

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 10/2020**

Precautionary Measure No. 1606-18

María Waleska Almeyda Cruz *et al.* regarding Nicaragua

February 5, 2020

(Extension)

Original: Spanish

I. INTRODUCTION

1. During the business visit carried out by the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission,” “the Commission,” or “the IACHR”) from May 17 to 21, 2018, several precautionary measures were requested, urging that the IACHR request the State of Nicaragua (herein “the State”) to protect the life and personal integrity of the persons who are reportedly at risk due to the violent events of April 18, 2018. The Commission has continued monitoring the situation and the requests for precautionary measures that were received during and after the visit. The applicants requested the extension of the current precautionary measures in favor of some of the personnel of the media “Confidencial”, directed by Carlos Fernando Chamorro, who are currently at alleged risk in Nicaragua¹.

2. On September 27 and October 7, 2019, the IACHR requested information from the State in order to provide its observations to the request of the extension. To this date, no communication has been received from the State.

3. Having analyzed the information available, in light of the applicable context and the verifications made, the Commission considers that the information shows *prima facie* that the rights to life and personal integrity of the identified persons are currently in a serious and urgent situation. Consequently, in accordance with Article 25 of its Rules of Procedure, the Commission requests that the State of Nicaragua: a) adopt the measures necessary to guarantee the life and personal integrity of the proposed beneficiaries identified in this resolution. To this effect, the State must both ensure that its actors respect the beneficiaries’ lives and personal integrity in accordance with the standards established by international human rights law, and protect their rights in relation to acts of risk attributable to third parties; b) adopt all necessary measures to ensure that the beneficiaries can carry out their tasks as journalists without being subjected to acts of harassment, threats, or other violent acts when performing their duties. The foregoing includes the adoption of measures to protect the right to freedom of expression of the members of the identified media outlet; c) consult and agree upon the measures to be adopted with the beneficiaries and their representatives; and d) report on the measures adopted in order to investigate the alleged facts that led to the adoption of this precautionary measure, so as to prevent such events from reoccurring.

II. CONTEXTUAL INFORMATION

4. The Commission visited Nicaragua in May 2018 and compiled several testimonies on the violation of human rights which have allegedly started since a series of protest began in April. The Commission then published a Report included recommendations. To verify that these recommendations were being complied with, the Special Monitoring Mechanism for Nicaragua (*MESENI*, by its Spanish acronym) was established in the country until the State temporarily suspended its stay on December 19th, 2018. In addition, the Interdisciplinary Group of Independent Experts (GIEI, by its initials in Spanish) issued a

¹ The request was filed on September 23, 2019

report which analyzed the events that took place between April 18 and May 30, 2018, which confirmed the findings of the IACHR². REVISAR

5. On the occasion of the presentation before the Permanent Council of the Organization of American States, the Commission shared the data collected by MESENI according to which, from April 2018 to January 10, 2019 there were: 325 deceased and more than 2000 injured; 550 arrested and indicted; 300 health care professionals were dismissed and, at least, 144 students from the National Autonomous University of Nicaragua were expelled³. For the annual report of 2018, the IACHR included Nicaragua in Chapter IV-B of its annual report in accordance with the provisions established in its Rules of Procedure.

6. During 2019, the Commission continued to condemn the continuance of the acts of persecution and urged the State to comply with its obligations. On April 25, the Commission shared the assessment and the results gathered by MESENI, which continued to monitor the country from Washington, D.C. In June, the State passed a Comprehensive Care for Victims Law and an Amnesty Law which gave rise to much criticism as these did not comply with the international standards of truth, justice, reparation and guarantees of non-reccurrence⁴. During these last few months, the Commission continued to register serious incidents, for instance, in August, when the Commission expressed its concern when the State announced it would not continue with the “Negotiating Table for Understanding and Peace” initiated on February 27, 2019 between the Government and the Civic Alliance for Justice and Democracy⁵. On September 6, the IACHR reported the escalation of the harassment against human rights defenders and persons who, despite being released from prison, were still being intimidated⁶.

7. On November 19, the Commission once again addressed the ongoing repression, observing that “[...] upon closure of the democratic spaces, which characterizes the ongoing human rights’ crisis in Nicaragua, the families of those deprived from liberty in the context of the crisis have become an ever-growing focus of persecution by means of monitoring and hindering their peaceful actions”⁷.

III. INFORMATION OBTAINED IN THE CONTEXT OF FOLLOW-UP THE PRECAUTIONARY MEASURES

8. On December 21, 2018, the IACHR decided to grant precautionary measures in favor of Carlos Fernando Chamorro Barrios, Desiree Elizondo, Wilfredo Miranda Aburto, Néstor Arce, Manyor Salazar, Enrique Gasteazoro, Pedro Molina, Arlen Cerda, Juan Carlos Ampié, Elmer Rivas, Franklin Villavicencio, Ricardo Salgado, Leonel Gutiérrez, Carlos Herrera and Yader Luna and their nuclear families in

² GIEI, Report on the Violence Events between April 18 and May 30, 2018. December 2018. Available at (in Spanish): http://gjeinicaragua.org/gjei-content/uploads/2018/12/GIEI_INFORME_DIGITAL.pdf

³ IACHR, 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.

