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**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION 76/2022**

Precautionary Measure No. 991-22  
Oscar René Vargas Escobar regarding Nicaragua  
December 26, 2022  
Original: Spanish

**I. INTRODUCTION**

1. On December 14, 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 Nicaraguan Center for Human Rights (“the applicant organization” or “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 Oscar René Vargas Escobar. According to the request, the proposed beneficiary is co-founder of the Sandinista National Liberation Front (FSLN), a political dissident and critic of the current Nicaraguan government. He has reportedly been detained since November 2022 and has not received adequate and timely medical care.
2. Pursuant to Article 25 of its Rules of Procedure, the IACHR requested information from the State on December 15, 2022. To date, the State has not submitted any information, and the granted time limits have since expired.
3. Upon analyzing the submissions of fact and law furnished by the requesting organization, the Commission considers that the information presented shows *prima facie* that Oscar René Vargas Escobar is in a serious and urgent situation, given that his rights to life, personal integrity, and health are at risk of irreparable harm. Accordingly, Nicaragua is requested to: a) adopt the necessary measures to protect the rights to life, personal integrity, and health of Oscar René Vargas Escobar, taking into account that he is an older adult; b) adopt the necessary measures to ensure that the beneficiary’s detention conditions are compatible with the international standards applicable in the matter, including: i. guarantee that they are not subject to threats, intimidation, harassment, or attacks within the prison; ii. guarantee access to adequate and specialized medical care, and a specialized medical evaluation is immediately performed to assess his health; iii. grant the necessary treatments and medicines to treat his health issues; and iv. assess alternative measures to the deprivation of liberty in light of the beneficiary’s detention conditions and health; c) consult and agree upon the measures to be adopted with the beneficiaries and his representatives; and d) report on the actions undertaken in order to investigate the alleged facts that led to the adoption of this resolution so as to prevent such events from reoccurring.

**II. BACKGROUND INFORMATION**

4. Between May 17 and 21, 2018, the Commission visited Nicaragua. During this visit, it collected numerous testimonies on human rights violations committed in the framework of protests that began the previous month. Subsequently, on June 21, 2018, the IACHR published a report on the serious human rights situation in the country.<sup>1</sup> In order to follow up on the recommendations issued in this report, the Special Monitoring Mechanism for Nicaragua (MESENI) was created, which remained in the

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

country until the State suspended its presence on December 19, 2018.<sup>2</sup> For its part, the Interdisciplinary Group of Independent Experts (GIEI, for its acronym in Spanish) for Nicaragua issued a report that analyzed the events that took place between April 18 and May 30, 2018, confirming the IACHR findings.<sup>3</sup> In its Annual Report 2018, the IACHR included Nicaragua in Chapter IV.B, in accordance with the grounds established in its Rules of Procedure.<sup>4</sup>

5. During 2019, the Commission continued to condemn the ongoing acts of persecution, and urged the State to comply with its obligations in matters related to human rights.<sup>5</sup> In June, the State passed a Comprehensive Care for Victims Act and an Amnesty Law, both of which drew criticism for not complying with the international standards in matters of truth, justice, reparation, and guarantees of non-repetition.<sup>6</sup> In September 2019, the IACHR reported an increase in harassment against human rights defenders and persons who, despite having been released from prison, continued to be intimidated.<sup>7</sup> Similarly, in November, the Commission once again called attention to the ongoing repression, noting that “[...] in addition to the closure of democratic spaces that currently characterizes the human rights crisis in Nicaragua, the families of people who have been deprived of their freedom during this crisis are increasingly becoming the targets of state persecution in the form of surveillance and the obstruction of peaceful actions.”<sup>8</sup>
6. Subsequently, the Commission once again included Nicaragua in Chapter IV.B of its 2019 Annual Report,<sup>9</sup> noting that the serious human rights crisis in the country extended during 2019, due to the de facto installation of a state of emergency characterized by the abusive exercise of public force to repress any dissenting voices against the Government; the search, closure and censorship of media outlets; the imprisonment or exile of journalists and social leaders; the closure of civil society organizations without guarantees of due process, as well as the interference and control of the Executive Power over other public powers. Similarly, the Commission observed that the prolonged weakening of democratic institutions in Nicaragua has perpetuated the human rights crisis in the country and has led to structural impunity for serious human rights violations.<sup>10</sup>
7. During 2020, the IACHR identified the consolidation of a fifth stage of state repression in the country, characterized by intensified acts of surveillance, harassment, and selective repression against people considered to be government opponents.<sup>11</sup> Thus, in May 2020, the IACHR condemned the non-

<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, 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 (*Grupo Interdisciplinario de Expertos Independientes*, GIEI) for Nicaragua. [Report on the acts of violence that occurred between April 18 and May 30, 2018](#). December 2018 [only in Spanish].

