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**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION 27/2022**

Precautionary Measures No. 266-22

**José Alejandro Quintanilla Hernández and his nuclear family regarding Nicaragua**

June 22, 2022

Original: Spanish

## **I. INTRODUCTION**

1. On April 12, 2022, the Inter-American Commission on Human Rights (“the Inter-American Commission”, “the Commission” or “the IACHR”) received a request for precautionary measures filed by the *Nicaragua Nunca Más* Human Rights Collective (“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 José Alejandro Quintanilla Hernández, as well as his family. According to the request, the proposed beneficiary, who is identified or perceived as a political opponent of the current Nicaraguan government, is at risk because he has been deprived of his liberty since August 23, 2021, without receiving medical attention.

2. In accordance with Article 25(5) of its Rules of Procedure, the IACHR requested information from the State and the applicants on April 22, 2022. The applicants sent the requested information on April 29, 2022. The State has not sent any information to date.

3. Upon analyzing the submissions of fact and law provided 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, humane treatment, and health are at risk of irreparable harm. Therefore, the Commission requests that Nicaragua: a) adopt the necessary measures to protect the rights to life, personal integrity, and health of José Alejandro Quintanilla Hernández and his family; b) ensure that the conditions of his detention are compatible with the applicable international standards on the matter, which include, but are not limited to: i. guaranteeing regular contact with his family and lawyers; ii. taking into account the risk to his life, personal integrity, and health, an impartial and specialized medical assessment of his current health situation should be carried out immediately; iii. the proposed beneficiary should be given the treatments and medications prescribed by the competent health personnel; c) consult and agree upon the measures to be adopted with the proposed beneficiaries and their representatives; 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. 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 country.<sup>1</sup> 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

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

until the State suspended its stay on 19 December 2018.<sup>2</sup> 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 IACHR.<sup>3</sup> In its 2018 Annual Report, the IACHR included Nicaragua in Chapter IV.B, in accordance with the grounds established in its Rules of Procedure.<sup>4</sup>

5. Throughout 2019, the Commission continued to condemn the ongoing acts of persecution, urging the State to comply with its human rights obligations.<sup>5</sup> In June, the State passed a Law on Comprehensive Attention to Victims and an Amnesty Law, both of which drew criticism for failing to comply with international standards on truth, justice, reparation, and guarantees of non-repetition.<sup>6</sup> 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 harassed.<sup>7</sup> In the same vein, in November, the Commission once again drew attention to the continuity of repression, noting that “[...] in addition to the closure of democratic spaces that characterizes the human rights crisis that persists in Nicaragua, there has been a growing focus of state persecution to the families of persons deprived of liberty in the context of the crisis, through surveillance and obstruction of their peaceful actions.”<sup>8</sup>

6. Subsequently, the Commission again included Nicaragua in Chapter IV.B of its 2019 Annual Report,<sup>9</sup> in which it noted that the serious human rights crisis in the country continued throughout 2019, due to the *de facto* installation of a state of emergency characterized by the abusive use of public force to repress dissenting voices against 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 due process guarantees, and 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 committed.<sup>10</sup>

7. Throughout 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 Government.<sup>11</sup> Thus, in May 2020, the Commission condemned the non-compliance with its recommendations and urgently called on the State to implement

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

<sup>3</sup> Interdisciplinary Group of Independent Experts (GIEI) of Nicaragua. [Report on the violent acts that took place between April 18th and May 30th, 2018](#), December 21, 2018.

<sup>4</sup> IACHR. [Annual Report 2018. Chapter IV.B Nicaragua](#).

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

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

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

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

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

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

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

them.<sup>12</sup> 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 Nicaragua.<sup>13</sup> Subsequently, the Commission again included Nicaragua in Chapter IV.B of its 2020 Annual Report.<sup>14</sup>

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 press,<sup>15</sup> as well as the widespread impunity and the prolonged breakdown of the rule of law that persists in Nicaragua.<sup>16</sup> In 2021, the Special Rapporteurship for Freedom of Expression (SRFoE) of the IACHR and the Office of the United Nations High Commissioner for Human Rights (OHCHR) emphasized that the international community has been registering, since April 2018, a climate of hostility towards the exercise of freedom of expression in the country, marked by the criminalization of protest, arbitrary arrests, the confiscation and closure of independent media outlets, and the persecution and harassment of independent journalists, human rights defenders and opponents, and their exile.<sup>17</sup>