⁴ IACHR, IACHR and OHCHR: IACHR and OHCHR Express Concern Over the Passing of the Comprehensive Care for Victims Act in Nicaragua, June 3, 2019. Available at: http://www.oas.org/en/iachr/media_center/PReleases/2019/137.asp

Also see: IACHR, IACHR Expresses Concern Over the Passing of the Amnesty Law in Nicaragua, June 12, 2019. Available at: http://www.oas.org/en/iachr/media_center/PReleases/2019/145.asp

⁵ IACHR, IACHR Expresses Concern over Nicaragua’s Announcement That It Will Not Continue Dialogue and Calls on the State to Comply with Its Obligations to Guarantee and Respect Human Rights, August 6, 2019. Available at: http://www.oas.org/en/iachr/media_center/PReleases/2019/194.asp

⁶ IACHR, IACHR Condemns Persecution of Victims of Repression in Nicaragua and Calls on State to Prevent Revictimization and Promote Truth, Justice, Reparation, and Measures of Nonrepetition, November 19, 2019. Available at: http://www.oas.org/en/iachr/media_center/PReleases/2019/297.asp

⁷ IACHR, IACHR Condemns Persecution of Victims of Repression in Nicaragua and Calls on State to Prevent Revictimization and Promote Truth, Justice, Reparation, and Measures of Nonrepetition. September 6, 2019. Available at: http://www.oas.org/en/iachr/media_center/PReleases/2019/297.asp

Nicaragua⁸. The request of precautionary measures alleged that persons identified as personnel of the media outlet *Confidencial* were reportedly subjected to threats, persecution, intimidation and harassment in the context of their jobs, especially after the protests initiated on April 18, 2018 in Nicaragua. Having analyzing the available information, and in light of the context and the verifications made, the Commission considers that the information provided showed *prima facie* that the rights to life and personal integrity of Carlos Fernando Chamorro Barrios and other persons identified as personnel of *Confidencial* are in a serious and urgent situation.

9. Consequently, in accordance with Article 15 of the Rules of Procedure, the Commission requested that the State of Nicaragua adopt the measures necessary to guarantee the lives and personal integrity of the beneficiaries from the media outlet *Confidencial* identified in this resolution. To this effect, the State must both ensure that its agents respect the beneficiaries' lives and personal integrity in accordance with the standards established by international human rights law, and protect their rights in relation to acts of risk attributable to third parties. The Commission also requested that Nicaragua adopt all necessary measures to ensure that the beneficiaries can carry out their tasks as journalists without being subjected to acts of harassment, threats, or other violent acts when performing their duties. The foregoing includes the adoption of measures to protect the right to freedom of expression of the personnel of the media *Confidencial*, for instance, by not hindering or depriving them from the elements necessary for their journalistic work. Lastly, the Commission requested that the State of Nicaragua consult upon the measures to be adopted with the beneficiaries and their representatives and report on the measures to be adopted in order to investigate the alleged facts that led to the adoption of this precautionary measure and thus prevent their reoccurrence.

10. Following the granting of the precautionary measures, the Commission has been monitoring the matter via requests for information from the parties. In addition, the IACHR called a public hearing regarding the "Implementation of Protective Precautionary Measures in Favor of Independent Journalists in Nicaragua" on Wednesday, September 25 of 2019 in the framework of the 173^o Period of Sessions of the IACHR⁹. On the day of the hearing, the State did not attend; however, it submitted its response on September 24, 2019. The applicants subsequently sent additional information, which was duly forwarded to the State.

11. *Confidencial* is reportedly a journalistic proposal which aims to offer quality and independent information. It has graphic and interactive platforms, as well as a wide selection of reading material, analyses and multimedia content¹⁰. According to the media's profile, *Confidencial* was founded in Nicaragua on May 7, 1996 and the current director is Carlos Fernando Chamorro¹¹. In addition, journalist Chamorro is the owner and host of the programs *Esta Semana*¹² and *Esta Noche*¹³, and of the digital magazine *Revista Niú*¹⁴.

⁸ IACHR, Resolution 91/18. PM 1606/18 – Carlos Fernando Chamorro Barrios et al., Nicaragua, December 21, 2018. Available at: <http://www.oas.org/es/cidh/decisiones/pdf/2018/91-18MC1060-18-NI.pdf>

⁹ See calendar for period of sessions: <https://www.oas.org/en/iachr/sessions/docs/Calendario-173-audiencias-en.pdf>

¹⁰ *Confidencial* Profile available at: https://www.facebook.com/pg/confidencial.com.ni/about/?ref=page_internal

¹¹ *Ibidem*

¹² According to the program's profile: *Esta Semana* is an informative news program hosted by journalist Carlos Fernando Chamorro. The format combines reports, news analyses, debates, interviews, human-interest stories and political humor. His mission is to offer a critical analysis of Nicaraguan reality by offering journalism with a high standard of professionalism and editorial independence. Since its beginning, it is an innovative pioneer program on national television due to its dedication to tell stories. It is the first program of its type and it successfully competes against movies and entertainment programs by conquering the broad and loyal audience which maintains its position as the number one opinion program since 2000. Its reporters have won the national prime for journalistic excellence 'Pedro Joaquín Chamorro' on four occasions." Available at: https://www.facebook.com/pg/estasesmana/about/?ref=page_internal

¹³ According to the description of the program *Esta Noche*, it is a journalistic program that offers news, comments and analyses of what is happening in the country. It is managed by the journalist Carlos Fernando Chamorro. Available at: <http://www.canal12.com.ni/pagina/esta-noche>

¹⁴ More information on "Revista Niú": <https://niu.com.ni/somos-niu/>

12. The representatives indicated that the alleged illegal occupation of the installations and equipment of *Confidencial* continue. The situation was deemed a “de facto confiscation” by the representatives which affects the private companies INVERMEDIA S.A and PROMEDIA, the companies under which *Esta Noche*, *Esta Semana*, *Confidencial* and *Revista Niú* operated. The representative indicated that they have filed an appeal for the protection of constitutional rights (*amparo*) which has not been decided to date.

