

# **EXILE AND CIVIL DEATH**

**Serious impacts of arbitrary deprivation of nationality on individuals defending human rights and opposing the dictatorship in Nicaragua**

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*"To be stateless means that you are deprived of the right to have rights."*  
Hannah Arendt<sup>1</sup>

In February 2023, the Ortega-Murillo regime arbitrarily stripped 317 people of their Nicaraguan nationality, rendering them, in the vast majority of cases, stateless. The authorities thereby condemned them to a situation in which they are not considered nationals by any state,<sup>2</sup> and therefore cannot exercise rights and obligations inherent in membership in a political community.<sup>3</sup>

Those affected by this measure are individuals who have raised their voices to demand respect for human rights and the restoration of democracy in the country,<sup>4</sup> including well-known human rights defenders, social, political and religious leaders, journalists and other media professionals, as well as academics and cultural figures.

The judicial decisions ordering the deprivation of nationality of 317 Nicaraguans, as well as subsequent decisions, reflect the construction of a mechanism of government repression that has been getting stronger since October 2020.<sup>5</sup> During this period, the authorities have promoted the enactment and selective application of legislation aimed at stifling the defence of human rights, silencing political opposition and giving state practices of suppressing rights a semblance of legality.<sup>6</sup>

## 1. International standards on deprivation of nationality

Nationality is a non-derogable right<sup>7</sup>, which may not be suspended in time of war, public danger or other emergency that threatens the independence or security of a state.<sup>8</sup> Its exercise implies the right to retain a nationality<sup>9</sup> and imposes on states the duty to protect individuals against arbitrary deprivation of nationality.<sup>10</sup> Numerous international instruments<sup>11</sup> have enshrined the "explicit and general prohibition of arbitrary deprivation of nationality".<sup>12</sup> This protection seeks to shield individuals from the impossibility of enjoying their rights, which would result from the loss of their nationality.<sup>13</sup>

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1. In 1937, the Nazi regime withdrew the German citizenship of the philosopher Hannah Arendt, who had fled Germany due to the persecution of the Jewish population. For more than a decade, Arendt was in a situation of statelessness, a subject on which she reflected in much of her work. For more information, see: UNHCR, "*Hannah Arendt: de la apatridia al pluralismo*" (Hannah Arendt: from statelessness to pluralism), 21 April 2022, available at: [https://eacnur.org/es/blog/hannah-arendt-de-la-apatridia-al-pluralismo-tc\\_alt45664n\\_o\\_pstn\\_o\\_pst](https://eacnur.org/es/blog/hannah-arendt-de-la-apatridia-al-pluralismo-tc_alt45664n_o_pstn_o_pst)

2. According to Article 1 of the Convention relating to the Status of Stateless Persons, "the term 'stateless person' means a person who is not considered as a national by any State under the operation of its law". Statelessness may result, inter alia, from being subjected to a procedure for the withdrawal of nationality initiated by the authorities. UNHCR, *Guidelines on statelessness NO.5: Loss and Deprivation of Nationality under Articles 5-9 of the 1961 Convention on the Reduction of Statelessness*, Distr. GENERAL HCR/GS/20/05, May 2020, para. 9.

3. I/A Court H.R., *Case of the Girls Yean and Bosico v. Dominican Republic, Preliminary Objections, Merits, Reparations and Costs*, Judgment of 8 September 2005, Series C No. 130, para. 137. In the same vein, IACHR, *Due Process in Procedures for the Determination of Refugee Status and Statelessness and the Granting of Complementary Protection*, 5 August 2020, para. 295.

4. FIDH, "Nicaragua: Outrage at new arbitrary action by the Ortega-Murillo regime", 16 February 2023, available at: <https://www.fidh.org/en/region/americas/nicaragua/nicaragua-outrage-at-new-arbitrary-action-by-the-ortega-murillo>

5. FIDH/CENIDH, *¡Basta ya de impunidad! Ejecuciones extrajudiciales y represión en Nicaragua, ¿hasta cuándo?* (Accountability now! Extrajudicial executions and repression in Nicaragua), February 2021, pp. 22 et seq., available at: <https://www.fidh.org/IMG/pdf/rapportnicaragua764es.pdf>

6. FIDH/CENIDH, *Nicaragua: Las nuevas leyes de la represión* (The New Laws of Repression), November 2021, available at: [https://www.fidh.org/IMG/pdf/obs\\_nicaragua\\_04.pdf](https://www.fidh.org/IMG/pdf/obs_nicaragua_04.pdf)

7. I/A Court H.R., *Case of expelled Dominicans and Haitians v. Dominican Republic, Preliminary Objections, Merits, Reparations and Costs*, Judgment of 28 August 2014, para. 253.

8. IACHR, *Human Mobility, Inter-American Standards, Human Rights of Migrants, Refugees, Stateless Persons, Victims of Human Trafficking and Internally Displaced Persons: Norms and Standards of the Inter-American Human Rights System*, 31 December 2015, para. 467.

9. UN Human Rights Council, *Human rights and arbitrary deprivation of nationality, Report of the Secretary-General*, 14 December 2009, A/HRC/13/34, para. 21.

10. I/A Court H.R., *Case of expelled Dominicans and Haitians v. Dominican Republic, Preliminary Objections, Merits, Reparations and Costs*, Judgment of 28 August 2014, para. 254.

