

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION 91/2024**

Precautionary Measure No. 1214-24

**Jhon Fernando Paladines Rubio regarding Nicaragua<sup>1</sup>**

November 26, 2024

Original: Spanish

**I. INTRODUCTION**

1. On October 31, 2024, the Inter-American Commission on Human Rights (“the Inter-American Commission”, “the Commission” or “the IACHR”) received a request for precautionary measures filed by Laura Daniela Arévalo Paladines (“the requesting party” or “the applicant”) urging the Commission to require the State of Nicaragua (“the State” or “Nicaragua”) to adopt the necessary measures to protect the life and integrity of Jhon Fernando Paladines Rubio, a Colombian national (“the proposed beneficiary”). According to the request, the proposed beneficiary is a businessman in Costa Rica and was traveling in Nicaragua on business. The proposed beneficiary was reportedly arrested on March 9, 2024 by the Nicaraguan National Police’s Judicial Assistance Directorate (DAJ, by its Spanish acronym) at the hotel where he was staying in Managua. Since that date, his location has not been known.

2. Under the terms of Article 25 (5), the IACHR requested information from the State on November 4, 2024. To date, no response has been received and the granted deadline has expired.

3. Upon analyzing the submissions of fact and law provided by the applicant, the Commission considers that the information submitted shows *prima facie* that the proposed beneficiary is in a serious and urgent situation, given that his whereabouts are unknown to date. Consequently, the IACHR requests that Nicaragua: a) adopt the necessary measures to determine the situation and whereabouts of the beneficiary, in order to protect his rights to life and personal integrity; b) inform whether the beneficiary is in the custody of the State, the circumstances and conditions of his detention. In particular, report on the place of his detention and the criminal case file opened against him, allowing access to his legal representatives and family members, as well as the corresponding consular assistance, and ensure that he is brought before competent judicial authorities for the review and monitoring of his situation; c) consult and agree upon the measures to be implemented with the beneficiary, his family members, 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 such events from reoccurring.

**II. BACKGROUND INFORMATION**

4. After the start of the crisis of the human rights situation in Nicaragua and the working visit carried out in May 2018, the Commission created the Special Monitoring Mechanism for Nicaragua (MESENI, by its Spanish acronym), in order to follow up on the recommendations made to the State, as well as to maintain the respective monitoring for the purposes relevant to the mandates of the IACHR.<sup>2</sup> Similarly, the IACHR launched the Interdisciplinary Group of Independent Experts (GIEI, by its Spanish acronym) for Nicaragua, which issued a report analyzing the events that occurred in April and May

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<sup>1</sup> Pursuant to Article 17.2.a. of the Commission’s Rules of Procedure, Commissioner Carlos Bernal Pulido, a Colombian national, did not participate in the debate or in the decision of this resolution.

<sup>2</sup> IACHR, Press Release No. 134/18, [IACHR Issues Report on Nicaragua’s Serious Human Rights Situation](#), June 22, 2018; Press Release No. 135/18, [IACHR Launches Special Monitoring Mechanism for Nicaragua \(MESENI\)](#), June 25, 2018; Press Release No. 274/18, [Press Release about Nicaragua](#), December 19, 2018; 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.

2018.<sup>3</sup> For its part, the IACHR decided to include Nicaragua in its Annual Report in Chapter IV.B as of 2018, in accordance with the grounds established in its Rules of Procedure.<sup>4</sup> In parallel, the Commission, in the framework of its monitoring mandate, has issued reports regarding Nicaragua's human rights context, in which it also makes a series of recommendations to the State, in order to guarantee the respect and safeguarding of the rights of individuals in accordance with its international obligations.<sup>5</sup>

5. In addition to the foregoing, the Commission has consistently issued press releases expressing its concern about the growing crisis and serious human rights violations in the country, from different aspects, including the persistence of acts of persecution<sup>6</sup>; the widespread impunity and the prolonged breakdown of the rule of law<sup>7</sup>; among others.

