Victims and Confirms the Consolidation of a Fifth Phase of Repression. April 18, 2020; IACHR. [Press Release No. 220/19](#). IACHR Speaks Out Against Ongoing Repression in Nicaragua and Expresses Its Concern at Increased Harassment of Human Rights Defenders and People Who Have Been Released from Prison. September 6, 2019.

⁵¹ See in this regard: IACHR. [Press Release No. 113/20](#). Two Years After Visit to Nicaragua, IACHR Condemns Lack of Compliance with its Recommendations and Calls on the State to Urgently Implement Them. May 16, 2020; IACHR. [2020 Annual Report, Chapter IV.B Nicaragua](#), paras. 46 to 52.

⁵² IACHR. [Press Release No. 197/2022](#). IACHR and Its SRESCER Call for Immediate Release of Political Prisoners Being Held in Appalling Conditions in Nicaragua. September 5, 2022.

⁵³ *Ibidem*

whereabouts. Despite having appeared before the Judicial Assistance Directorate known as “Nuevo Chipote,” the applicants claimed that prison authorities had not provided them with relevant information (see *supra* para. 20). In this regard, the Commission notes that on April 11, the proposed beneficiary’s father filed a writ of habeas corpus (*exhibición personal*), which was purportedly rejected as inadmissible (see *supra* para. 21). According to the information obtained, the proposed beneficiary reportedly has a series of health problems such as rhinitis, headaches, and joint pain in his knees. However, his family members have no knowledge of his current health status, or whether he has access to medical care and his respective medications (see *supra* para. 22).

35. The Commission takes note of the aforementioned context regarding the detention conditions of detainees in the context of the Judicial Assistance Directorate as highlighted above (see *supra* para. 30). On previous occasions, the IACHR has granted precautionary measures in specific situations in which inadequate and precarious detention conditions, lack of medical care and treatment, and lack of adequate food had allegedly been verified, and even in situations in which detainees had been held incommunicado since their imprisonment and were not allowed to receive basic supplies and parcels from their family members.⁵⁴

36. Having requested information from the State pursuant to Article 25 of the Rules of Procedure, the Commission regrets the lack of response to the request made for information. Although the foregoing is not sufficient *per se* to justify the granting of a precautionary measure, in this case, the lack of response from the State prevents the Commission from knowing the adopted measures that are allegedly being implemented to address the situation that places the proposed beneficiary at risk and to dispute the facts alleged by the applicants. The Commission also notes that the proposed beneficiary is in the custody of the State, which reportedly has information on his current situation, detention conditions, and, in particular, his current health. It is particularly concerning to this Commission that the alleged facts are attributable to State agents, which places the proposed beneficiary in a vulnerable situation.

37. Given these circumstances, the Commission considers that the facts alleged by the applicants, which were not challenged by the State, and in light of Nicaragua’s current context, are likely to seriously affect the proposed beneficiary’s rights to life, personal integrity, and health. Thus, the Commission concludes, based on the applicable *prima facie* standard, that it has been sufficiently shown that the rights to life, personal integrity, and health of Mr. J.N.S.R. are at serious risk.

38. Regarding the requirement of *urgency*, the Commission deems that it has been met given that, should the described situation continue, the proposed beneficiary is likely to be imminently exposed to a greater impact on his rights. Furthermore, the Commission warns that, given his condition as a detainee, in addition to the lack of information on his detention conditions, his current health status, and access to medical care, such circumstance prevent his family members and representatives from being able to intervene in time and ensure that his detention conditions are adequate, thus requiring the adoption of immediate measures. In addition, the Commission does not have specific information from the State that would allow it to assess the actions that are allegedly being taken to address the risk faced by the proposed beneficiary.

39. Regarding the requirement of *irreparable harm*, the Commission considers that it has been met, insofar as the potential impact on the rights to life, personal integrity, and health, by their very nature, constitutes the maximum situation of irreparability.

V. BENEFICIARIES

40. The Commission declares J.N.S.R., who is duly identified in this procedure, as beneficiary.

VI. DECISION

⁵⁴ IACHR. [Resolution 26/2022](#). Precautionary Measure No. 66-22 and No. 135-22. José Antonio Peraza Collado, Roger Abel Reyes Barrera, and Irving Isidro Larios Sánchez, as well as their respective families regarding Nicaragua. June 20, 2022; IACHR. [Resolution 27/2022](#). Precautionary Measure No. 266-22. José Alejandro Quintanilla Hernández and his nuclear family regarding Nicaragua. June 22, 2022.

41. The Inter-American Commission considers that this matter meets, *prima facie*, the requirements of seriousness, urgency, and irreparable harm set forth in Article 25 of its Rules of Procedure. Consequently, it requests that Nicaragua:

- a) adopt the necessary measures to protect the rights to life, personal integrity, and health of J.N.S.R.;
- b) adopt the necessary measures to ensure that the beneficiary's detention conditions are compatible with the applicable international standards on this subject, *inter alia*: i. guaranteeing access to adequate and specialized medical care, and immediately carrying out a specialized medical evaluation of his health; ii. providing the necessary treatments and medications to treat his illnesses; and iii. guaranteeing regular contact with and access to his family members, lawyers, and representatives;
- c) consult and agree upon the measures to be adopted with the beneficiary and his representatives; and
- d) report on the actions taken to investigate the alleged facts that gave rise to the adoption of this resolution, so as to prevent them from reoccurring.

42. The Commission requests that the State of Nicaragua report, within 15 days as from the notification of this resolution, on the adoption of the precautionary measures granted and to regularly update this information.

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

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

45. Approved on June 19, 2023, by Margarette May Macaulay, President; Esmeralda Arosemena de Troitiño, First Vice-President; Roberta Clarke, Second Vice-President; Julissa Mantilla Falcón; Edgar Stuardo Ralón Orellana; and Carlos Bernal Pulido, members of the IACHR.

Tania Reneaum Panszi
Executive Secretary