<sup>4</sup> IACHR. [2018 Annual Report](#). 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. [2019 Annual Report](#). Chapter IV.B Nicaragua. OAS/Ser.L/V/II. Doc. 5, February 24, 2020, paras. 5 and 6.

<sup>10</sup> IACHR. [2019 Annual Report](#). Chapter IV.B Nicaragua. OAS/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.

compliance with its recommendations and urged the State to implement them.<sup>12</sup> In October 2020, the IACHR again called on the State to immediately cease persecution of persons identified as dissidents and to reestablish democratic guarantees in Nicaragua.<sup>13</sup> In this line, the Commission once again included Nicaragua in Chapter IV.B of its 2020 Annual Report.<sup>14</sup>

8. In 2021, the Commission condemned the increasing acts of harassment in the country against persons identified as opponents of the Government, human rights defenders, and the independent press,<sup>15</sup> in addition to the widespread impunity and the prolonged breakdown of the rule of law that persists in Nicaragua.<sup>16</sup> On June 9, 2021, the IACHR and the Regional Office of the United Nations High Commissioner for Human Rights for Central America and Dominican Republic (OHCHR) condemned the criminal prosecution of Nicaraguan opposition leaders and urged the State to release all the persons detained in the context of the crisis.<sup>17</sup> Moreover, on August 11, 2021, the Commission condemned the systematic acts that the State has carried out in recent months with the aim of preventing the opposition from participating in the general elections to be held in Nicaragua in November of the same year. It further condemned the ongoing human rights violations in this context, and urged the State to cease repression against those who express opposing views towards the Government.<sup>18</sup> On September 10, 2021, the Commission and the OHCHR condemned the criminalization of individuals who are identified as political opponents in Nicaragua.<sup>19</sup>
9. On October 25, 2021, the IACHR published the report “Concentration of Power and the Undermining of the Rule of Law in Nicaragua”. In this regard, the Commission has identified acts of harassment, threats, raids, arbitrary detentions, and mistreatment against any person considered to be an opponent of the current Government, perpetrated by police and vigilante groups.<sup>20</sup> On November 4, 2021, the IACHR and OHCHR expressed concern about the intensification of repression against opposition people in Nicaragua within the framework of the electoral process in the country, noting the attacks against journalists.<sup>21</sup> Previously, on November 10, 2021, the IACHR condemned the human rights violations that occurred in the framework of the elections in the country, as a result of acts of police siege, harassment, raids, threats, and arbitrary detentions against opposition leaders, human rights activists, members of civil society organizations, and journalists; and urged the State to release all those

<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. [2020 Annual Report, Chapter IV.B Nicaragua](#), February 2021, paras. 5 to 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. 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](#). Nicaragua: 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>18</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>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.

<sup>20</sup> IACHR. [Press Release No. 284/21](#). IACHR Publishes Report on the Concentration of Power and the Weakening of the Rule of Law in Nicaragua. October 28, 2021.

<sup>21</sup> IACHR. [Press Release No. 292/21](#). Four days ahead election day, IACHR and OHCHR condemn the lack of guarantees of rights and freedoms in the context of the electoral process in Nicaragua. November 4, 2021.

who had been arbitrarily detained in the electoral context since the beginning of the crisis, as well as to cease attacks against political opponents.<sup>22</sup>