9. On June 9, 2021, the IACHR and the OHCHR condemned the criminal prosecution of Nicaraguan opposition leaders and urged the State to release all persons detained in the context of the crisis.<sup>18</sup> Similarly, 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 the repression against persons opposed to the Government.<sup>19</sup> On September 10, 2021, the Commission and the OHCHR condemn the criminalization of persons identified as political opponents in Nicaragua.<sup>20</sup>

10. On October 25, 2021, the IACHR published the report “Concentration of Power and Weakening of the Rule of Law in Nicaragua.” In this regard, the Commission has identified acts of harassment, threats, searches, arbitrary detentions, and ill-treatment against any person considered to be an opponent of the current government, perpetrated by police and parapolice groups.<sup>21</sup> Subsequently, on November 4, 2021, the IACHR and the OHCHR expressed concern about the intensification of repression against opponents in Nicaragua in the context of the electoral process in the country, noting the attacks against journalists.<sup>22</sup>

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

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

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

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

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

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

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

<sup>19</sup> IACHR. [Press Release No. 238/21](#). 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.

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

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

<sup>22</sup> IACHR. [Press Release 292/21](#). Four Days Ahead of Nicaraguan Election, IACHR and OHCHR Denounce Lack of Guarantees for Rights and Liberties in the Country. November 4, 2021.

Then, on November 10, 2021, the IACHR condemned the human rights violations that occurred in the context of the elections in the country, as a result of acts of police siege, harassment, searches, threats, and arbitrary detentions against opposition leaders, human rights activists, members of civil society organizations, and journalists, and urged the State to release all persons arbitrarily detained in the context of the elections and since the beginning of the crisis, as well as to cease attacks against political opponents.<sup>23</sup>

11. On November 20, 2021, the IACHR issued a statement regretting the decision of the State of Nicaragua to denounce the Charter of the Organization of American States on November 19, 2021, in a context of serious crisis in recent years in the country. On that occasion, the Commission reaffirmed its competence over Nicaragua and affirmed that it will continue to exercise its monitoring mandates through MESENI, and the analysis and processing of cases, petitions, and precautionary measures.<sup>24</sup> On December 20, 2021, the Commission called for international solidarity for States to adopt measures for the protection of persons forced to flee the country. In this regard, the main groups of people who have fled Nicaragua are human rights defenders, journalists, leaders of social movements, relatives of persons deprived of their liberty, and persons identified as political opponents.<sup>25</sup>

12. In January 2022, the IACHR urged the State of Nicaragua to release the persons who were being arbitrarily detained and are being held in unhealthy conditions of detention, suffering ill-treatment, with 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 people, identified as opponents of the government, are beneficiaries of protection measures by the bodies of the inter-American system.<sup>26</sup> In February 2022, the IACHR condemned the manipulation of criminal law and criminalization of persons identified as opponents, due to the lack of judicial independence and separation of powers, seriously affecting judicial guarantees for political prisoners in Nicaragua.<sup>27</sup>

13. On February 10, 2022, the Special Rapporteurship on Economic, Social, Cultural and Environmental Rights (SRESCER) of the IACHR condemned the cancellation of the legal status of 16 universities and civil society organizations by the National Assembly of Nicaragua, considering that it is part of the pattern of infringement of freedoms.<sup>28</sup> It expressed its concern about the impact on the right to education, academic freedom, and university autonomy, on the labor rights of the people who work in the affected entities, and on the social rights that they contribute to protect through their respective missions.

14. On March 7, 2022, the High Commissioner on the situation of human rights in Nicaragua presented a report to the United Nations Human Rights Council. She expressed her concern that the State continues to fail to ensure accountability for human rights violations committed. At the same time, it documented arbitrary detentions and harassment by state agents against human rights defenders,

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

<sup>24</sup> IACHR. [Press Release 312/2021](#). The IACHR Stresses Its Competent Jurisdiction Concerning Nicaragua and laments Nicaragua's Decision to Denounce the Charter of the OAS in a Context of Serious Human Rights Violations. November 20, 2021.

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

<sup>26</sup> IACHR. [Press Release 023/022](#). IACHR Urges State of Nicaragua to Release All People Held in Arbitrary Detention. January 31, 2022.