11. For example, Article 15 of the Universal Declaration of Human Rights provides that "[n]o one shall be arbitrarily deprived of his nationality". UN General Assembly Resolution 50/152 urged states to adopt legislation prohibiting arbitrary deprivation of nationality as a measure to reduce statelessness.

12. UN Human Rights Council, *Human rights and arbitrary deprivation of nationality, Report of the Secretary-General*, 14 December 2009, A/HRC/13/34, para. 21.

13. I/A Court H.R., *Case of expelled Dominicans and Haitians v. Dominican Republic, Preliminary Objections, Merits, Reparations and Costs*, Judgment of 28 August 2014, para. 254.

While the determination of the loss of nationality falls within the internal competence of states, this discretion is not absolute, as international law imposes certain limits on its exercise.<sup>14</sup> The first is the duty of states to prevent, avoid and reduce statelessness. In accordance with this duty, states are obliged not to adopt practices or legislation “whose application contributes to increasing the number of stateless persons”.<sup>15</sup> The second limit is the guarantee of equal and effective protection of the law without discrimination,<sup>16</sup> which implies that states must ensure that “no one is denied or deprived of their nationality on the basis of discriminatory grounds”.<sup>17</sup>

## 2. Arbitrary exile and deprivation of nationality of human rights defenders and opponents of the regime

On 9 February 2023, without warning, the Ortega-Murillo regime released 222 political prisoners and banished them.<sup>18</sup> At around 4 a.m., these people were expelled by air to the United States.<sup>19</sup> At 8:30 a.m., when they were already on the aeroplane,<sup>20</sup> the decision of the Managua Court of Appeals was announced.<sup>21</sup> According to the reading of the decision by Octavio Ernesto Rothschild Andino, President of the First Chamber of the Court since 2021, all these people were “deported”, declared “traitors to the homeland” and their citizenship rights suspended for life.<sup>22</sup>

Deportation is a legal concept under migration law, that is only applicable to foreigners who commit crimes in another country. The expulsion of the 222 political prisoners amounted to exile, a practice prohibited under international human rights law.<sup>23</sup> On this point, the Human Rights Committee<sup>24</sup> has underlined that it is the duty of states to ensure that people enjoy their right to “remain in one’s own country”, which means that, among other measures, states must refrain from “enforced population transfers or mass expulsions to other countries”.

On 9 February, the regime adopted an emergency constitutional reform to strip Nicaraguan nationality from all persons declared “traitors to the homeland”.<sup>25</sup> The National Assembly approved the amendment in the first term, in a session that lasted less than 30 minutes, without prior publicity or debate.<sup>26</sup> The reform constitutes a reversal of the provisions of Article 20 of the Nicaraguan Constitution, which expressly prohibits deprivation of nationality of Nicaraguan nationals.<sup>27</sup>

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14. UN Human Rights Council, *Human rights and arbitrary deprivation of nationality, Report of the Secretary-General*, 14 December 2009, A/HRC/13/34, paras 19 and 20.

15. I/A Court H.R., *Case of expelled Dominicans and Haitians v. Dominican Republic, Preliminary Objections, Merits, Reparations and Costs*, Judgment of 28 August 2014, para. 256.

16. I/A Court H.R., *Case of the Girls Yean and Bosico v. Dominican Republic, Preliminary Objections, Merits, Reparations and Costs*, Judgment of 8 September 2005, Series C No. 130, para. 140.

17. UN Human Rights Council, *Human rights and arbitrary deprivation of nationality, Report of the Secretary-General*, 14 December 2009, A/HRC/13/34, para. 58.

18. FIDH/CENIDH, *Nicaragua: New turn in the human rights crisis*, February 2023, p. 3, available at: <https://www.fidh.org/en/region/americas/nicaragua/nicaragua-new-turn-in-the-human-rights-crisis>

19. FIDH, “Nicaragua: 222 political prisoners released from jail and banished from the country”, 9 February 2023, available at: <https://www.fidh.org/en/region/americas/nicaragua/nicaragua-222-political-prisoners-released-from-jail-and-banished>

20. OHCHR, *Human Rights Situation in Nicaragua, Report of the United Nations High Commissioner for Human Rights*, 10 August 2023, A/HRC/54/60, para. 28.

21. *Canal 4 Nicaragua, Transmisión especial desde el Complejo Judicial de Managua* (Special broadcast from the Judicial Complex in Managua), 9 February 2023, available at: <https://www.youtube.com/watch?v=fWHLqLJbWQA&lc=UgwhS3rKu8B-3dmpbcx4AaABAg>. See also: Judiciary, “*Declaración del Magistrado Presidente de la Sala Penal Uno del Tribunal de Apelaciones de Managua*” (Declaration of the President of the First Criminal Chamber of the Managua Court of Appeals), 10 February 2023, available at: [https://www.poderjudicial.gob.ni/prensa/notas\\_prensa\\_detalle.asp?id\\_noticia=12261Una](https://www.poderjudicial.gob.ni/prensa/notas_prensa_detalle.asp?id_noticia=12261Una)

22. FIDH/CENIDH, *Nicaragua: New turn in the human rights crisis*, February 2023, p. 3, available at: <https://www.fidh.org/en/region/americas/nicaragua/nicaragua-new-turn-in-the-human-rights-crisis>

23. *Ibid.*

24. UN Human Rights Committee, *General Comment No. 27 (67), Freedom of Movement (Article 12)*, 1 November 1999, CCPR/C/21/Rev.1/Add.9, para. 19.