10. On November 20, 2021, the IACHR made a statement in which it looked unfavorably upon the State of Nicaragua's decision to denounce the Charter of the Organization of American States on November 19, 2021 during the ongoing context of crisis that the country has been experiencing in recent years. On the occasion, the Commission reaffirmed its jurisdiction over Nicaragua and stated that it would continue to exercise its monitoring mandates through the Special Monitoring Mechanism for Nicaragua (MESENI), as well as continue to analyze and process cases, petitions, and precautionary measures.<sup>23</sup> On December 20, 2021, the Commission called for international solidarity for States to adopt measures to protect those who had been forced to flee the country. In this sense, the main groups of people who have fled Nicaragua are human rights defenders, journalists, leaders of social movements, relatives of persons deprived of liberty, and persons identified as political opponents.<sup>24</sup> According to data from the United Nations Refugee Agency (UNHCR), since April 2018, over 110,000 people have been forced to flee Nicaragua.<sup>25</sup> The IACHR once again included Nicaragua in Chapter IV.B of its 2021 Annual Report, when it referred to the severe deterioration of democratic institutions in Nicaragua in the context of the 2021 general elections.<sup>26</sup>
11. In January 2022, the IACHR urged the State of Nicaragua to release the individuals who are reportedly still in arbitrary detention and under unsanitary detention conditions. They reportedly suffer ill-treatment and are subject to the arbitrary application of maximum-security regimes, in addition to the lack of adequate, timely, and specialized medical care. According to MESENI, most of these individuals, who have been identified as government opponents are beneficiaries of protective measures granted by the bodies of the inter-American system.<sup>27</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. These acts have seriously affected the judicial guarantees for political prisoners in Nicaragua.<sup>28</sup> On February 10, 2022, the Special Rapporteurship on Economic, Social, Cultural and Environmental Rights (SRESCER) of the IACHR condemned that the National Assembly of Nicaragua had decided to cancel the legal capacity of 16 universities and civil society organizations, considering it an act that is framed within the overall practice to limit freedom.<sup>29</sup> The Rapporteurship expressed further concern regarding the impact on the right to education, academic freedom and the autonomy of universities, the labor rights of people working in the affected entities, and the social rights they contribute to protect from their respective missions.
12. On March 7, 2022, the High Commissioner on the situation of human rights in Nicaragua presented a report before the Human Rights Council of the United Nations. The report communicated concern that the State continues to fail to ensure accountability for human rights violations. At the same time, it documented arbitrary detentions and harassment at the hands of State agents against human rights

<sup>22</sup> IACHR. [Press Release No. 300/21](#). IACHR Condemns Human Rights Violations Reported During Elections in Nicaragua. November 10, 2021

<sup>23</sup> IACHR. [Press Release No. 312/21](#). 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.

<sup>24</sup> IACHR. [Press Release No. 346/21](#). IACHR Calls for International Solidarity, Urges States to Protect the People Who Have Been Forced to Flee from Nicaragua. December 20, 2021.

<sup>25</sup> IACHR. [Press Release No. 346/21](#). 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. [2021 Annual Report, Chapter IV.B Nicaragua](#), May 2022, paras. 4 to 21.

<sup>27</sup> IACHR. [Press Release No. 023/22](#). IACHR urges the State of Nicaragua to release all persons arbitrarily detained. January 31, 2022

<sup>28</sup> IACHR. [Press Release RD026/22](#). REDESCA condemns the cancellation of the membership of 26 universities and associations for academic and social purposes by the National Assembly of Nicaragua. February 10, 2022.

<sup>29</sup> IACHR. [Press Release 027/2022](#). IACHR Condemns Manipulation of Criminal Law and Lack of Safeguards in Trials of Political Prisoners in Nicaragua. February 11, 2022

defenders, journalists, and attorneys.<sup>30</sup> On March 31, 2022, at the 49th session of the Human Rights Council, a resolution was issued. This resolution established a group of experts in Nicaragua to conduct an independent investigation into the human rights violations that have taken place in the country since April 2018.<sup>31</sup> On March 23, 2022, the IACHR stated that the statement by Ambassador Arturo McFields, the then Permanent Representative of Nicaragua to the Organization of American States (OAS), confirmed the serious violations of human rights, the institutional deterioration, and the Executive's strategy to silence dissident and opposition voices, according to the IACHR.<sup>32</sup>

13. Recently, in April 2022, four years after the onset of the 2018 social protests, the Inter-American Commission reaffirmed its commitment to the Nicaraguan population for the search for justice, reparation, the reconstruction of its democracy, and a national reconciliation based on the right to memory and truth.<sup>33</sup> Since April 2018, serious human rights violations have gone unpunished. These violations resulted in 355 deaths, over 2,000 injured persons, and 171 arbitrary detentions in conditions that are contrary to personal dignity and integrity.<sup>34</sup> On May 13, 2022, the IACHR urged the State to guarantee constant direct contact of political prisoners with their families. According to information received by its MESENI, deplorable detention conditions, ill-treatment, isolated detention, and lack of access to timely, adequate, and specialized medical care for persons detained in "El Chipote" persist.<sup>35</sup>
14. In July 2022, the Rapporteurship for Freedom of Expression (SRFOE) condemned the authorities' repressive escalation against journalists and the media, achieved by persecuting and intimidating the independent press. These acts have increased the number of journalists who fled or are in forced exile.<sup>36</sup> On August 19, 2022, the IACHR condemned the escalation of repression against members of the Catholic Church due to its critical role in denouncing human rights violations.<sup>37</sup> On September 5, 2022, the IACHR and its SRESCER urged the immediate release of the political prisoners who are held in deplorable conditions in Nicaragua.<sup>38</sup> Recently, on September 28, 2022, the rapporteurs of the ONU and IACHR urged the State to restore and make effective the full enjoyment of civil and political rights in the face of the closure and governmental co-optation of civic spaces and democratic participation in Nicaragua.<sup>39</sup> Furthermore, on November 4, 2022, the IACHR alerted of the lack of conditions to hold free and fair elections in the country, taking into account the resurgence of repression and persecution