6. In the 2021 *Report on Concentration of Power and Weakening of the Rule of Law* in Nicaragua, the Commission identified that there has been a gradual process of concentration of power and progressive weakening of democratic institutions in the country that escalated in 2007 when Daniel Ortega took office for the second time as President of the Republic, and that has been reinforced since the human rights crisis that started in April 2018.<sup>8</sup> The IACHR concluded that the concentration of power has eased Nicaragua's transformation into a police state, where the Executive Branch has installed a regime of terror and suppression of all freedoms, through the control and surveillance of the citizenry and repression through state and para-state security institutions endorsed by the other branches of government.<sup>9</sup>

7. Inasmuch as this process of concentration of power, the principle of separation of powers that governs the Democratic Rule of Law was broken in Nicaragua.<sup>10</sup> All powers are aligned and run by the Executive, so they do not represent limits to the exercise of power or prevent arbitrariness, on the contrary, they ease or consolidate it.<sup>11</sup>

8. Finally, the Commission reaffirmed its jurisdiction over Nicaragua and continues to exercise its monitoring mandates through MESENI, as well as the analysis and processing of cases, petitions and precautionary measures.<sup>12</sup>

### III. SUMMARY OF FACTS AND ARGUMENTS

<sup>3</sup> IACHR, Press Release No. 145/18, [IACHR announces the Establishment of the Interdisciplinary Group of Independent Experts for Nicaragua](#), July 2, 2018; GIEI, Report on the violent events that occurred between April 18 and May 30, 2018, December 21, 2018.

<sup>4</sup> IACHR, Annual Report 2018, [Chapter IV.B Nicaragua](#), February 24, 2020; Annual Report 2020, [Chapter IV.B Nicaragua](#), February 2, 2021; Annual Report 2021, [Chapter IV.B Nicaragua](#), May 2022; Annual Report 2023, [Chapter IV.B Nicaragua](#), December 31, 2023.

<sup>5</sup> IACHR, [Report on Closure of Civic Space in Nicaragua](#), OEA/Ser.L/VIII.Doc.212/23, September 23, 2023; [Report on 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. 285, Oct. 5, 2020; [Report on Forced Migration of Nicaraguans to Costa Rica](#), OEA/Ser.L/V/II. Doc.150, September 8, 2019; [Report on Gross Human Rights Violations in the Context of Social Protests in Nicaragua](#), OEA/Ser.L/V/II.Doc.86, June 21, 2018.

<sup>6</sup> 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; Press Release No. 26/19, [IACHR Condemns Increasing Attacks on the Press and Ongoing Human Rights Violations in Nicaragua](#), February 6, 2019; Press Release No. 90/19, [IACHR Condemns Continuing Acts of Repression in Nicaragua during Negotiating Table Talks](#), April 5, 2019.

<sup>7</sup> IACHR, Press Release No. 93/21, [Three years after the start of the human rights crisis in Nicaragua, IACHR condemns the ongoing impunity](#), April 19, 2021.

<sup>8</sup> IACHR, Nicaragua: Concentration of Power and Weakening of the Rule of Law, OEA/Ser.L/V/II. Doc 288, October 25, 2021, para. 172.

<sup>9</sup> IACHR, cited above, para. 173.

<sup>10</sup> IACHR, cited above, para. 174.

<sup>11</sup> IACHR, cited above.

<sup>12</sup> IACHR, Press Release 312/2021, [The IACHR stresses its competent jurisdiction concerning Nicaragua and laments Nicaragua's decision to denounce the Charter of the OAS in a Context of Serious Human Rights Violations](#), November 20, 2021.

**A. Information provided by the applicant**

9. The proposed beneficiary, a Colombian citizen and fishing boat manager working in Costa Rica, was reportedly deprived of his liberty in Managua, Nicaragua, during a work trip. According to what was reported by his permanent partner, with whom he was on the phone, the detention occurred on March 9, 2024, at 2:00 p.m., by the Judicial Assistance Directorate of the National Police of Nicaragua. Since then, the family indicates to not have any information about his whereabouts, health and legal status, therefore, they have appealed to authorities in Nicaragua and Colombia.

10. On March 14, 2024, the Colombian Consulate in Nicaragua requested information from the Nicaraguan Ministry of Foreign Affairs regarding the situation of the proposed beneficiary, reinforcing the request on March 19 and 22. On March 20, 2024, the Consulate informed the Ministry that the detainee's partner would attempt to verify his presence at the Tipitapa Penitentiary Center. Furthermore, a relative submitted a request to the State Department of Colombia demanding measures from the Colombian State. According to consulate documents dated April 8 and 15, which confirm that, at least seven official letters were sent to the Nicaraguan authorities, but no response has been received.