25. FIDH/CENIDH, *Nicaragua: New turn in the human rights crisis*, February 2023, p. 3, available at: <https://www.fidh.org/en/region/americas/nicaragua/nicaragua-new-turn-in-the-human-rights-crisis>

26. OHCHR, *Human Rights Situation in Nicaragua, Report of the United Nations High Commissioner for Human Rights*, 10 August 2023, A/HRC/54/60, para. 30.

27. FIDH/CENIDH, *Nicaragua: New turn in the human rights crisis*, February 2023, p. 3, available at: <https://www.fidh.org/en/region/americas/nicaragua/nicaragua-new-turn-in-the-human-rights-crisis>

According to the Constitution, in order to enter into force, the reform must be debated and approved in a second term, which will begin on 9 January 2024. However, on 9 February 2023, the National Assembly approved Law No. 1145, also under the emergency procedure.<sup>28</sup> This law implements the regressive reform, in breach of the provisions of the Constitution itself, as well as the international human rights obligations of the state of Nicaragua.<sup>29</sup>

These provisions on “loss of nationality” constitute a new attempt by the Ortega-Murillo regime to legitimise and give a semblance of legality to its official discourse.<sup>30</sup> According to this discourse, people who have denounced the escalating repression and opposed the dictatorship are internal enemies,<sup>31</sup> who have renounced their Nicaraguan nationality because they are serving the interference of foreign powers.<sup>32</sup> With the enactment and selective application of these provisions, the arbitrary deprivation of nationality against these persons considered to be opponents was presented as a measure authorised by the Constitution and legislation.

On 10 February 2023, the day after the approval of Law No. 1145, the first decisions to withdraw Nicaraguan nationality were announced, through which the regime rendered Nicaraguan nationals stateless. The President of the First Chamber of the Managua Court of Appeals, Octavio Ernesto Rothschild Andino, publicly read out a decision of the Court ordering the withdrawal of Nicaraguan nationality from 222 exiled persons, in application of Law No. 1145.<sup>33</sup>

In an interview that day, the President of the National Assembly, Gustavo Porras Cortés, confirmed that the various institutions were working under the same order to carry out the exile and deprivation of nationality of this group of people.<sup>34</sup> According to Porras Cortés, each institution had done its part, including the National Assembly, which was in charge of “guaranteeing that these people were not Nicaraguans, because they are traitors to the homeland”.<sup>35</sup>

On 10 February, the judiciary also deprived Bishop Rolando Álvarez Lagos of his Nicaraguan nationality. The Bishop Álvarez Lagos was arbitrarily detained in August 2022, after he publicly urged the police and paramilitaries to cease attacks on the church and its media.<sup>36</sup> A day after the religious leader refused to be exiled,<sup>37</sup> the second judge of the criminal district of Managua, Nadia Camila Tardencilla Rodríguez, sentenced him to 26 years in prison, declared him a “traitor to the homeland” and ordered the permanent suspension of his citizenship rights, and the loss of his nationality. These sanctions were imposed without charge or trial.<sup>38</sup>

On 15 February 2023, the President of the Managua Court of Appeals, Ernesto Leonel Rodríguez Mejía, publicly read out a decision handed down the same day. In it, first instance judges convicted

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28. Law No. 1145, *Ley Especial que Regula la Pérdida de la Nacionalidad Nicaragüense* (Special Law regulating the loss of Nicaraguan nationality).

29. FIDH/CENIDH, *Nicaragua: New turn in the human rights crisis*, February 2023, p. 3, available at: <https://www.fidh.org/en/region/americas/nicaragua/nicaragua-new-turn-in-the-human-rights-crisis>:

30. FIDH/CENIDH, *Call for an International Mechanism against Impunity in Nicaragua*, February 2022, p. 7, available at: <https://www.fidh.org/en/region/americas/nicaragua/call-for-an-international-mechanism-against-impunity-in-nicaragua>

31. *Ibid.*

32. This point is illustrated by Daniel Ortega’s speech in November 2021. Referring to the people deprived of their freedom on political grounds, he stated that they were serving “Yankee imperialism”, which is why “they should be taken there, to the United States, because they are not Nicaraguans, they stopped being Nicaraguans a long time ago, they have no homeland. They should be taken there, so that they can serve there as what they are, slaves of the Empire, traitors to the homeland”. For more information, see: *El País*, “*La Casa Blanca prohíbe la entrada a EE UU de funcionarios del régimen de Nicaragua*” (White House bans Nicaraguan regime officials from entering the US), 16 November 2021, available at: <https://elpais.com/internacional/2021-11-16/la-casa-blanca-prohibe-la-entrada-en-ee-uu-de-funcionarios-del-regimen-de-nicaragua.html>

33. In this regard, the Judge stated that “in compliance with the decision issued at 9:40 on the morning of 9 February 2023, we have ordered the loss of Nicaraguan nationality of 222 people who were declared traitors to the homeland, in accordance with Law No. 1145, the special law regulating the loss of Nicaraguan nationality”. For more information, see: *Canal 4 Nicaragua*, *Transmisión especial desde el Complejo Judicial de Managua* (Special broadcast from the Judicial Complex in Managua), 10 February 2023, available at: <https://www.facebook.com/Canal4nicaraguanoticias/videos/1371063433695771/>