<sup>30</sup> OHCHR. Address by the High Commissioner on the situation of human rights in Nicaragua to the 49th session of the Human Rights Council. Available (in Spanish) at: <http://www.oacnudh.org/discurso-de-la-alta-comisionada-sobre-la-situacion-de-los-derechos-humanos-en-nicaragua-ante-la-49a-sesion-del-consejo-de-derechos-humanos/>.

<sup>31</sup> United Nations Human Rights Council. Human Rights Council concludes forty-ninth regular session after adopting 35 resolutions. April 1, 2022. Available at: <https://www.ohchr.org/en/press-releases/2022/04/human-rights-council-concludes-forty-ninth-regular-session-after-adopting-35?sub-site=HRC>.

<sup>32</sup> IACHR. Press Release No. 065/22. The Ambassador's statements to the OAS, McFields, and his subsequent dismissal confirm the serious violations in Nicaragua. March 29, 2022.

<sup>33</sup> IACHR. Press Release No. 081/22. Four years since the beginning of the human rights crisis: IACHR endorses its commitment to the people of Nicaragua. April 18, 2022.

<sup>34</sup> IACHR. Press Release No. 081/2022. Four years since the beginning of the human rights crisis: IACHR endorses its commitment to the people of Nicaragua. April 18, 2022.

<sup>35</sup> IACHR. Press Release No. 103/2022. IACHR urges Nicaragua to ensure that political prisoners have regular and dignified direct contact with their families. May 13, 2022.

<sup>36</sup> IACHR. Press Release R163/22. Nicaragua must cease its persecution of the independent press and be held accountable for its actions. July 15, 2022.

<sup>37</sup> IACHR. Press Release No. 184/22. IACHR Condemns Acts of Repression and the Detention of Members of the Catholic Church in Nicaragua. August 19, 2022.

<sup>38</sup> IACHR. Press Release No. 197/2022. IACHR and REDESCA: Immediate release of political prisoners in deplorable conditions in Nicaragua is urgently needed. September 5, 2022

<sup>39</sup> IACHR. Press Release R218/22. Faced with serious complaints about the closure of civic spaces in Nicaragua, UN and IACHR rapporteurs urge the authorities to comply with their international obligations to respect and guarantee fundamental freedoms. September 28, 2022



against political opponents through the implementation of measures aimed at preventing their participation in these elections.<sup>40</sup>

### III. SUMMARY OF FACTS AND ARGUMENTS

#### A. Information provided by the applicant

17. The proposed beneficiary, Oscar René Vargas Escobar, was a senior adviser to the President of the United Nations General Assembly in New York and a representative of the President of the United Nations General Assembly in the Commission of International Experts to study the international economic and financial crisis. He worked as a partner for the United Nations Children's Fund (UNICEF), the Pan American Health Organization (PAHO), the World Health Organization (WHO), and the United Nations Development Programme (UNDP).
18. The proposed beneficiary is co-founder of the Sandinista National Liberation Front (FSLN), since the 1960s. In that sense, from the core of that party, he campaigned for Daniel Ortega's candidacy in 2006. After Daniel Ortega seized the government, he was appointed Nicaragua's Ambassador to France. He was immediately removed from office after giving a personal interview to the Nicaraguan newspaper La Prensa.<sup>41</sup> According to the proposed beneficiary's account, he did not know what exactly he had said to upset Daniel Ortega and stated that the president "does not allow his officials to issue any opinion."
19. Since then, the proposed beneficiary has been a dissident of the FSLN party and the current Nicaraguan government. He remained critical of the national situation, especially the socio-political crisis that began in 2018. In July 2018, the proposed beneficiary went into exile in Costa Rica due to threats and an alleged arrest warrant against him. The proposed beneficiary has emphatically referred to Daniel Ortega's regime as a "dictatorship." Abroad, the proposed beneficiary was a source of political analysis to the independent press while also creating content articles for his digital blog.<sup>42</sup>
20. Due to health and personal reasons, the proposed beneficiary decided to return to Nicaragua clandestinely. He stayed sheltered in a safe house. On November 22, 2022, at 10:45 a.m., the proposed beneficiary was visiting his sick sister, Patricia, at her home in Managua, when a police operative arrived ten minutes later. Police officers entered the house aggressively and were heavily armed with machine guns. Ms. Patricia, the owner of the property, told her brother to hide, which the proposed beneficiary refused to do. At that time, Ms. Patricia went outside and requested a search warrant or arrest warrant from the police officers, who replied "there is no warrant, this is a house raid, please move aside". The police officers proceeded to arrest the proposed beneficiary, and did not tell his sister where he was going to be taken. The request indicates that two days before his arrest, the proposed beneficiary shared two analyses on his personal blog: "How to interpret the IMF report on Nicaragua's economy?" and "The Strategy for the Liberation of All Political Prisoners."
21. In the hours following the proposed beneficiary's arrest, his relatives and his defense attorney attempted to determine his whereabouts. They visited different detention centers located in the police stations of the capital and in the Directorate of Judicial Assistance. In these locations, the authorities repeatedly denied that Mr. Vargas Escobar was detained there. The proposed beneficiary's location was confirmed on November 24, 2022. It was verified that he was being held the facilities of the Directorate of Judicial Assistance of Managua, where he is currently detained. The Public Prosecutor's Office had already filed a prosecutor's indictment in Managua's Tenth District Criminal Court a day earlier, as recorded in the digital case system of the central judicial complex. However, it did not record