11. According to the available documentary support, it is indicated that the Colombian Consulate has requested Nicaragua to confirm the location or possible place of detention in order to grant the appropriate consular assistance. They have even gotten into contact with the Nicaraguan authorities via WhatsApp. The only statement received was that of a civil servant of the Nicaraguan Ministry of Foreign Affairs who stated that she recommended that the Colombian Ambassador to Nicaragua contact the Nicaraguan Vice Minister of Foreign Affairs, which he did, but no response was received by this means.

12. In May 2024, a complaint was lodged with the Office of the Attorney General of Colombia for forced disappearance. The family also reached the Colombian Ombudsperson's Office, which indicated that there was no legal action that could allow effective intervention in the case, unless the detainee was found dead, in which case they could proceed with a lawsuit. In Nicaragua, two writs of *habeas corpus* were lodged on August 12 and October 1, 2024. Both appeals were denied by the Managua Court of Appeals, arguing that the detainee "is under an order of authority", without specifying what this authority would be and on what grounds. It was alleged that the proposed beneficiary does not appear in the Nicaraguan judicial system, and, formally, he is not linked to any criminal proceeding, so it has not been possible to exercise his defense.

13. The family holds that they have repeatedly traveled to Managua, nonetheless, institutions such as penitentiaries, the Judicial Assistance Directorate and the Public Prosecutor's Office claim that the proposed beneficiary is not in their custody, in contradiction with the judicial decision in the *Habeas Corpus* appeals. In September 2024, a lieutenant reportedly told her, extra-officially, that the proposed beneficiary was in the penitentiary La Modelo Annex 300. On October 1, 2024, his partner requested an interview and release from the National Police but didn't receive a response. On October 4, 2024, the partner requested to visit the proposed beneficiary at aforesaid penitentiary, where he might be, but also received no response.

14. The family claims to have exhausted diplomatic instances through the State Department, the Colombian Embassy in Nicaragua and the Consulate in Managua, without receiving a response from the Nicaraguan government and with no record of criminal proceeding against the proposed beneficiary.

**B. Response from the State**

15. The IACHR requested information from the State of Nicaragua on November 4, 2024. To date, no response has been received.

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

16. The precautionary measures mechanism is part of the Commission's function of overseeing compliance with the human rights obligations provided for in Article 41 (b) of the American Convention on Human Rights, which is also reflected in Article 18 (b) of the IACHR Statute. The mechanism of precautionary measures is described in Article 25 of the Commission's Rules of Procedure. In accordance with 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 to persons.

17. The Inter-American Commission and the Inter-American Court of Human Rights ("the Inter-American Court" or "I/A Court H.R.") have repeatedly held that precautionary and provisional measures have a dual nature, both protective and precautionary.<sup>13</sup> Regarding the protective nature, the measures seek to avoid irreparable harm and preserve the exercise of human rights.<sup>14</sup> To do this, the IACHR shall assess the problem raised, the effectiveness of State actions to address the situation, and how vulnerable the proposed beneficiary would be left in case the measures are not adopted.<sup>15</sup> As for their precautionary nature, these measures have the purpose of preserving legal situations while under the study of the IACHR. Their precautionary nature aims at safeguarding the rights at risk until the petition pending before the inter-American system is resolved. Their objective 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 render moot or disprove the useful effect (*effet utile*) of the final decision. In this regard, precautionary or provisional measures enable the State concerned to comply with the final decision and, if necessary, to implement the ordered reparations.<sup>16</sup> In the process of reaching a decision, according to Article 25 (2) of its Rules of Procedure, the Commission considers that:

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

18. In the analysis of those requirements, the Commission reiterates that the facts supporting a request for precautionary measures need not be proven beyond doubt; rather, the information provided should be assessed from a *prima facie* standard<sup>17</sup>. Similarly, the Commission recalls that, by its own

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<sup>13</sup> I/A Court H.R., Case of the Yare I and Yare II Capital Region Penitentiary Center (Yare Prison), Provisional Measures regarding the Bolivarian Republic of Venezuela, Order of March 30, 2006, Whereas 5; Case of Carpio Nicolle et al. v. Guatemala, Provisional Measures, Judgment of July 6, 2009, Whereas 16. (Available only in Spanish)