34. GHREN, *Report of the Group of Human Rights Experts on Nicaragua*, 2 March 2023, A/HRC/52/63, para. 107, unofficial translation available at: <https://reliefweb.int/attachments/5139728f-d2c5-4a4d-a12b-6d739abd2c94/EN.pdf>

35. *Canal 4 Nicaragua*, *Doctor Gustavo Porras en la Revista En Vivo con Alberto Mora* (Dr. Gustavo Porras on En Vivo Review with Alberto Mora), 10 February 2023, available at: [https://www.youtube.com/watch?v=hXW\\_HawQHvI](https://www.youtube.com/watch?v=hXW_HawQHvI)

36. FIDH/CENIDH, *Nicaragua: New turn in the human rights crisis*, February 2023, p. 9, available at: <https://www.fidh.org/en/region/americas/nicaragua/nicaragua-new-turn-in-the-human-rights-crisis>

37. OHCHR, *Human Rights Situation in Nicaragua, Report of the United Nations High Commissioner for Human Rights*, 10 August 2023, A/HRC/54/60, para. 14.

38. *Ibid.* See also: *Canal 4 Nicaragua*, *Transmisión especial desde el Complejo Judicial de Managua* (Special broadcast from the Managua Judicial Complex), 10 February 2023, available at: <https://www.facebook.com/Canal4nicaraguanoticias/videos/1371063433695771/>

94 Nicaraguans of undermining national integrity and declared them “traitors to the homeland” and “fugitives from justice”. They also ordered the permanent loss of their citizenship rights and the deprivation of their nationality, in accordance with Law No. 1145. These decisions were made without any prior procedure in which the persons concerned could present their defence.<sup>39</sup>

Among the 94 people convicted were human rights defenders, journalists, writers and academics, most of whom were in forced exile at the time they were rendered stateless by the regime.<sup>40</sup> Others were forced to leave the country irregularly, three days after the decision, taking with them only their identity documents and the clothes they were wearing.<sup>41</sup>

From this group, the human rights defender Vilma Nuñez de Escorcia, President and founder of CENIDH, one of the most emblematic human rights organisations in the country, remains in Nicaragua.<sup>42</sup> Despite the arbitrary withdrawal of its legal status and the confiscation of its assets by the regime, CENIDH has continued its work, which began more than 33 years ago, in the struggle for freedom and democracy, documenting and denouncing repression and supporting victims in their search for truth and justice.

Vilma Nuñez de Escorcia is currently FIDH Deputy Secretary General and was shortlisted, together with Bishop Rolando Álvarez Lagos, for the Sakharov Prize for Freedom of Thought.<sup>43</sup> This award is the highest tribute paid by the European community, through the European Parliament, to individuals and organisations for their outstanding contribution to the protection of human rights.

The arbitrary nature of depriving 317 individuals of their Nicaraguan nationality is reflected in four aspects. First, the imposition of this sanction did not observe the principle of legality,<sup>44</sup> according to which the state should have adopted a sufficiently precise legal basis to allow a person to reasonably foresee the consequences of actions which trigger a withdrawal of nationality.<sup>45</sup> The conduct referred to in Law No. 1055, which would give rise to a declaration as “traitor to the homeland”,<sup>46</sup> is formulated in excessively vague and imprecise terms,<sup>47</sup> failing to provide a clear indication of the conduct that would lead to the loss of nationality.<sup>48</sup>

Moreover, Law No. 1145, in addition to being unconstitutional,<sup>49</sup> was applied retroactively, by drawing adverse consequences from actions that took place prior to its enactment.<sup>50</sup> This also constitutes a violation of the principle of legality, since persons can only be deprived of their nationality for acts or omissions which, at the time of their commission, carried this consequence.<sup>51</sup>

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39. FIDH, “Nicaragua: Revocación arbitraria de la nacionalidad a la presidenta del CENIDH Vilma Nuñez” (Nicaragua: Arbitrary deprivation of the nationality of CENIDH President Vilma Nuñez), 16 February 2023, available at: <https://www.fidh.org/es/temas/defensores-de-derechos-humanos/nicaragua-revocacion-arbitraria-de-la-nacionalidad-a-la-presidenta>

40. *Ibid.*

41. Office of the Special Rapporteur on the situation of human rights defenders, *Communication to the State of Nicaragua*, 18 September 2023, Ref: AL NIC 3/2023, pp. 5 and 7.

42. FIDH, “Nicaragua: Revocación arbitraria de la nacionalidad a la presidenta del CENIDH Vilma Nuñez” (Nicaragua: Arbitrary deprivation of the nationality of CENIDH President Vilma Nuñez), 16 February 2023, available at: <https://www.fidh.org/es/temas/defensores-de-derechos-humanos/nicaragua-revocacion-arbitraria-de-la-nacionalidad-a-la-presidenta>

43. FIDH, “Nicaragua: Vilma Nuñez and Bishop Álvarez nominated for European Parliament Human Rights Prize”, 20 September 2023, available at: <https://www.fidh.org/en/region/americas/nicaragua/nicaragua-vilma-nunez-and-bishop-alvarez-nominated-for-european>

44. OHCHR, *Human Rights Situation in Nicaragua, Report of the United Nations High Commissioner for Human Rights*, 10 August 2023, A/HRC/54/60, para. 43.