<sup>40</sup> IACHR. Press Release No. 248/22. IACHR Warns of Lack of Conditions for Free and Fair Municipal Elections in Nicaragua. November 4, 2022. (Available in Spanish)

<sup>41</sup> See in this regard: La Prensa. Oscar René Vargas is dismissed as ambassador of France for speaking to LA PRENSA. August 3, 2007.

<sup>42</sup> See in this regard: <https://oscarenevargas.com/>.

under which offenses the charge was made. On November 25, 2022, one day after his location was confirmed, the relatives appointed a defense lawyer by writing to the corresponding court.

22. Subsequently, on a date not specified and not recorded in the cases digital system, a preliminary hearing was held to open the proceedings. His relatives were not notified, and a public defender was designated as his procedural representation. These facts were informed to the proposed beneficiary's relatives on December 1, 2022, when the corresponding court notified them that it had granted the appropriate legal intervention to the designated lawyer and that an initial hearing had been scheduled for December 9, 2022. It was also reported that the crimes attributed to the proposed beneficiary were conspiracy to undermine national integrity, provocation to commit rebellion, and propagation of false news through information and communication technologies to the detriment of the State of Nicaragua and Nicaraguan society.
23. Regarding Mr. Vargas Escobar's health, the request indicates that he is an older adult, 76 years old, has chronic heart disease, is hypertensive, and has glaucoma. In April 2022, he underwent pacemaker implant surgery.<sup>43</sup> His son, René Vargas Zamora, publicly blamed the Nicaraguan government for any distress to his father. On December 7, 2022, the first visit to Mr. Vargas Escobar was authorized, in the Directorate of Judicial Assistance, known as "El Nuevo Chipote". On that occasion, his sister María Lourdes reported that the proposed beneficiary is not in good health. He has allegedly lost 10 pounds, according to her calculation; had difficulty getting up; showed signs of pain; and has a hernia between the 4th and 5th lumbar vertebrae. She also reported that the proposed beneficiary sleeps on cement, on a very thin mat, and without a blanket to shield him from the cold. Even though his relatives had brought him a sleeping blanket, the prison officers had told them that he was reportedly not allowed to receive it. In addition, the proposed beneficiary shares a cell with an unknown person. He was placed in a cell with a sealed door, and is not allowed to see anyone.
24. According to the request, his defense lawyer reported that on the day of the initial hearing, December 9, 2022, the proposed beneficiary stated that the National Police had removed the identification card of the patients who had pacemakers. As a result, the status of the card is currently unknown, as the National Police has not provided any information on it. The request evaluates that the aforementioned act is extremely concerning. The proposed beneficiary requires adequate medical treatment and a special diet, due to his conditions. Not knowing about his health allegedly causes his family emotional stress as it is likely that, if he does not receive the necessary medical care, his diseases could worsen.