<sup>14</sup> I/A Court H.R., Case of the Internado Judicial Capital El Rodeo I and El Rodeo II, Provisional Measures with respect to Venezuela, Resolution of February 8, 2008, Whereas 8; Bámaca Velásquez Case, Provisional Measures with respect to Guatemala, Resolution of January 27, 2009, Whereas 45; Fernández Ortega et al. Case, Provisional Measures with respect to Mexico, Resolution of April 30, 2009, Whereas 5; Milagro Sala Case, Provisional Measures with respect to Argentina, Resolution of November 23, 2017, Whereas 5. (Available only in Spanish)

<sup>15</sup> IACHR Court, Matter of Milagro Sala. Provisional Measures with respect to Argentina, Resolution of November 23, 2017, Whereas 5; Matter of the Internado Judicial Capital El Rodeo I and El Rodeo II, Provisional Measures with respect to Venezuela, Resolution of February 8, 2008, Whereas 9; Matter of the Plácido de Sá Carvalho Penal Institute, Provisional Measures with respect to Brazil, Resolution of February 13, 2017, Whereas 6. (Available only in Spanish)

<sup>16</sup> I/A Court H.R., Matter of the Capital El Rodeo I and El Rodeo II Judicial Confinement Center, Provisional Measures regarding Venezuela, Order of February 8, 2008, considerandum 7; Matter of "El Nacional" and "Así es la Noticia" newspapers, Provisional Measures regarding Venezuela, Order of November 25, 2008, considerandum 23; Matter of Luis Uzcátegui, Provisional Measures regarding Venezuela, Order of January 27, 2009, considerandum 19. (Available only in Spanish)

<sup>17</sup> I/A Court H.R., Case of the Residents of the Communities of the Miskitu Indigenous People of the Northern Caribbean Coast

mandate, it is not called upon to determine any individual liabilities for the facts alleged. Moreover, in this proceeding, it is not called upon to determine through this mechanism any violation of the rights enshrined in the American Convention or other applicable instrument.<sup>18</sup> This is better suited to be addressed by the Petition and Case system. The following analysis refers exclusively to the requirements of Article 25 of the Rules of Procedure, which can be resolved without making any determination on the merits.<sup>19</sup>

19. With respect to the *seriousness* requirement, the Commission considers that it has been met, taking into account that, according to the applicant, the family of the proposed beneficiary does not know his whereabouts or fate following his arrest by officers of the Judicial Assistance Directorate of the Nicaraguan National Police on March 9, 2024. Nor do they have formal and official information on the reasons why he was detained. In this regard, the Commission emphasizes that there are no elements to identify whether he was brought before a competent court to verify his status, or whether there was a criminal investigation against him. The lack of information and response from Nicaragua has continued, despite the actions taken by the family, their lawyers in the country, and the diplomatic and consular authorities of Colombia. The Commission also understands that it is materially impossible for the relatives to obtain official information to date, despite the various steps taken between March and October 2024.

20. After requesting an update from the State in accordance with Article 25 of the Rules of Procedure, no response was received. The Commission regrets the lack of communication from Nicaragua. Although this is not enough per se to justify the granting of a precautionary measure, it does prevent the Commission from obtaining information that allows it to contrast the allegations presented by the applicants. Similarly, the Commission is unable to learn about the actions that authorities may be taking to mitigate or address the situation that places the proposed beneficiary at risk. This is especially relevant given that the proposed beneficiary would be in the custody of the State and the facts reported are attributable to State agents, who have a special position of guarantor, thus placing him in an even more vulnerable situation.