45. UNHCR, *Guidelines on statelessness No.5: Loss and Deprivation of Nationality under Articles 5-9 of the 1961 Convention on the Reduction of Statelessness*, Distr. GENERAL HCR/GS/20/05, May 2020, para. 92.

46. Law No. 1055 of 2020 *De Defensa de los Derechos del Pueblo a la Independencia* (on the defence of the rights of the people to independence) establishes that “the addressees of this law will be considered “traitors to the homeland” under such criminal offences as “acts of treason”, “crimes that jeopardise peace” and “crimes against the Constitution of the Republic of Nicaragua”, disqualifying them from running for elected office (article 1)”. FIDH/CENIDH, *Nicaragua: Las nuevas leyes de la represión* (The New Laws of Repression), November 2021, available at: [https://www.fidh.org/IMG/pdf/obs\\_nicaragua\\_04.pdf](https://www.fidh.org/IMG/pdf/obs_nicaragua_04.pdf)

47. *Ibid.*, p. 19.

48. Office of the Special Rapporteur on the situation of human rights defenders, *Communication to the State of Nicaragua*, 13 July 2023, Ref: OL NIC 1/2023, p. 3.

49. As stated above, the constitutional reform that authorises the deprivation of nationality of persons declared to be “traitors to the homeland” has not yet been approved in accordance with the established constitutional procedure. Furthermore, both the reform and Law No. 1145 are contrary to Article 20 of the Constitution, which prohibits the deprivation of nationality of a Nicaraguan native.

50. Office of the Special Rapporteur on the situation of human rights defenders, *Communication to the State of Nicaragua*, 13 July 2023, Ref: OL NIC 1/2023, pp. 4 and 5.

51. This provision follows from the general principle that “a person may not be tried for conduct that was not an offence at the time the conduct occurred”. UNHCR, *Guidelines on statelessness No.5: Loss and Deprivation of Nationality under Articles 5-9 of the*

Second, the order of withdrawing nationality was in violation of due process, which is essential to “prevent abuse of the law” and to ensure that “decisions on nationality matters do not contain any element of arbitrariness”.<sup>52</sup> None of the persons concerned were informed in advance of the existence of proceedings against them for “treason against the homeland” and deprivation of their nationality, nor were they given the opportunity to be heard and to provide facts, arguments and evidence in their defence. Notification of the initiation of proceedings, access to legal counsel and a fair hearing are minimum procedural safeguards that must be respected in such cases.<sup>53</sup>

Furthermore, the decisions on the loss of nationality do not contain a statement of the factual, evidentiary and legal grounds on which the judges based their decision to impose this sanction. The absence of a reasoned decision demonstrates a blatant disrespect for a guarantee that is linked not only to the safeguarding of due process, but also to the proper administration of justice.<sup>54</sup>

Thirdly, the deprivation of nationality was based on discriminatory grounds, linked to the exercise of fundamental rights by the persons concerned, including freedom of expression, freedom of association, the expression of political opinions, as well as the right to defend human rights. The Office of the Special Rapporteur on the situation of human rights defenders recognised the discriminatory motivation behind this measure, underlining that it was “a very severe form of persecution, aimed at limiting their capacity for action, destroying their social fabric, as well as affecting their physical and mental health”.<sup>55</sup>

Finally, the judicial decisions of 10 and 15 February rendered most of the 317 persons sanctioned stateless, in clear violation of the commitment made by the Nicaraguan state in 2013, with the ratification of the 1961 Convention on the Reduction of Statelessness. According to Article 8.1 of the Convention, states must not deprive a person of their nationality if such deprivation would render them stateless. Under international human rights law, any deprivation of nationality that leads to statelessness is generally considered to be arbitrary.<sup>56</sup>

### 3. Civil death: impacts of statelessness on the enjoyment of rights

As a political and legal bond linking individuals to a state, nationality is the basis of their political and civil status.<sup>57</sup> For this reason, nationality is considered a “prerequisite” for the exercise of other rights.<sup>58</sup> When a state arbitrarily deprives a person of their nationality, it renders them a “non-citizen” in relation to it,<sup>59</sup> and places them in a situation of extreme vulnerability with regard to the full enjoyment of their rights.<sup>60</sup>

After rendering them stateless, the Ortega-Murillo regime aggravated the effects of the arbitrary deprivation of nationality through a series of decisions aimed at bringing about the civil death of the persons concerned. On the basis of the loss of their status as Nicaraguan nationals, the authorities annulled their civil identity records and decreed the loss of their civil, political, social and property rights. These measures have left them in a situation of “legal non-existence”, and have systematically affected their status as rights holders, as well as their capacity to exercise rights and incur obligations.

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<sup>52</sup> 1961 Convention on the Reduction of Statelessness, Distr. GENERAL HCR/GS/20/05, May 2020, para. 93.

<sup>53</sup> UN Human Rights Council, *Human rights and arbitrary deprivation of nationality, Report of the Secretary-General*, 14 December 2009, A/HRC/13/34, para. 43.

<sup>54</sup> In the words of the Inter-American Court, “any person against whom deprivation of nationality proceedings are instituted must be guaranteed due process in order to avoid arbitrariness and ensure that the persons concerned are in a position to defend their rights”. I/A Court H.R., *Case of Habbal et al. v. Argentina*, Judgment of 31 August 2022, paras 93 and 97.