13. In its response to a hearing being called, the State indicated that it is "completely willing and able to fully comply" with the precautionary measures adopted by the IACHR. In this sense, the State indicated that, through the National Police, it is unilaterally implementing actions to ensure respect for the rights of the beneficiaries to precautionary measures, as well in relation to risk events which can be attributable to third parties; in this regard, the State referred to the following actions:

- Domicile police surveillance for the purpose of protecting the beneficiary and family members;
- Protection of their lives and physical integrity when they are at risk, evacuating them with a due police escort to a place of security;
- Transfer as soon as practicable to medical care centers when they are harmed as a result of physical aggression;
- Immediate and prompt attention upon receiving complaints at the nearest police stations, following the necessary procedures and investigation and in accordance with the procedures of law;
- Study and analysis situations and risk factors in homes, places of mobilization and places where they carry out their activities;
- For the implementation agreed upon with the beneficiaries, the State indicated that, through the Attorney General's Office, it has invited the beneficiaries to meet and agree on the protection measures they consider necessary.

14. In the aforementioned communication, the State indicated that: “it has guaranteed the promotion and defense of the human rights of all the Nicaraguan population. Since April 18, 2018 to the present day, human rights defenders, media outlet owners, journalists, political activists and others have performed their duty with no limitation whatsoever.” In addition, the State added that it respects the right to freedom of speech. The State declared that persons can go to Offices of Public Information and request information on government management with no additional restrictions other than those imposed by the law. Therefore, the State claims that it promotes “the responsible use of public information which implies it must be complete, comprehensive and accurate.” The State considers that there is no censorship, regulation or auto-regulation law with ethically malicious nuances that limits the liberties enshrined in the Constitution.

15. Regarding *Confidencial* and *Esta Semana*, the State declared that there is no delay in resolving the appeal for the protection of constitutional rights filed in relation to the “trespass with no court order of the facilities of the entities Inversiones Multimedia S.A. (INVERMEDIA) and Productora de Medios Asociados S.A. (PROMEDIA) which occurred on the night of December 13, 2018”. According to the State there is “absolute compliance with the principle of lawfulness” as certain votes are required to adopt a decision. With regard to the lack of conditions which impedes Carlos Fernando Chamorro and other journalists who had to leave the country or are in exile from returning, the State declared that there is no persecution whatsoever in place against the citizens which left the country.

16. The representatives stated that in January 2019, Carlos Fernando Chamorro reportedly had no other option than to relocate to Costa Rica. On January 23, 2019, the journalist Carlos Fernando Chamorro allegedly reported that the Nicaraguan Institute of Telecommunications and Postal Services (Telcor)

prohibited that his shows *Esta Noche* and *Esta Semana* be broadcast on Canal 12. The director of Telcor allegedly stated that the programs “were not authorized” to be broadcast on that channel. Telcor reversed the action that same day. However, on January 24, 2019, approximately 30 police officers spread out in front of the facilities of Canal 12 and asked personnel of the television medium if they were armed and proceeded to search vehicles. Mid-February of 2019, the TV programs *Esta Semana* and *Esta Noche*, which were still being broadcast on Canal 12, reportedly stopped being broadcast on said media outlet due to the police harassment that the channel was subjected to.

17. On June 16, 2019, the representatives stated that it was not possible to broadcast the program *Esta Semana* on their Youtube Channel *ConfidencialNica*. The representatives further stated that the pretext was the broadcasting of *Esta Noche* which included a story on the release of Yubrank Suazo, a convict from Masaya, which showed 10 seconds of the images of Yubrank when he was presented before the court during the trial against him on June 11. Due to the broadcasting of those ten seconds, which were recorded by the television channel Canal 13, *Esta Semana* and *ConfidencialNica* were accused of an alleged violation of their ownership rights. *Confidencial* allegedly followed all the requirements imposed by Youtube for this type of claims, and *ConfidencialNica* was completely rehabilitated.

18. After Fernando Chamorro left Nicaragua for Costa Rica, the television station of Costa Rica (Teletica) was the headquarters from which the journalist Chamorro reportedly produced his television programs. Teletica is an alleged key ally in the *Confidencial* team and in the production of the programs *Esta Noche* and *Esta Semana* from Costa Rica. On July 26, 2019 at 11:30 p.m., an explosive allegedly went off in the southwest corner of the facilities of the Television station of Costa Rica (Teletica), in front of the metropolitan park La Sabana. This incident was reportedly condemned by the president of Costa Rica and by the Americas Director at Amnesty International¹⁵. On July 28, 2019, there appeared an audio recording from a person who identified themselves as a female fifth grade teacher threatening the president of Costa Rica, as well as La Nación and Teletica Canal 7. The audio recording, transcribed in the article published by La Nación, reportedly contains xenophobic expressions against Nicaraguans and incites violence against the President of Costa Rica and the two aforementioned media outlets.