**B. Information provided by the State**

25. The IACHR requested information from the State on December 15, 2022. However, 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 overseeing compliance with the human rights obligations set forth in Article 106 of the Charter of the Organization of American States. These general oversight functions are established in Article 18(b) of the Statute of the IACHR, and the precautionary measures mechanism is described in Article 25 of the Commission's Rules of Procedure. In accordance with that Article, the Commission grants precautionary measures in serious and urgent situations in which these measures are necessary to avoid an 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 established repeatedly that precautionary and provisional

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<sup>43</sup> See in this regard: The Round Table. Oscar René Vargas recovers from pacemaker implant surgery, April 26, 2021. (Available in Spanish)

measures have a dual nature, both protective and precautionary.<sup>44</sup> Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.<sup>45</sup> To do this, the IACHR shall assess the problem raised, the effectiveness of state actions to address the situation described, and the vulnerability to which the persons proposed as beneficiaries would be exposed if the measures are not adopted.<sup>46</sup> Regarding their precautionary nature, these measures have the purpose of preserving legal situations while under the consideration of the IACHR. They aim to safeguard the rights at risk until the request pending before the inter-American system is resolved. Their object and purpose are to ensure the integrity and effectiveness of an eventual decision on the merits and, thus, avoid any further infringement of the rights at issue, a situation that may adversely affect the useful effect (*effet utile*) of the final decision. In this regard, precautionary or provisional measures enable the State concerned to comply with the final decision and, if necessary, to implement the ordered reparations.<sup>47</sup> In the process of reaching a decision, according to Article 25(2) of its Rules of Procedure, the Commission considers that:

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

28. In analyzing those requirements, the Commission reiterates that the facts supporting a request for precautionary measures need not be proven beyond doubt. The information provided should be assessed from a *prima facie* standard of review to determine whether a serious and urgent situation exists.<sup>48</sup> Similarly, the Commission recalls that, by its own mandate, it is not called upon to make any determination on any individual criminal liabilities for the facts alleged. Moreover, in this proceeding, it is not appropriate to rule on violations of rights enshrined in the American Convention or other

<sup>44</sup> See in this regard: I/A Court H.R. Matter of the Yare I and Yare II Capital Region Penitentiary Center. Request for Provisional Measures submitted by the IACHR regarding the Bolivarian Republic of Venezuela. Order of the Inter-American Court of Human Rights of March 30, 2006, considerandum 5; I/A Court H.R. Case of Carpio Nicolle et al. v. Guatemala. Provisional Measures. Order of July 6, 2009, considerandum 16. [Available only in Spanish].

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

<sup>46</sup> See in this regard: I/A Court Asunto Milagro Sala H.R. Request for Provisional Measures regarding Argentina. Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5 [only in Spanish]; I/A Court Asunto del Internado Judicial Capital El Rodeo I y El Rodeo II H.R. Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, considerandum 9; I/A Court H.R. Matter of the Criminal Institute of Plácido de Sá Carvalho. Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of February 13, 2017, considerandum 6 [only in Spanish].

<sup>47</sup> See in this regard: I/A Court H.R. Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center. Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, considerandum 7; I/A Court H.R. Matter of “El Nacional” and “Así es la Noticia” newspapers. Provisional Measures regarding Venezuela. Order of the Court of November 25, 2008, considerandum 23; I/A Court H.R. Matter of Luis Uzcátegui. Provisional Measures regarding Venezuela. Order of the Court of January 27, 2009, considerandum 19.

<sup>48</sup> See in this regard: I/A Court H.R. Matter of Members of the Miskitu Indigenous Peoples of the North Caribbean Coast regarding Nicaragua. Extension of Provisional Measures. Order of the Inter-American Court of Human Rights of August 23, 2018, considerandum 13 [only in Spanish]; I/A Court H.R. Matter of Children Deprived of 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.



applicable instruments.<sup>49</sup> This is better suited to be addressed by the Petition and Case system. The following analysis relates exclusively to the requirements set forth in Article 25 of the Rules of Procedure, which can be resolved without making any determinations on the merits.<sup>50</sup>

29. Under the terms of Article 25 (6) of its Rules of Procedure, the Commission observes that the proposed beneficiary's alleged<sup>51</sup> situation is framed within Nicaragua's current context, which is particularly hostile towards people considered, perceived, or identified as opponents of the government.<sup>52</sup> This context has intensified over time in the context of the presidential elections of November 2021. Thus, the Commission considers that the proposed beneficiary's situation is not an isolated event, but rather takes place within the current context of Nicaragua, characterized by the practice of arresting and criminalizing human rights defenders and political opponents.<sup>53</sup>
30. In addition, the Commission recalls that, in relation to persons deprived of liberty in general, the State is in a special position of guarantor that implies the duty to respect their life, health, and personal integrity, in addition to other human rights, inasmuch as prison authorities exercise a strong control or command over the persons in their custody.<sup>54</sup> This is due to the unique relationship and interaction of subordination between the person deprived of liberty and the State. This is characterized by the particular intensity with which the State can regulate their rights and obligations, and by the very circumstances of imprisonment. In these circumstances, prisoners are prevented from satisfying on their own a series of basic needs that are essential for the development of a dignified life.<sup>55</sup>
31. More specifically, the Commission recalls that the Inter-American Court has indicated that the State must ensure that a person is detained in conditions that are compatible with respect for their human dignity, that the manner and method of exercising the measure does not subject them to distress or hardship that exceeds the unavoidable level of suffering inherent in detention and that, given the practical demands of imprisonment, their health and well-being are adequately ensured.<sup>56</sup>