21. In addition to the foregoing, the Commission understands that there is no official information on the legal situation of the proposed beneficiary that would make it possible to know, for example: the existence of an investigation file against him; the procedural status of the investigation; the reasons for the arrest; the existence of an arrest warrant; whether the judicial case was subject to judicial review; the place of detention; the conditions of detention in which he is being held; the possibilities of contacting trusted legal representation; among others. Since it has not been possible to establish any type of communication with the proposed beneficiary, his risk situation is aggravated by the impossibility of knowing the place where he is being held and verifying his current condition. This prevents his family from activating the appropriate mechanisms to properly protect his rights. In this regard, the Commission recalls that the Inter-American Court has indicated, in the *Case of Juan Sebastián Chamorro et al. v. Nicaragua*, that “this situation of incommunicado detention not only prevents the current situation of the proposed beneficiaries, their conditions of detention and their health status from being ascertained, but

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Region regarding Nicaragua, Extension of Provisional Measures, Resolution of August 23, 2018, Whereas 13; Case of the children and adolescents deprived of liberty in the “Complexo do Tatuapé” of the Fundação CASA, Provisional Measures regarding Brazil, Resolution of July 4, 2006, Whereas 23. (Available only in Spanish)

<sup>18</sup> IACHR, Resolution 2/2015, Precautionary Measures No. 455-13, Case Nestora Salgado regarding Mexico, January 28, 2015, para. 14; Resolution 37/2021, Precautionary Measures No. 96/21, Gustavo Adolfo Mendoza Beteta and family regarding Nicaragua, April 30, 2021, para. 33. (Available only in Spanish)

<sup>19</sup> In this regard, the IACHR 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., Case of James et al. v. Trinidad and Tobago, Provisional Measures, Order of August 29, 1998, Whereas 6; Case of the Barrios Family v. Venezuela, Provisional Measures, Order of April 22, 2021, Whereas 2. (Available only in Spanish)



also entails a curtailment of the procedural guarantees of all persons detained<sup>20</sup> “.

22. The Commission also notes that there are no domestic remedies available to seek protection for the proposed beneficiary. For example, his family has filed two writs of *habeas corpus*, both denied by the Court of Appeals of Managua, arguing that the detainee “is under an order of authority,” without specifying which authority or the place where he is being held. Therefore, the Commission considers that the proposed beneficiary is in a situation of total defenselessness due to the lack of response from the Nicaraguan State and the impossibility of the family to know where the proposed beneficiary is after his detention.

23. In these circumstances, the Commission concludes, based on the applicable *prima facie* standard, that it is sufficiently proven that the rights to life and personal integrity of the proposed beneficiary are at serious risk to the extent that, to date, there is no official information about his fate or whereabouts following his detention by state officers in March 2024.

24. The Commission considers that the *urgency* requirement has been met. If the situation described above continues, the proposed beneficiary is exposed to imminent harm to his human rights. Indeed, given that his legal situation and conditions of detention are not known, nor whether he is receiving the corresponding health care, the Commission notes that the possibility of the risk materializing increases imminently with the passage of time. Likewise, the Commission has no information from the State that would allow it to assess the actions taken to address or mitigate the situation of risk, and it is therefore necessary to adopt measures promptly to safeguard the rights to life and personal integrity of the proposed beneficiary.

25. With respect to the requirement of *irreparable harm*, the Commission considers that it has also been met, insofar as the potential impact on the rights to life and personal integrity constitutes the maximum situation of irreparability.

## **V. BENEFICIARY**

26. The Commission declares as beneficiary Jhon Fernando Paladines Rubio, who is duly identified in this proceeding.

## **VI. DECISION**

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

- a) adopt the necessary measures to determine the situation and whereabouts of the beneficiary, in order to protect his rights to life and personal integrity;
- b) inform whether the beneficiary is in the custody of the State, the circumstances and conditions of his detention. In particular, report on the place of his detention and the criminal case file opened against him, allowing access to his legal representatives and family members, as well as the corresponding consular assistance, and ensure that he is brought before competent judicial authorities for the review and monitoring of his situation;
- c) consult and agree upon the measures to be implemented with the beneficiary, his family

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<sup>20</sup> I/A Court H.R., Matter of Juan Sebastián Chamorro et al. v. Nicaragua, Provisional Measures, Order of June 24, 2021, para. 36.

members, 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 such events from reoccurring.

28. The Commission also requests the State of Nicaragua to provide detailed information, within 15 days from the date of notification of this resolution, on the adoption of the requested precautionary measures and to update this information on a regular basis.

29. 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.

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

31. Approved on November 26, 2024, by Roberta Clarke, President; José Luis Caballero Ochoa, Second Vice-President; Arif Bulkan; Andrea Pochak; and Gloria Monique de Mees, members of the IACHR.

María Claudia Pulido  
Assistant Executive Secretary