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

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

journalists, and lawyers.<sup>29</sup> At the 49th session of the Human Rights Council on March 31, 2022, a resolution was passed, establishing a group of experts in Nicaragua to conduct an independent investigation into human rights violations in the country since April 2018.<sup>30</sup> According to data from the United Nations Refugee Agency (UNHCR), more than 150,000 Nicaraguans have requested protection in Costa Rica.<sup>31</sup>

15. On March 23, 2022, the IACHR affirmed that the statement of Ambassador Arturo McFields, then Permanent Representative of Nicaragua to the OAS, confirmed the serious human rights violations, the institutional deterioration, and the strategy of the Executive to silence dissident and opposition voices, according to the IACHR.<sup>32</sup> Since April 2018, serious human rights violations remain in complete impunity, resulting in 355 people dead, more than 2 thousand people injured, and 171 people arbitrarily deprived of liberty in conditions contrary to dignity and personal integrity.<sup>33</sup>

16. In April 2022, commemorating four years since the beginning of the social protests of 2018, the Inter-American Commission reaffirmed its commitment to the Nicaraguan population in the search for justice, reparation, the reconstruction of democracy and national reconciliation based on the right to memory and truth.<sup>34</sup> Recently, on May 13, 2022, the IACHR urged the State to guarantee regular and dignified direct contact between political prisoners and their families. According to the information received by MESENI, deplorable conditions of detention, mistreatment, isolation, incommunicado detention and lack of access to timely, adequate, and specialized medical care persist for the detainees in “El Chipote.”<sup>35</sup>

### **III. SUMMARY OF FACTS AND ARGUMENTS PRESENTED BY THE PARTIES**

#### **A. Information provided by the applicant**

17. According to the request, the proposed beneficiary is currently deprived of his liberty at the Directorate for Judicial Aid (*Dirección de Auxilio Judicial*), known as “El Chipote.” He is reportedly a member of the National Blue and White Organization (UNAB) and a political opponent of the government of Nicaragua. The proposed beneficiary participated in the coordination of peaceful protests in April 2018. On July 15, 2018, as a result of the so-called “operation clean-up,”<sup>36</sup> he was reportedly forced to leave his home and took refuge in safe houses.

18. On September 23, 2018, he was deprived of liberty for 6 months at the Tipitapa Penitentiary Center. Subsequently, in March 2019, it was indicated that he was released due to a change of prison regime. It was indicated that, after his release, the proposed beneficiary would have left for exile to Costa Rica,

<sup>29</sup> OHCHR. [Speech by the High Commissioner on the situation of human rights in Nicaragua before the 49th session of the Human Rights Council](#). March 7, 2022. (Available only in Spanish)

<sup>30</sup> United Nations Human Rights Council. [Human Rights Council concludes forty-ninth regular session after adopting 35 resolutions](#). April 1, 2022.

<sup>31</sup> UNHCR. [The Number of Displaced Nicaraguans in Costa Rica doubles in less than a year](#). March 25, 2020.

<sup>32</sup> 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.

<sup>33</sup> IACHR. [Press Release 081/2022](#). Four Years into Nicaragua's Human Rights Crisis, the IACHR Stresses Its Commitment To the Country. April 18, 2022.

<sup>34</sup> IACHR. [Press Release 081/2022](#). Four Years into Nicaragua's Human Rights Crisis, the IACHR Stresses Its Commitment To the Country. April 18, 2022.

<sup>35</sup> IACHR. [Press Release 103/2022](#). IACHR urges Nicaragua to guarantee that political prisoners have regular and dignified direct contact with their families. May 13, 2022. (Available only in Spanish)

<sup>36</sup> BBC. [The “clean-up operation” that saw Nicaragua experience its bloodiest day since protests against Daniel Ortega began](#). July 10, 2018. (Available only in Spanish)

where he remained for 4 months, returning to Nicaragua for economic reasons. Thus, it is expressed that he rejoined the coordination of the peaceful resistance and was elected as a member of the Political Council of the UNAB in January 2021. As a member of UNAB, he publicly denounced human rights violations, especially with regard to the relatives of the so-called “political prisoners.”