<sup>49</sup> IACHR. Resolution 2/2015. Precautionary Measure No. 455-13. Matter of Nestora Salgado regarding Mexico. January 28, 2015, para. 14; IACHR. Resolution 37/2021. Precautionary Measure No. 96-21. Gustavo Adolfo Mendoza Beteta and family regarding Nicaragua. April 30, 2021, para. 33.

<sup>50</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. Matter of James et al. regarding Trinidad and Tobago. Provisional Measures. Order of the Inter-American Court of Human Rights of August 29, 1998, considerandum 6; I/A Court H.R. Case of Barrios Family v. Venezuela. Provisional Measures. Order of the Inter-American Court of Human Rights of April 22, 2021, considerandum 2 [only in Spanish].

<sup>51</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.

<sup>52</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>53</sup> See in this regard: IACHR. Resolution 33/2020. Precautionary Measure No. 205-21. Kevin Roberto Solis regarding Nicaragua. April 22, 2021; IACHR. Resolution 82/2020. Precautionary Measure No. 489-20. Maycol Antonio Arce and 40 other persons deprived of their liberty, regarding Nicaragua. November 2, 2020; IACHR. Resolution 62/2019. Precautionary Measure No. 1105-19. Amaya Coppens et al. regarding Nicaragua. December 24, 2019.

<sup>54</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. OAS/Ser.L/V/II. Doc. 64. December 31, 2011. Para. 49.

<sup>55</sup> IACHR. Report on the Human Rights of Persons Deprived of Liberty in the Americas. OAS/Ser.L/V/II. Doc. 64. December 31, 2011. Paras. 49-50.

<sup>56</sup> 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 [only in Spanish]. Considerandum 23.

32. Considering the current context of Nicaragua and the particular situation of deprivation of liberty of the proposed beneficiary, the Commission will proceed to analyze the regulatory requirements regarding the situation of Oscar René Vargas Escobar.
33. When analyzing the requirement of *seriousness*, the Commission considers that it has been met. In this regard, the Commission notes that Mr. Vargas Escobar was the co-founder of the Sandinista National Liberation Front (FSLN). However, since his dismissal as Nicaragua's ambassador to France in Daniel Ortega's government in 2007, the proposed beneficiary has been considered a dissident of the FSLN and a critic of the current Nicaraguan government since 2018, and he has consistently published critical posts on his personal blog. As a result of his critical political position, the proposed beneficiary allegedly received threats and had an arrest warrant against him. He therefore left the country in 2018, and subsequently returned.
34. The Commission verifies that the proposed beneficiary was arrested on November 22, 2022, while visiting his sister's house in Managua. On that occasion, police officers allegedly raided the home in an aggressive and heavily armed manner. This reportedly took place without filing a search warrant or arrest warrant. After his arrest, his relatives had left in search of his whereabouts in different detention centers. The State authorities repeatedly denied having Mr. Vargas Escobar detained. On November 24, two days after the arrest, the location of the proposed beneficiary was confirmed. He was being held in the Directorate of Judicial Assistance of Managua for the crimes of conspiracy to undermine national integrity, provocation to commit rebellion, and the dissemination of false news through information and communication technologies. Moreover, his relatives were allegedly informed about the criminal proceedings against the proposed beneficiary on December 1, 2022, which was after the preliminary hearing, and were reportedly not previously notified (see *paras.* 20 to 22).
35. In addition to the above, the information provided indicates that Mr. Vargas Escobar is 76 years old, therefore, he is considered an older adult. He has chronic heart disease, hypertension, and glaucoma, in addition to having a hernia in the lumbar region. During the visit to the proposed beneficiary, it was pointed out that he was not well, had lost weight, and had trouble and felt pain when getting up. In addition, he allegedly sleeps on the cement and does not have access to a blanket to shield himself from the cold. Despite the need for medical treatment for his health problems, to date, he has not received medical attention and his family members were allegedly unaware of his current health. On the other hand, it was noted that his pacemaker patient identification card – given that he had surgery in April 2022 to implant pacemakers - had been taken by police officers. However, the National Police allegedly did not provide information in this regard (see *paras.* 23 and 24).
36. Considering the foregoing, the Commission considers that the facts described are related to Mr. Vargas Escobar's critical position to the current Nicaraguan government. In particular, the Commission points out that proposed beneficiary's arrest allegedly occurred two days after sharing posts on his personal blog on the subject of freedom of those deemed "political prisoners" in Nicaragua. In addition, his relatives did not obtain information on his whereabouts for two days after his arrest. Furthermore, the Commission notes that the proposed beneficiary has been detained in the Directorate of Judicial Assistance of Managua since November 22, 2022. During this time, he has not received medical attention or information regarding his detention conditions or health.
37. Having requested information from the State under Article 25 of the Rules of Procedure, the Commission regrets the lack of response to the request for information. Although the foregoing is not sufficient *per se* to justify the granting of a precautionary measure, the lack of response from the State prevents the Commission from knowing the measures that would have been reportedly implemented to address the situation that places the proposed beneficiary at risk dispute the facts alleged by the