19. The representatives stated that the risk events allegedly continue. In particular, they claim that there are governmental limitations on television programming, as the channels that support the ruling party broadcast as proprietary content images or stories that the independent media cannot access; there was a reported increase in risk regarding press coverage as journalists are deemed “media terrorists”; their operation is more expensive as, after losing all their equipment and their office, the journalistic team had to work without a newsroom which increased the cost of transportation and communications, as well as hindered their access to office equipment; they have reportedly limited production and transmission capacity; and they have suffered economic losses in inventory.

20. Currently, various workers of *Confidencial* had to leave the country but they continue working in the media outlet. Other members of the team are reportedly still in Nicaragua performing their duties, and one person allegedly stopped working for *Confidencial*. The personnel of *Confidencial* also work on the shows *Esta Semana*, *Esta Noche* and the publication of *Niú*, which are all directed by Mr. Carlos Fernando Chamorro.

IV. SUMMARY OF FACTS AND ARGUMENTS PRESENTED BY THE REPRESENTATIVES REGARDING THE REQUEST FOR EXTENSION

¹⁵ The representatives declared that Erika Guevara Rosas, Americas Director at Amnesty International, had expressed her concern over “the possibility that this attack could be related to the work that *Confidencial* and Carlos F. Chamorro carry out in Teletica”, she added that “Should this hypothesis be confirmed, it would reveal the extent of the persecution that the government of Daniel Ortega is willing to take on in order to silence the voices that bravely tell the world about the reality that Nicaragua is facing.”

21. The representatives require that the current precautionary measures be extended in favor of María Waleska Almendarez Cruz (manager), Marlon José Torres Sandoval (TV editor), Ever Antonio Chávez (messenger), Claudia Lorena Tijerino Sarria (TV producer), María Ivette Munguía Argeñal (journalist), Ismael López Ocampo (journalist), Juan Carlos Bow (journalist) and Iván Olivares (journalist), who is currently abroad. Information on the individual situation of each one of the proposed beneficiaries can be found hereunder:

- María Waleska Almdares Cruz

22. María Waleska Almdares is responsible for the management before all the state institutions on behalf of the companies PROMEDIA and INVERMEDIA, and she considers that these tasks put her at risk given the country's current situation. In May 2019, on a date she cannot precisely recall, Ms. Almdares was followed by a grey Toyota pickup truck driven by a man wearing a cap as she left her house at 4:40 p.m. headed to her husband's workplace. She reportedly arrived to her husband's workplace and then went to her mother's house, where she remained for an hour. During that time, the pickup truck that had followed her remained parked with the engine on outside of her mother's house; no one exited the vehicle. She then left her mother's house, accompanied by her husband, at 6:00 p.m. At 10:00 p.m., her sister told her that when Ms. Almdares was leaving their mother's house, she saw that the vehicle followed them, but could not determine up to where.

- Ever Antonio Chávez

23. The representatives indicated that Mr. Chávez had been arrested by the police on several occasions on dates they cannot precisely determine, and they are frightened as, on some occasions, Mr. Chávez was arrested while he distributed published editions of *Confidencial*. The representatives further indicated that pro-FSLN persons and undercover police officers allegedly took photographs of him as he was moving all the journalistic equipment of *Confidencial* and *Esta Semana* to cover the protests.

- Marlon Torres Sandoval

24. According to the representatives, on two occasions prior to the raid of the offices of the media outlet, Marlon Torres was reportedly followed by two persons on motorcycles as he left his house to commute to work. Mr. Torres believes these persons could have been undercover police officers or even common thieves, but there is no evidence to assuredly rule out that these incidents are not associated to his line of work.

- Claudia Lorena Tijerino Sarria

25. On December 14, 2018 she was reportedly beaten and insulted by anti-riot police who verbally and physically harassed the team of *Confidencial* and national and international journalists covering the event when they tried to file a complaint about the military occupation of the offices of *Confidencial* and *Esta Semana* in the police facilities of Plaza El Sol. At that moment, pro-Sandinistas reportedly cut out part of the video that one of their colleagues had recorded and uploaded it on their social media, accusing journalist Wilfredo Miranda of threatening police officers, and Ms. Tijerino allegedly appears in said video,.

26. According to the representatives, Claudia Tijerino said that when she goes out with some journalists to the street, she always thinks that they can follow her, stop her, and steal the equipment. They have reportedly also taken photos of her on different occasions, during the journalistic coverage of citizen protests. Her exposure is allegedly also associated with the fact that the equipment she uses to work must be at the assigned office, so she must go to this place every day, which is reportedly being

monitored by the police and parapolice groups. Claudia Tijerino believes that the threats her colleagues receive are also indirect threats to her and the rest of the team.

- Ismael López Ocampo

27. Ismael López allegedly works for *Confidencial* and is a freelancer for the Washington Post and other media. He reportedly feels threatened due to his journalistic work because independent journalism in Nicaragua carries an immense risk since the government has criminalized its exercise and he covers activities called by the government party, such as the recent caravan commemorating the Tactical Retreat. Further, he was reportedly harassed and threatened directly through social media.