<sup>55</sup> *Ibid.*, para. 68.

<sup>56</sup> Unofficial translation. Office of the Special Rapporteur on the situation of human rights defenders, *Communication to the State of Nicaragua*, 18 September 2023, Ref: AL NIC 3/2023, p. 8.

<sup>57</sup> UN Human Rights Council, *Human rights and arbitrary deprivation of nationality, Report of the Secretary-General*, 14 December 2009, A/HRC/13/34, para. 27.

<sup>58</sup> I/A Court H.R., *Case of expelled Dominicans and Haitians v. Dominican Republic, Preliminary Objections, Merits, Reparations and Costs*, Judgment of 28 August 2014, para. 255. In the same vein, I/A Court H.R., Advisory Opinion OC-4/84, *Proposed Amendments of the Naturalization Provisions of the Constitution of Costa Rica*, 19 January 1984, para. 32.

<sup>59</sup> *Ibid.*

<sup>60</sup> UN Human Rights Council, *Human rights and arbitrary deprivation of nationality, Report of the Secretary-General*, 14 December 2009, A/HRC/13/34, para. 47.

<sup>61</sup> I/A Court H.R., *Case of expelled Dominicans and Haitians v. Dominican Republic, Preliminary Objections, Merits, Reparations and Costs*, Judgment of 28 August 2014, para. 257.

### 3.1 Erasure of public identity records

The Nicaraguan authorities have denied at least 43 of the 317 persons arbitrarily deprived of their nationality<sup>61</sup> access to copies of civil registry documents, including identity cards and birth certificates, as well as university student records. The response received in denying access to their documents was that they “did not exist” in the registers.<sup>62</sup>

The nullification of the public identity registers of persons arbitrarily deprived of their nationality reflects a deliberate decision by the Ortega-Murillo regime to deny recognition of their existence as persons before the law, and to exclude them from the institutional legal order. This situation seriously undermines their legal personality and implies a total disregard for their status as rights holders.<sup>63</sup>

The authorities have extended the effects of the nullification of identity records to all legal acts in which the persons arbitrarily deprived of their nationality are named, thus affecting their rights and those of their families. There are documented cases in which the state has also erased the birth registration of the children of the affected persons from the Civil Registry,<sup>64</sup> thereby putting them at risk of statelessness.<sup>65</sup>

One fear expressed by stateless persons is that the cancellation of their identity records will affect the right to filiation of their children under the age of 18.<sup>66</sup> Given their legal non-existence, children could end up being legally “without parents”. This situation would affect the right to preserve identity, which implies that the official records recognise the name, nationality and family relations of the children.<sup>67</sup> In view of this situation, the Office of the Special Rapporteur on the situation of human rights defenders, together with other special procedures, requested the state of Nicaragua to provide information “on the legal grounds for erasing the names of parents from birth certificates and legal documents of their children, in particular those under 18 years of age”.<sup>68</sup>

The nullification of identity records also affected the rights of third parties. This is illustrated by the case of Ernesto Medina Sandino, former rector of the American University in Managua (UAM), who was arbitrarily deprived of his nationality, along with 93 other persons, by the judicial decision of 15 February 2023. At the time of the decision, the academic had been out of the country for two years, due to the persecution he suffered for his defence of the students who participated in the 2018 protests, and his public condemnation of the acts of violence and repression perpetrated against them by the regime.

The only property on which Ernesto Medina Sandino’s name appeared in the Nicaraguan property registry was the house that he and his eleven siblings inherited from their mother. Although this property was sold in 2022, the buyer could not register it as his property, following the judicial decision in February 2023, as the deed of sale contained the name of the academic. The land registry officials stated that the transaction was “unlawful”. The property was later occupied by the police and confiscated by the authorities.

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61. OHCHR, *Human Rights Situation in Nicaragua, Report of the United Nations High Commissioner for Human Rights*, 10 August 2023, A/HRC/54/60, para. 33.

62. *Ibid.*

63. According to the Inter-American Court, the right to juridical personality “represents a parameter to determine whether a person is entitled to any given rights”, and therefore “the violation of this recognition presumes an absolute disavowal of the possibility of being a holder of [the civil and fundamental] rights and obligations”. I/A Court H.R., *Case of Anzualdo Castro v. Peru, Preliminary Objection, Merits, Reparations and Costs*, Judgment of 22 September 2009, Series C No. 202, paras 87 and 88.

64. OHCHR, *Human Rights Situation in Nicaragua, Report of the United Nations High Commissioner for Human Rights*, 10 August 2023, A/HRC/54/60, para. 33.

65. According to UNHCR, “Persons are often at risk of statelessness because they have difficulties proving they possess links to a State. Lack of birth registration and personal documentation create such a risk”. UNHCR, *UNHCR Action to Address Statelessness*, Division of International Protection, 2010, para. 33.

66. Office of the Special Rapporteur on the situation of human rights defenders, *Communication to the State of Nicaragua*, 18 September 2023, Ref: AL NIC 3/2023, p. 5.

67. According to Article 8.1 of the Convention on the Rights of the Child, ratified by the State of Nicaragua in 1990, “States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognised by law without unlawful interference”.

68. Office of the Special Rapporteur on the situation of human rights defenders, *Communication to the State of Nicaragua*, 18 September 2023, Ref: AL NIC 3/2023, p. 9.