19. On August 23, 2021, the proposed beneficiary was arrested and taken to “El Chipote.” A family member reported that the proposed beneficiary allegedly called him at around 6:00 p.m. However, when the relative returned his call 10 minutes later, he did not answer, and no one had any information about him. The authorities reportedly refused to provide information about the detention of the proposed beneficiary to his relatives for 10 days.<sup>37</sup> Because of the foregoing, a request for *habeas corpus* was filed. The applicant claims that the reply received to the request indicated that the proposed beneficiary had already been brought before a judge. It is alleged that the next of kin would not have had information about the proposed beneficiary until March 1, 2022, the date of his trial. On March 9, 2022, the proposed beneficiary was sentenced to a ten-year imprisonment for the offence of conspiracy to commit undermining national integrity. The request alleges irregularities in the judicial proceedings against him, including lack of contact with his lawyer and lack of evidence against him.

20. With regard to the state of health of the proposed beneficiary, the applicant alleges that his health has deteriorated due to previous ailments, such as high blood pressure and a chronic condition diagnosed as vitiligo. Moreover, he has allegedly developed illnesses as a result of the conditions of incarceration. In this regard, the proposed beneficiary, during his deprivation of liberty, has suffered significant weight loss as a result of the food restrictions, the constant interrogations, and the lack of access to medication or adequate medical care. Additionally, the next of kin of the proposed beneficiary reported that there were signs on his body of alleged torture and that he reported stomach problems such as constipation, heartburn, and abdominal distention, which are said to be part of a clinical picture of gastritis, which have been reportedly exacerbated during his detention.

21. On March 1, 2022, the proposed beneficiary’s family members reported that the proposed beneficiary had “a terrible picture” similar to COVID-19. On March 29, 2022, there was a worsening of his physical and psychological health condition. The proposed beneficiary allegedly has problems with insomnia and constipation. According to the request, he did not go to the toilet for 8 days, did not want to eat, and did not receive medical attention. In this regard, the lawyer requested his transfer to the prison system, where his detention situation would be more appropriate. However, to date, he has not received any response from the authorities.

22. The applicant states that the visits by family members to the proposed beneficiary are scheduled with no certain frequency, for periods of no more than one hour, and under police surveillance. In this regard, a brother of the proposed beneficiary stated that he had not had the opportunity to visit him in recent weeks and that the last time he would have seen him would have been March 1, 2022. In April 2022, 8 months into the proposed beneficiary’s detention, his brother allegedly only saw him 5 times. Since that date, he had no information about the proposed beneficiary, despite going every day to leave water and drinks with the hope that it would be delivered. It is alleged that the lack of information about his conditions of detention causes great fear among his relatives.

23. According to the petition, their relatives have also been subjected to harassment by authorities of the penitentiary system. Thus, when visits are allowed, family members must board a minibus belonging to the police institution where they would be constantly photographed and filmed. The officers would force

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<sup>37</sup> Confidential. Opposition leader Alex Hernandez appears in “El Chipote” ten days after his kidnapping. September 2, 2021. (Available only in Spanish)

them to remove their masks and smile constantly, in addition to prohibiting the entry of reading materials, letters, photographs or food.

24. Finally, the applicant reported that it is known that the proposed beneficiary is detained in “El Chipote,” in a “huge shed, in a fairly small cell [...] and with the right to sunbathe for an hour once a week. It was reported that the so-called “political prisoners” are not allowed sheets or blankets and are only allowed a towel. A relative reportedly indicated that the only contact he has with the proposed beneficiary is the towel because he would bring it to him, as he would hand it over clean and it would be returned to him dirty. The applicants also alleged that the proposed beneficiary was allegedly subjected to constant interrogation during his detention, despite the fact that he had already been convicted.

## **B. State’s response**

25. Despite the IACHR request for information on April 22, 2022, the State has not submitted any information to date.

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

26. 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.

27. 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 precautionary.<sup>38</sup> Regarding the tutelary character, the measures seek to avoid irreparable harm and preserve the exercise of human rights.<sup>39</sup> 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 adopted.<sup>40</sup> 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 the rights that may be at risk until the petition before

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<sup>38</sup> See in this regard: I/A Court H.R., Inter-American Court of Human Rights. [Matter of the Yare I and Yare II Capital Region Penitentiary Center \(Yare Prison\)](#). Request for Provisional Measures presented 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. [Case of Carpio Nicolle et al. v. Guatemala](#). Provisional Measures. Judgment of July 6, 2009, para. 16. (Available only in Spanish).