applicants. Therefore, the Commission does not have information to assess whether the situation that places the proposed beneficiary at risk has been mitigated. The foregoing is particularly relevant, given that the proposed beneficiary would be deprived of liberty, in the custody of the State, and that the alleged facts are attributable to state and parastatal agents.

38. Due to the above, the Commission concludes that, from the *prima facie* standard and in the context that Nicaragua is experiencing, it is sufficiently proven that the rights to life, personal integrity, and health of Oscar René Vargas Escobar are in a situation of serious risk.
39. With regard to the requirement of *urgency*, the Commission deems that it has been met given that, should the proposed beneficiary continue to face the situation described, he is likely to be imminently exposed to a greater impact on his rights. Thus, in view of the imminent materialization of the risk, it is necessary to immediately adopt measures to safeguard the proposed beneficiary's rights to life, personal integrity, and health. When making these assessments, the Commission takes into account that the proposed beneficiary is 76 years old, has previous health conditions, and is deprived of liberty in the custody of the State. Therefore, he is in a particularly vulnerable situation. Despite his arrest on November 22, 2022, he allegedly has not received adequate and timely medical attention to date. In this sense, the Commission does not have specific information from the State sufficient to assess the actions that are being taken to address the alleged risk faced by the proposed beneficiary.
40. Regarding the requirement of *irreparable harm*, the Commission considers that it has been met, insofar as the potential impact on the rights to life, personal integrity, by their very nature, constitutes the maximum situation of irreparability.

## **V. BENEFICIARY**

41. The Commission declares Oscar René Vargas Escobar to be the beneficiary of the precautionary measures, who is duly identified in these proceedings.

## **VI. DECISION**

42. The Inter-American Commission considers that this matter meets, *prima facie*, the requirements of seriousness, urgency, and irreparable harm set forth in Article 25 of its Rules of Procedure. Consequently, it requests that Nicaragua:
  - a) adopt the necessary measures to protect the rights to life, personal integrity, and health of Oscar René Vargas Escobar, taking into account that he is an older adult;
  - b) adopt the necessary measures to ensure that the beneficiary's detention conditions are compatible with the international standards applicable in the matter, including: i. guarantee that they are not subject to threats, intimidation, harassment, or attacks within the prison; ii. guarantee access to adequate and specialized medical care, and a specialized medical evaluation is immediately performed to assess his health; iii. grant the necessary treatments and medicines to treat his health issues; and iv. assess alternative measures to the deprivation of liberty in light of the beneficiary's detention conditions and health;
  - c) consult and agree upon the measures to be adopted with the beneficiaries and his representatives; and;

d) report on the actions undertaken in order to investigate the alleged facts that led to the adoption of this resolution so as to prevent such events from reoccurring.

43. The Commission requests that the State of Nicaragua report, within 15 days as from the day after the notification of this resolution, on the adoption of the precautionary measures granted and to regularly update this information.
44. The Commission emphasizes that, in accordance with Article 25(8) of its Rules of Procedure, the granting of this precautionary measure and its adoption by the State do not constitute a prejudgment on any violation of the rights protected under the applicable instruments.
45. The Commission instructs its Executive Secretariat to notify this resolution to the State of Nicaragua and the applicants.
46. Approved on December 26, 2022, by Julissa Mantilla Falcón, President; Margarette May Macaulay, Second Vice-President; Esmeralda Arosemena de Troitiño; Joel Hernández García; Roberta Clarke; and Carlos Bernal Pulido, members of the IACHR.

Jorge Meza Flores  
Assistant Executive Secretary