### 3.2 Confiscation of assets and property

Among the sanctions imposed by the judiciary on 316 persons<sup>69</sup> arbitrarily deprived of their nationality, the state ordered the “freezing and confiscation” of all real-estate assets and companies registered in their names, either in their personal capacity or as partners.<sup>70</sup>

International human rights bodies described this measure as an “arbitrary, disproportionate punishment for crimes”<sup>71</sup> that violates the rights to enjoy an adequate standard of living and to property.<sup>72</sup> It is also a sanction that exposes stateless people, especially older persons, and their family members who remain in Nicaragua to increased vulnerability due to the loss of rental income from their properties.<sup>73</sup>

The judicial decision of 15 February 2023 ordered confiscation against 94 persons rendered stateless.<sup>74</sup> On 9 June 2023, it became known that an order had been issued by the First Chamber of the Managua Court of Appeals, dated 19 May, by which the Office of the Attorney General of the Republic was requested to proceed with the “confiscation” of real estate, companies and shares belonging to 222 persons who had been released from prison and exiled.<sup>75</sup>

By August 2023, at least 78 homes and other properties had been seized by the authorities.<sup>76</sup> The confiscations were preceded by police occupation of the properties and property records were erased.<sup>77</sup> In some cases, the confiscated property belonged to relatives of persons arbitrarily deprived of their nationality, including their children under the age of 18, who were not named in the court decisions ordering the expropriation.<sup>78</sup>

Those who live in these properties, including relatives of stateless persons, denounced the siege by the authorities, and expressed their fear of being evicted at any moment. They reported that the Office of the Attorney General of the Republic was charging them rent to stay in the houses and required them to formalise their “occupational status”.<sup>79</sup>

Confiscation measures have also included the blocking of bank accounts and the freezing of funds,<sup>80</sup> thus preventing those arbitrarily deprived of their nationality from disposing of their savings and recovering the money deposited. In the case of Ernesto Medina Sandino, the freezing of his accounts took place in March 2023, without any formal notification. The academic asked the bank, on two occasions, to confirm whether his accounts had been frozen and since when the measure had been in place. To date, he has not received any response to his requests.

69. According to the information available, Bishop Rolando Álvarez Lagos was not subject to confiscation of assets and property.

70. OHCHR, *Human Rights Situation in Nicaragua, Report of the United Nations High Commissioner for Human Rights*, 10 August 2023, A/HRC/54/60, para. 41.

71. IACHR, “IACHR Rejects Ongoing Repression and Human Rights Violations in Nicaragua”, 16 June 2023, available at: [https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media\\_center/preleases/2023/123.asp](https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media_center/preleases/2023/123.asp). In the same vein, see: IACHR, “Nicaragua: IACHR and REDESCA Express Concern About Violations of Property and Social Security Rights”, 14 April 2023, available at: [https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media\\_center/preleases/2023/061.asp](https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media_center/preleases/2023/061.asp)

72. OHCHR, *Human Rights Situation in Nicaragua, Report of the United Nations High Commissioner for Human Rights*, 10 August 2023, A/HRC/54/60, para. 43.

73. *Ibid.*, para. 42. In the same vein, see: IACHR, “Nicaragua: IACHR and REDESCA express concern About Violations of Property and Social Security Rights”, 14 April 2023, available at: [https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media\\_center/preleases/2023/061.asp](https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media_center/preleases/2023/061.asp)

74. FIDH, “*Nicaragua: Revocación arbitraria de la nacionalidad a la presidenta del CENIDH Vilma Núñez*” (Nicaragua: Arbitrary deprivation of the nationality of CENIDH President Vilma Núñez), 16 February 2023, available at: <https://www.fidh.org/es/temas/defensores-de-derechos-humanos/nicaragua-revocacion-arbitraria-de-la-nacionalidad-a-la-presidenta>

75. IACHR, “IACHR Rejects Ongoing Repression and Human Rights Violations in Nicaragua”, 16 June 2023, available at: [https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media\\_center/preleases/2023/123.asp](https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media_center/preleases/2023/123.asp). In the same vein, see: *Confidencial*, “Dictatorship orders confiscation of assets of 222 banished former political prisoners”, 14 June 2023, available at: <https://confidencial.digital/english/dictatorship-orders-confiscation-of-assets-of-222-banished-former-political-prisoners/>. See also, DW, “*Ortega confisca propiedades a 222 expresos desterrados*” (Ortega confiscates property belonging to 222 exiled prisoners), 10 June 2023, available at: <https://www.dw.com/es/ortega-confisca-propiedades-a-222-expresos-pol%C3%ADticos-desterrados/a-65876899>

76. OHCHR, *Human Rights Situation in Nicaragua, Report of the United Nations High Commissioner for Human Rights*, 10 August 2023, A/HRC/54/60, para. 42.

77. IACHR, “Nicaragua: IACHR and REDESCA Express Concern About Violations of Property and Social Security Rights”, 14 April 2023, available at: [https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media\\_center/preleases/2023/061.asp](https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media_center/preleases/2023/061.asp)

78. OHCHR, *Human Rights Situation in Nicaragua, Report of the United Nations High Commissioner for Human Rights*, 10 August 2023, A/HRC/54/60, para. 42.