<sup>39</sup> See in this regard: I/A Court H.R., Inter-American Court of Human Rights. [Matter of Capital El Rodeo I and El Rodeo II](#). Provisional Measures regarding Venezuela. Judgment of the Court of February 8, 2008, Considerandum 8; I/A Court H.R., Case of Bámaca Velásquez. [Case of Bámaca Velásquez](#). Provisional Measures regarding Guatemala. Judgment of the Court of January 27, 2009, Considerandum 45; I/A Court H.R., Case of Fernández Ortega et al. [Case of Fernández Ortega et al.](#) Provisional Measures regarding Mexico. Judgment of the Court of April 30, 2009, Considerandum 5; I/A Court H.R., Case of Milagro Sala. [Case of Milagro Sala](#). Request for Provisional Measures regarding Argentina. Resolution of the Inter-American Court of Human Rights of November 23, 2017, Considerandum 5. (Available only in Spanish)

<sup>40</sup> See in this regard: I/A Court H.R., Case of Milagro Sala. [Case of Milagro Sala](#). Request for Provisional Measures regarding Argentina. Resolution of the Inter-American Court of Human Rights of November 23, 2017, Considerandum 5 (Available only in Spanish); I/A Court H.R., Matter of Capital El Rodeo I and El Rodeo II Capital. [Matter of Capital El Rodeo I and El Rodeo II](#). Provisional Measures regarding Venezuela. Judgment of the Court of February 8, 2008, para. 9; I/A Court H.R., Case of the Plácido de Sá Carvalho Penal Institute regarding 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, Considerandum 6. (Only Available in Spanish).

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 ordered<sup>41</sup>. For the purposes of making a decision, and in accordance with Article 25(2) of its Rules of Procedure, the Commission considers that:

- a. “serious situation” implies the serious impact that an act or omission may have on a protected right or on the eventual effect of a decision pending in a case or petition before the organs of the inter-American system;
- b. “urgent 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
- c. “irreparable harm” consists of the affectation of rights that, by their very nature, are not susceptible of reparation, restoration or adequate compensation.

28. 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 based on a *prima facie* standard.<sup>42</sup> The Commission also recalls that, by its own mandate, it is not for the Commission to determine individual criminal liabilities for the facts denounced. Similarly, in the instant proceeding, it is not for the Commission to rule on violations of rights enshrined in the American Convention or other applicable instruments,<sup>43</sup> which would properly belong to the petition and case system. The analysis that follows refers exclusively to the requirements of Article 25 of the Rules of Procedure, which can be carried out without the need to make any determinations on the merits.<sup>44</sup>

29. Under the terms of Article 25(6) of its Rules of Procedure, the Commission observes that the alleged situation of the proposed beneficiary is framed in the context of Nicaragua,<sup>45</sup> which is particularly

<sup>41</sup> See in this regard: I/A Court H.R., Inter-American Court of Human Rights. [Matter of Capital El Rodeo I and El Rodeo II](#). Provisional Measures regarding Venezuela. Judgment of the Court of February 8, 2008, Considerandum 7; I/A Court H.R., Case of “El Nacional” and “Así es Noticia” Newspapers. [Matter of “El Nacional” and “Así es la Noticia” Newspapers](#). Provisional Measures regarding Venezuela. Order of the Court of November 25, 2008, Considerandum 23 (Available only in Spanish); I/A Court H.R., Case of Luis Uzcátegui. [Matter of Luis Uzcátegui](#). Provisional Measures regarding Venezuela. Order of the Court of January 27, 2009, para. 19.

<sup>42</sup> See in this regard: I/A Court H.R., Inter-American Court of Human Rights. [Matter of the Inhabitants of the Communities of the Miskitu Indigenous People of the Northern Caribbean Coast Region regarding Nicaragua](#). Extension of Provisional Measures. Resolution of the Inter-American Court of Human Rights of August 23, 2018, Considerandum 13 (Available only in Spanish); I/A Court H.R.. [Matter of Children and Adolescents Deprived of Liberty in The Complejo Do Tatuapé” of Febem](#). Request for extension of provisional measures. Provisional Measures regarding Brazil. Judgment of the Inter-American Court of Human Rights of July 4, 2006, Considerandum 23.