28. In October 2018, civilians who are allegedly in favor of the FSLN reportedly photographed him getting off his vehicle, and disclosed the photo on social media with the details of its license plate, claiming that four dangerous terrorists traveled in it, referring to him and his colleagues. No images were reportedly available because his cell phone was allegedly stolen. On January 8, 2019, when López returned from Costa Rica aboard a Tica Bus headed to Managua, the bus was reportedly held back for approximately 45 minutes, at the border, already in Nicaraguan territory, at 6 p.m. and a police officer dressed as anti-riot reportedly forced him to get off to ask questions about what he was doing in Costa Rica. They reportedly asked him for his cell phone, but he refused to hand it over. Then the anti-riot reportedly took him to talk to his boss, took photos of his passport and talked with another authority to tell them that he was expecting orders. Lastly, given his claim for being withheld, the police officer reportedly told him that it was routine and not personal.

29. On January 15, 2019, at about 6:40 p.m., when Ismael López reportedly got out of his car very close to Metrocentro, in the city of Managua, someone allegedly put a gun to his face, forcing him to hand over his cell phone. A week later, unknown subjects reportedly entered the garage of his apartment and broke the right front door of his vehicle. The representatives stressed that, strangely, those unknown persons did not steal anything from the car and only caused damage.

30. When Mr. López reportedly filed the complaint in Police Department 1, the area police chief arrived. Mr. López allegedly identified himself as a journalist and the police officer told him that it had surely been directed, that it was not a common robbery. After giving his statement, they reportedly refused to give him a copy of the complaint despite his insistence, which reportedly prevented Lopez from using the insurance to repair his vehicle. Then, on February 5, 2019, the officer in charge, Hazel Vega and another officer, allegedly arrived from Criminalistics. Officer Vega, with hostility, reportedly told him to go to the police delegation, to which López proceeded the same day. After this second incident, López was allegedly forced to travel to Mexico, preventively. When he returned, he reportedly moved to another house, and in his current neighborhood he allegedly noticed that there is police presence frequently.

31. On July 6, 2019, during the coverage of Daniel Ortega's caravan in commemoration of the Tactical Retreat to Masaya (*Repliegue Táctico a Masaya*), López was reportedly photographed (along with other fellow journalists) by a pro-government media outlet. Insults and threats were reportedly disseminated through social media, particularly on Twitter, by Alejandro Rugama, for instance, stating: "THESE ONES HERE ARE RIGHT-WING JOURNALISTS WHO GAVE COVERAGE TO EL REPLIEGUE 2019..." placing photographs of Ismael López, Carlos Herrera and other journalists. Meanwhile, in the tweet under the name of "The Sandinista Cat" (*El Gato Sandinista*), numerous photographs of Ismael López and others are allegedly accompanied by the phrase: "I hope you have found what you were looking for *puchitos*, because nothing escapes from us, Sandinistas, not even *chayules*. If you know them, greet them for me."

- María Ivette Munguía Argeñal

32. Ivette Munguía reportedly joined the *Confidencial* team recently, previously working for the newspaper *La Prensa*, for which she was allegedly assaulted several times in the context of the events of April 2018. As indicated by the representatives, prior to her arrival in *Confidencial*, journalist Ivette Munguía was victim of attacks by police and government fans. The first aggression reportedly occurred on April 21, 2018, within the perimeter of UPOLI. This aggression reportedly occurred near the traffic lights of the Villa Miguel Gutiérrez by police officers who repressed protesters in the area. She reportedly received kicks and shoves, and the police allegedly stole the equipment. On May 28, 2019, while reporting on the burning of *Radio Ya*, she was reportedly attacked by police when they were repressing protests in the area of the National University of Engineering. Munguía was reportedly hit by a rubber bullet in her left hand.

33. On July 9, 2019 in the city of Diriamba, Munguía was also reportedly attacked while accompanying a delegation from the Archdiocese of Managua who visited the Basilica to facilitate the exit of some young people who were surrounded by members of the Sandinista Youth. The aggression of the police and state forces reportedly occurred inside the Basilica of San Sebastián. That day, in addition to her being beaten, the equipment was reportedly also stolen; therefore, she has no images of that moment.

34. Since her arrival to the *Confidencial* team, Ivette Munguía reportedly continued to be a victim of persecution and threats. On April 29, 2019, when she arrived at her house, located in Managua, a vehicle of Canal 4, television media of the Ortega Murillo family, was in front of her house. She was walking and the cameraman who was driving the vehicle lowered the glass of the window and began to take photos of her, an action she did not respond to and simply hurried to enter the house, just in the corner where they have put a police post, of those that provide security to Daniel Ortega who lives a few blocks away. The cameraman was in his unmarked vehicle but she knows that it belongs to Canal 4.

35. Also, she was reportedly monitored in June 2019. She reportedly left at 9:00 a.m. the Central American University (*UCA* by its Spanish acronym), where she allegedly attends lectures. That morning, she claimed she saw a man wearing a shirt with the logo of the Nicaraguan Institute of Tourism (*INTUR* by its Spanish acronym). The man started to walk behind her, forcing her to cross the street and get on a bus. Once inside the bus, she confirmed that the man also got on. Then, she got off in Metrocentro and lost sight of the subject. During the most violent months of the repression, Munguía reportedly covered dozens of protests and was in the middle of the shootings. She fears that they may attack her again due to the hostility that independent journalism continues to face in Nicaragua.

- Juan Carlos Bow

36. On March 16, 2019, during a civic demonstration, the journalists who were in the area of the Movistar building, on the Road to Masaya, covering news of an opposition rally, were reportedly attacked by National Police forces, who allegedly forced them to retreat and shelter themselves in a park in Managua. Then, together with a team of *Confidencial*, Bow reportedly moved to the Metrocentro shopping center, where there was a group of protesters who could not leave due to a police siege. During the coverage, several motorized Nicaraguan government supporters reportedly took photographs from various angles, and on one occasion they allegedly approached shamelessly to make a video while interviewing citizens.