<sup>43</sup> IACHR. [Resolution 2/2015](#). Precautionary Measures No. 455-13. [Case of Nestora Salgado regarding Mexico](#). January 28, 2015, para. 14 (Available only in Spanish); IACHR. [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>44</sup> 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., [James et al. Case](#). Provisional Measures. Judgment of the Inter-American Court of Human Rights of August 29, 1998, Considerandum 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, Considerandum 2.

<sup>45</sup> 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.



hostile toward persons considered, perceived, or identified as opponents of the government,<sup>46</sup> which has also intensified over time in the context of the presidential elections of November 2021. Similarly, insofar as he is a person deprived of his or her liberty, the Commission recalls that the State is in a special position of guarantor that implies the duty to respect his life, health, and personal integrity, as well as other human rights, insofar as the prison authorities exercise a strong control or command over the persons who are subject to their custody.<sup>47</sup> This is the result of the special relationship and interaction of subjection 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, where the inmate is prevented from satisfying on his own a series of basic needs essential for the development of a dignified life.<sup>48</sup> More specifically, and in light of the facts described by the applicants, 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 detention 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 ensured.<sup>49</sup>

30. Taking into account the aforementioned particular context of Nicaragua and the situation of deprivation of liberty in which the proposed beneficiary finds himself, the Commission will proceed to analyze the procedural requirements with respect to José Alejandro Quintanilla Hernández.

31. With respect to the requirement of *seriousness*, the Commission considers that it has been met. In making this assessment, the Commission notes that the proposed beneficiary is identified as a political opponent of the current government of Nicaragua, mainly because of his actions as a member of the UNAB (see *supra* para. 18). Because of the role he allegedly plays, the Commission notes that the applicants reported, by way of background, that the proposed beneficiary had to leave the country for a certain period of time.

32. Currently, the Commission observes that the proposed beneficiary has been deprived of his liberty since August 23, 2021, at the Judicial Assistance Directorate, known as “El Chipote.” After his detention, the State authorities reportedly refused to provide information on the situation of the proposed beneficiary to his next of kin for the initial 10 days (see *supra* para. 19). Similarly, the next of kin only had official information about the proposed beneficiary on March 1, 2022, the date of his trial, 7 months after his detention (see *supra* para. 19). The Commission also identifies that currently the next of kin continue to have difficulties in finding out about his detention and health conditions, due to the lack of information from the prison authorities and the lack of regular visits. In this regard, in April 2022, the brother of the proposed beneficiary reported that he had not seen him since March 1, 2022, and that, in 8 months of detention, he had only seen him on 5 occasions (see *supra* para. 22). When it was possible to have family visits, these lasted no more than an hour and occurred under police surveillance. In this vein, the

<sup>46</sup> See in this regard: IACHR. [Annual Report 2020](#). Chapter IV.B Nicaragua, paras. 54-77; IACHR. [Press Release No. 152/21](#). IACHR Condemns the Serious Escalation of Repression in Nicaragua. June 18, 2021; IACHR. [Press Release No. 2/21](#). IACHR Condemns Growing Harassment in Nicaragua. January 6, 2021.

<sup>47</sup> 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](#). OEA/Ser.L/V/II. Doc. 64. December 31, 2011. Para. 49.

<sup>48</sup> 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.  
<sup>49</sup> 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 May 21, 2019. Considerandum 23. (Available only in Spanish)

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Commission recalls that it recently expressed its concern about information received regarding the incommunicado detention of the so-called “political prisoners” in “El Chipote” with their next of kin.<sup>50</sup>

33. The Commission also notes that the proposed beneficiary has a criminal sentence as of March 2022 (see *supra* para. 19). In this regard, it was alleged that, due to the incommunicado detention to which he is reportedly subjected, he has not been able to communicate with his defense attorney in the proceedings. Furthermore, it does not go unnoticed by the Commission that the proposed beneficiary has not been transferred to a penitentiary center to date, nor is there any knowledge of the place where he would actually have to serve his sentence. The information available indicates that he continues to be held in a Judicial Assistance Directorate, where he has been detained since August 23, 2021, in a rather small cell, allegedly subjected to mistreatment, and under constant interrogation despite having already been convicted.