37. According to the representatives, Bow claims not to have received direct threats through his mobile phone or WhatsApp, but they reportedly sent him messages through Messenger to insult him for works he has published in *Confidencial* or the programs *Esta Semana* and *Esta Noche*. On July 25, 2019, during the coverage of a citizen civic rally in the area of Camino de Oriente, near Movistar, journalist Bow was reportedly injured in the index finger of his right hand by a marble shot by police officers. According to the representatives, Bow was hit three times by *chibolas* or marbles fired by National Police officers:

the first impact was reportedly on his right foot, the second on his left leg, and the last on the index finger of his hand right. The last impact reportedly caused bleeding and a small finger injury, which needed medical care. Similarly, during their coverage, the police officers reportedly took photos and recorded videos of them, as well as pro-Sandinistas who mobilized on motorcycles.

- Ivan Olivares

38. Iván Olivares was reportedly forced to leave the country on January 11, 2019. When leaving the country, at the border post El Guasaule, in Nicaraguan territory, he was reportedly held in a room to be questioned, and the personal information he allegedly gave was dictated to someone else by radio. They reportedly asked him what he was doing, and the reason why he was going abroad, to which he responded that he was going to an institutional update course. To journalist Olivares, it seemed that the interviewer was a police officer rather than a Migration officer. The withholding reportedly lasted for half an hour, after which they let him out of the national territory. The journalist Olivares has reportedly continued receiving threats on social media, but he states that he does not have them as he preferred to ignore them.

39. Lastly, regarding the protection actions adopted by the State, the representatives indicated that no protection nor prevention measures have been agreed upon or adopted. The representatives noted that months have passed since the night of December 13, 2018, when the National Police raided the writing area of *Confidencial* and *Esta Semana* and ransacked the facilities. The police reportedly kept the facilities occupied and, for all purposes, they allegedly have *de facto* confiscated the equipment, accounting files and other documentation, both referring to the work of such media and personal documents of their director, his wife Desiree Elizondo and his company Cabal that worked in the same offices, and of the workers of *Confidencial*, *Esta Semana*, *Esta Noche* and *Niú*. In the representatives' opinion, the State has not yet rectified the abuse committed and they question the attempt to justify the occupation of the communications medium assets.

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

40. The precautionary measures mechanism is part of the Commission's function of supervising compliance with human rights obligations established in Article 106 of the Charter of the Organization of American States. These general supervision functions are in turn established in Article 41(b) of the American Convention on Human Rights, as well as in Article 18(b) of the Statute of the IACHR, while the precautionary measures mechanism is described in Article 25 of the Rules of Procedure of the Commission. Pursuant to this Article, the Commission grants precautionary measures in serious and urgent situations, and when these measures are necessary to prevent an irreparable harm to persons.

41. The Inter-American Commission and the Inter-American Court of Human Rights ("the Inter-American Court" or "I/A Court H.R.") have established repeatedly that precautionary and provisional measures have a dual nature, both protective and precautionary. Regarding the protective nature, these measures seek to avoid irreparable harm and preserve the exercise of human rights. Regarding their precautionary nature, these measures have the purpose of preserving legal situations while they are being considered by the IACHR. The objective and purpose of the precautionary nature is to preserve the rights potentially at risk until the petition under consideration in the Inter-American System is decided upon. 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 adversely affect the useful effect (*effet utile*) of the final decision. In this regard, precautionary or provisional measures allow the State concerned to comply with the final decision and, if necessary, implement the ordered reparations. Regarding the process of decision making and, according to Article 25(2) of the Rules of Procedure, the Commission considers that:

- a. “serious situation” refers to a grave impact that an action or omission can have on a protected right or on the eventual effect of a pending decision in a case or petition before the organs of the Inter-American System;
- b. “urgent situation” is determined by means of the information provided and 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.

42. The Commission recalls that the facts supporting a request for precautionary measures need not be proven beyond doubt; rather, the purpose of the assessment of the information provided should be to determine *prima facie* if a serious and urgent situation exists¹⁶.

43. At the time of carrying out the analysis, the Commission will consider as proposed beneficiaries those persons who are currently in Nicaragua, and for whom it was reported that they face events of risk to date in the country. In that sense, María Waleska Almendarez Cruz, Marlon José Torres Sandoval, Ever Antonio Chávez, Claudia Lorena Tijerino Sarria, María Ivette Munguía Argeñal, Ismael López Ocampo and Juan Carlos Bow are considered as proposed beneficiaries, on which it was indicated they continue working in Nicaragua.

44. The Commission recalls that a requirement for the extension of precautionary measures is that the facts alleged in the request for extension have a “factual connection” with the events that justified the initial adoption of the precautionary measures¹⁷. In this regard, the Commission notes that the proposed beneficiaries for whom the extension is requested share similar risk factors to those of the rest of the beneficiaries working in the media outlet *Confidencial*. At the time of making this assessment, the Commission observes that the proposed beneficiaries are part of the media directed by Mr. Chamorro, and have also been exposed to threats, follow-up, intimidation, and aggressions attributable to state agents or related persons, which would continue appearing to date both for working in such media and for the journalistic work they reportedly perform. In that sense, either for being part of Mr. Chamorro's media outlet or for the risk factors similar to those which they are reportedly exposed to given their journalistic work, the Commission understands that the factual connection requirement is met in this case.