34. In analyzing the instant matter, the IACHR highlights the allegations regarding his health condition. In addition to having previous ailments, such as arterial hypertension and a chronic pathology diagnosed as vitiligo, the proposed beneficiary has developed diseases such as constipation, heartburn, and abdominal distention, related to the worsening of his gastritis, allegedly as a result of the conditions of detention (see *supra* para. 20). Despite such medical conditions, it has been alleged that the proposed beneficiary has not had access to medication or adequate medical care (see *supra* para. 20). Nor did the applicants obtain a response to the request submitted by their counsel regarding his transfer to a penitentiary (see *supra* para. 21), which is relevant inasmuch as the proposed beneficiary has been sentenced since March 2022.

35. Upon requesting information from the State in accordance with the terms of Article 25 of the Rules of Procedure, the Commission regrets the lack of response to the request for information made in the instant matter on April 22, 2022. While the foregoing is not sufficient *per se* to justify the granting of a precautionary measure, the State’s failure to respond makes it impossible to know what measures are being implemented to address the risk faced by the proposed beneficiary and to disprove the facts alleged by the applicants. Therefore, the Commission does not have sufficient information to assess whether the alleged risk has been mitigated. The foregoing is especially relevant considering that the proposed beneficiary is said to be deprived of liberty, in the custody of the State, and without receiving necessary and timely medical attention for his health condition.

36. Given the foregoing, the Commission considers, from a *prima facie* standard and in the current context of Nicaragua, that the rights to life, humane treatment, and health of José Alejandro Quintanilla Hernández are at serious risk. Similarly, given that the next of kin of the proposed beneficiary have sought to obtain information about his situation and to promote domestic actions on his behalf, the Commission considers that the members of his family are exposed to possible reprisals because of the family relationship they have with Mr. Quintanilla. In making this assessment, the Commission also notes that there have been allegations of harassment while the family members were visiting the proposed beneficiary at “El Chipote.”

37. With regard to the requirement of *urgency*, the Commission considers that it has been met, since, if the situation described above continues, the proposed beneficiary is likely to be exposed to further imminent harm to his rights. The Commission also notes that the lack of regular knowledge of the proposed beneficiary’s situation prevents his next of kin and representatives from being able to intervene

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<sup>50</sup> IACHR. [Press Release 103/2022](#). IACHR urges Nicaragua to guarantee that political prisoners have regular and dignified direct contact with their families. May 13, 2022. (Available only in Spanish)

in a timely manner and ensure that his detention and health conditions are adequate, thus requiring the adoption of immediate measures. The Commission takes into account that the proposed beneficiary has been deprived of liberty since August 23, 2021, which means that 10 months have already passed since the detention, and despite suffering from a series of illnesses, including those that developed as a result of his conditions of detention, he has not received adequate medical attention to date. Moreover, the Commission has no sufficient information from the State to assess the actions that are being taken to address the situation placing the proposed beneficiary at risk.

38. As for the requirement of *irreparable harm*, the Commission holds that it has been met, inasmuch as the potential harm to the rights to life, personal integrity, and health constitutes, by their very nature, the maximum situation of irreparability.

## **V. BENEFICIARY**

39. The Commission declares Mr. José Alejandro Quintanilla Hernández, who is duly identified in these proceedings, to be a beneficiary. In addition, the members of Mr. Quintanilla's nuclear family, who are determinable under the terms of Article 25(3) of the Rules of Procedure, are declared beneficiaries.

## **VI. DECISION**

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

- a) adopt the necessary measures to protect the rights to life, personal integrity, and health of José Alejandro Quintanilla Hernández and his family;
- b) ensure that the conditions of his detention are compatible with the applicable international standards on the matter, which include, but are not limited to: i. guaranteeing regular contact with his family and lawyers; ii. taking into account the risk to his life, personal integrity, and health, an impartial and specialized medical assessment of his current health situation should be carried out immediately; iii. the proposed beneficiary should be given the treatments and medications prescribed by the competent health personnel;
- c) consult and agree upon the measures to be adopted with the proposed beneficiaries and their representatives;
- 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.

41. The Commission requests that the State of Nicaragua 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 regularly.

42. 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.

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

44. Approved on June 22, 2022, by Julissa Mantilla Falcón, President; Edgar Stuardo Ralón Orellana, First Vice-President; Esmeralda Arosemena de Troitiño; Joel Hernández García; Roberta Clarke; and Carlos Bernal Pulido, members of the IACHR.

María Claudia Pulido  
Assistant Executive Secretary