45. Regarding the seriousness requirement, the Commission observes that the alleged facts are framed in a repressive context towards independent journalistic activity in Nicaragua¹⁸. In that context, the Commission recalls that it has granted precautionary measures regarding journalists who were subjected to threats, intimidation and acts of violence that have been attributed by the applicants to state agents, or, from third parties that are reportedly related to the government, presumably with the objective that they change their editorial line or stop informing about the events that have been happening in the country, such as Miguel Mora Barberena, director of the communications media “Canal 100% Noticias”, his wife, Verónica Chávez, journalist and executive director of the channel, and Leticia Gaitán Hernández,

¹⁶ In this regard, for example, referring to the provisional measures, the Inter-American Court has indicated that a minimum of detail and information is required to assess *prima facie* a situation of extreme gravity and urgency. I/A Court H.R., Matter of the children and adolescents deprived of their liberty in the “Complexo do Tatuapé” of the Fundação CASA. Request for extension of provisional measures. Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of July 4, 2006. Considerandum 23

¹⁷ In this regard, see: IACHR, Resolution 10/17, Precautionary Measure No. 393-15 Detainees in “Punta Coco” regarding Panama, March 22, 2017, para. 28; and I/A Court H.R., *Fernández Ortega and Others regarding Mexico*. Resolution of Provisional Measures of November 23, 2010, considerandum 19.

¹⁸ IACHR, Nicaragua: Retaliation against journalists must end, human rights experts say, August 26, 2019. Available at: <http://www.oas.org/en/iachr/expression/showarticle.asp?artID=1152&IID=1>

host and journalist of the channel¹⁹; Alvaro Lucio Montalván, owner of the independent media called “Radio Mi Voz”²⁰; Lucia Pineda and her nuclear family, Press Chief of 100% Noticias²¹; and Mr. Sergio Warren León of the radio station “La Costeñísima.” Similarly, at the time, the Inter-American Court granted provisional measures in favor of Miguel Mora and Lucia Pineda, while they were deprived of their liberty²².

46. In relation to the present request, the Commission observes that the proposed beneficiaries, as members of the media *Confidencial* directed by Carlos Chamorro, continue to face several risk events similar to those that at the time motivated this precautionary measure. In particular, it is observed that the proposed beneficiaries are reportedly working in precarious conditions, after losing access to their main facilities, and having lost much of their equipment. In addition, they are allegedly subjected to follow-up, threats, intimidation and acts of violence by people related to the government, or state agents, over time. In turn, they are reportedly being discredited before Nicaraguan society, being also described as “media terrorists”, which allegedly seeks to reduce credibility to their journalistic work. Such events are reportedly leading to the fact that the proposed beneficiaries have serious limitations in the development of their activities, some of which have allegedly had to leave the country.

47. At the Commission's discretion, the risk situation of the proposed beneficiaries is likely to worsen, since the director of the media outlet, the beneficiary Carlos Fernando Chamorro, has reportedly returned at the end of 2019 in order to continue with his journalistic activities and claim the return of the companies through which the media he directs used to operate²³, which journalists from the media *Confidencial*, including the proposed beneficiaries, are reportedly also claiming in order to carry out their activities properly.

48. The Commission regrets the lack of response from the State of Nicaragua after having requested its observations on the request for extension. Although the State's lack of response does not imply *per se* the extension of the precautionary measures, it does prevent the Commission from obtaining information from its part about the situation of the proposed beneficiaries, so that it is not possible to distort the allegations of the representatives or identify information on measures effectively taken by the authorities to mitigate the alleged risk. On another note, although it is not for the Commission to determine the authorship of the risk events, nor whether they are attributable to agents of the State of Nicaragua, at the time of assessing this request, it does take into account the seriousness of the possible participation of State agents, in accordance with the allegations presented as this would place the proposed beneficiaries in a situation of greater vulnerability.

¹⁹ IACHR, Resolution 90/2018. PM 873-18. Miguel Mora Barberena, Leticia Gaitán Hernández and their nuclear families regarding Nicaragua (Journalists of 100% Noticias), December 13, 2018. Available (in Spanish) at: <http://www.oas.org/es/cidh/decisiones/pdf/2018/90-18MC873-18-NI.pdf>

²⁰ IACHR, Resolution 96/2018. PM 698-18. Álvaro Lucio Montalván and his nuclear family regarding Nicaragua, December 29, 2018. Available (in Spanish) at: <http://www.oas.org/es/cidh/decisiones/pdf/2018/96-18MC698-18-NI.pdf>

²¹ IACHR, Resolution 5/2019. PM 873-18. Lucía Pineda Ubau and her nuclear family regarding Nicaragua (Extension), February 11, 2019. Available (in Spanish) at: <http://www.oas.org/es/cidh/decisiones/pdf/2019/5-19MC873-18-NI.pdf>

²² I/A Court H.R., Matter of seventeen persons deprived of liberty regarding Nicaragua. Provisional Measures. Adoption of Urgent Measures. Order of the President of the Inter-American Court of Human Rights of May 21, 2019. Available (in Spanish) at: http://www.corteidh.or.cr/docs/medidas/diecisiete_personas_se_01.pdf. Subsequently, the measures were lifted. I/A Court H.R., Matter of seventeen persons deprived of liberty regarding Nicaragua. Provisional Measures. Order of the Inter-American Court of Human Rights of October 14, 2019. Available (in Spanish) at: http://www.corteidh.or.cr/docs/medidas/diecisiete_personas_se_02.pdf

²³ CNN, The return of Carlos Chamorro to Nicaragua, December 5, 2019. Available (in Spanish) at: <https://cnnespanol.cnn.com/video/carlos-chamorro-asalto-confidencial-nicaragua-policia-camilo-sot/>; LA VANGUARDIA, Journalist Carlos Fernando Chamorro returns to Nicaragua after 11 months in exile, November 25, 2019. Available (in Spanish) at: <https://www.lavanguardia.com/internacional/20191125/471858522635/periodista-carlos-fernando-chamorro-vuelve-a-nicaragua-tras-11-meses-exiliado.html>

49. Similarly, although the State informed at the time that it seeks to comply with these precautionary measures, providing a list of actions that it has reportedly adopted, the available information does not indicate that the risk situation regarding the identified persons has been effectively mitigated or has disappeared to date. In that regard, the Commission notes that the State itself has indicated that it has adopted measures unilaterally, since the representatives have indicated that no measures have been agreed. Even in spite of having been informed about a list of protection measures that the State has reportedly adopted (vid. *supra* para. 13), the available information does not allow to identify specific details or concrete information on how they have reportedly been properly implemented to date in the present matter. On the contrary, it is observed that the State has mainly denied the arguments of the representatives (vid. *supra* para. 14 and 15) or given reasons for the delay in the resolution of the appeals filed (vid. *supra* para. 15), but has not provided information that indicates that the risk factors initially analyzed, and that gave rise to the granting of the precautionary measures, no longer exist to date.

50. In particular, the Commission observes that no detailed or concrete information has been provided on the actions initiated to investigate the alleged risk events and that motivated the initial granting of the present precautionary measures. Thus, no substantive advances in the identification or sanction of those who are the alleged responsible for the risk events have been identified, which is a relevant aspect when establishing the risk that the proposed beneficiaries are currently facing and the possibility that may reoccur, especially considering the impact it would have on the exercise of their right to freedom of expression in the current context of Nicaragua²⁴.

51. In view of the above, the Commission considers, from the applicable *prima facie* standard and in the context through which Nicaragua is going through, to be sufficiently evidenced that the rights of the persons identified as proposed beneficiaries are at serious risk. Consequently, the Commission considers that the seriousness requirement is met.

52. As regards the urgency requirement, the Commission considers that it is met, since the facts described suggest that the risk situation is likely to continue and be exacerbated over time, given that it is reportedly related to the journalistic activity carried out by the proposed beneficiaries, so that before the imminence of risk materialization, it is immediately necessary to adopt measures to safeguard their rights to life, personal integrity, and guarantees for the exercise of their right to freedom of expression.

53. As regards the requirement of irreparable harm, the Commission considers that it is met, since the possible impact on the rights to life and personal integrity constitute the maximum situation of irreparable harm. The Commission emphasizes its concern in view of the fact that the described risk situation is reportedly aimed at intimidating and thereby silencing the proposed beneficiaries, and hindering the exercise of their journalistic work, directly affecting the exercise of their right to freedom of expression, which in turn is allegedly having a frightening effect for other journalists to express themselves freely in the current context.

IV. BENEFICIARIES

54. The Commission considers María Waleska Almendarez (*sic*) Cruz, Marlon José Torres Sandoval, Ever Antonio Chávez, Claudia Lorena Tijerino Sarria, María Ivette Munguía Argeñal, Ismael López Ocampo and Juan Carlos Bow as the beneficiaries of the present precautionary measure. Such persons are duly identified in this procedure.

²⁴ See in this regard: IACHR, Silenced Zones: Highly Dangerous Areas for the Exercise of Freedom of Expression, 2017, para. 261 Available at: http://www.oas.org/en/iachr/expression/docs/publications/zonas_silenciadas_eng.pdf ; I/A Court H.R., Case of Vélez Restrepo and Family v. Colombia. Preliminary objection, merits, reparations and costs. Judgment of September 3, 2012 Series C No. 248, para. 215.

V. DECISION

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

- a) adopt the measures necessary to guarantee the life and personal integrity of the proposed beneficiaries identified in this resolution. To this effect, the State must both ensure that its actors respect the beneficiaries' lives and personal integrity in accordance with the standards established by international human rights law, and protect their rights in relation to acts of risk attributable to third parties;
- b) adopt all necessary measures to ensure that the beneficiaries can carry out their tasks as journalists without being subjected to acts of harassment, threats, or other violent acts when performing their duties. The foregoing includes the adoption of measures to protect the right to freedom of expression of the members of the identified media outlet;
- c) consult and agree upon the measures to be adopted with the beneficiaries and their representatives; and
- d) report on the measures adopted in order to investigate the alleged facts that led to the adoption of this precautionary measure, so as to prevent such events from reoccurring.

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

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

58. The Commission instructs its Secretariat to notify this resolution to the State of Nicaragua and the representatives.

59. Approved on February 5, 2020 by: Esmeralda Arosemena de Troitiño, President; Joel Hernández García, First Vice President; Antonia Urrejola Noguera, Second Vice President; Margarete May Macaulay; Flávia Piovesan, and Julissa Mantilla Falcón, members of the IACHR.

Paulo Abrão
Executive Secretary