79. IACHR, “Nicaragua: IACHR and REDESCA Express Concern About Violations of Property and Social Security Rights”, 14 April 2023, available at: [https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media\\_center/preleases/2023/061.asp](https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media_center/preleases/2023/061.asp)

80. Office of the Special Rapporteur on the situation of human rights defenders, *Communication to the State of Nicaragua*, 18 September 2023, Ref: AL NIC 3/2023, p. 7.

### 3.3 Cancellation of retirement pensions and denial of health care

The Ortega-Murillo regime erased the older persons who had been arbitrarily deprived of their nationality from the registers of the Nicaraguan Institute of Social Security (INSS). As a result, after the judicial decisions of February 2023, they could not access payment of their pensions, nor the issuance of certificates proving that they were insured under the social security system.<sup>81</sup>

Access to a retirement pension is a right that those concerned acquired by fulfilling the requirements of the Social Security Scheme, as provided for by law, and by completing the corresponding retirement formalities. Most of those affected have had this entitlement for many years.<sup>82</sup>

Pension payments were suspended abruptly and no official notification or information on the reasons for their cancellation was given to those concerned. On 10 March 2023, human rights defender Vilma Nuñez de Escorcia went to the offices of the Nicaraguan Institute of Social Security (INSS), where she used to collect the pension that she had been receiving for 22 years. Two officials there informed her that her record was not in the INSS system, and that her pension was “cancelled”. The human rights defender did not obtain any further information.

Notwithstanding the manifest arbitrary nature of the state’s actions and the lack of effective remedies for the protection of rights in Nicaragua, Vilma Nuñez de Escorcia appealed to the authorities and requested that her rights be respected and re-established. On 27 March, she submitted a written application to the INSS requesting the payment of her pension. On 7 June, the human rights defender reiterated this claim after the INSS denied her the health care to which she is entitled as a retiree. On 5 June, she was denied her monthly medication, and staff at the clinic where she was being treated told her that she had been erased from the social security system. The INSS has not responded to any of these requests.

Denial of access to a social protection system, based on deprivation of nationality, increases the vulnerability of older persons and disproportionately affects their rights.<sup>83</sup> Following the February 2023 judicial decisions, those rendered stateless lost protections that they had received by law and which were entitlements, such as income security in old age and access to health and care services. Statutory pension contributions and the payment of pension allowances are protected by the rights to property<sup>84</sup> and to social security,<sup>85</sup> and are essential to ensure the human dignity of older persons and the promotion of their rights.<sup>86</sup>

### 3.4 Permanent suspension from professional practice and inability to access justice

On the basis of Law No. 1145, the Supreme Court of Justice, through the National Council for Judicial Administration and Careers,<sup>87</sup> disqualified for life 26 of the 317 stateless persons from practising their profession as lawyers and notaries public.<sup>88</sup> The president of the Court, Alba Luz Ramos Vanegas, the vice-president, Marvin Ramiro Aguilar García, and judges Juana Méndez Pérez and Virgilio José Gurdían Castellón considered that these persons “lost” their right to hold their titles and

81. OHCHR, *Human Rights Situation in Nicaragua, Report of the United Nations High Commissioner for Human Rights*, 10 August 2023, A/HRC/54/60, para. 34. In the same vein, IACHR, “Nicaragua: IACHR and REDESCA Express Concern About Violations of Property and Social Security Rights”, 14 April 2023, available at: [https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media\\_center/preleases/2023/061.asp](https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media_center/preleases/2023/061.asp)

82. Office of the Special Rapporteur on the situation of human rights defenders, *Communication to the State of Nicaragua*, 18 September 2023, Ref: AL NIC 3/2023, p. 5, 7 y 8.

83. IACHR, “Nicaragua: IACHR and REDESCA Express Concern About Violations of Property and Social Security Rights”, 14 April 2023, available at: [https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media\\_center/preleases/2023/061.asp](https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media_center/preleases/2023/061.asp)

84. According to the Inter-American Court, the right to property protects the right to receive a pension as an entitlement, since it is “a right that has been incorporated into the patrimony of the persons”. I/A Court H.R., *Case of the “Five Pensioners” v. Peru (Merits, Reparations and Costs)*, Judgment of 28 February 2003, para. 102.

85. According to the Human Rights Committee, social security “includes the right to access and maintain benefits, whether in cash or in kind, without discrimination, in order to secure protection”. It also includes “the right not to be subject to arbitrary and unreasonable restrictions of existing social security coverage”. Human Rights Committee, *General Comment No. 19, The right to social security (article 9)*, E/C.12/GC/19, 4 February 2008, paras 2 and 9.

86. *Ibid*, para. 1.

87. The National Council of Judicial Administration and Careers is a body of the Supreme Court of Justice, established in Article 165 of the Political Constitution of Nicaragua and in Article 4 of Law No. 501. For more information, see: Directorate General of Judicial Careers, Judicial Branch of Nicaragua, available at: <https://www.poderjudicial.gob.ni/carrerajudicial/>

88. OHCHR, *Human Rights Situation in Nicaragua, Report of the United Nations High Commissioner for Human Rights*, 10 August 2023, A/HRC/54/60, para. 35.

exercise the legal profession, as a consequence of the withdrawal of Nicaraguan nationality.<sup>89</sup>

In two rulings issued on 11 May, the Supreme Court of Justice ordered the definitive suspension of their professional practice and the cancellation of their academic qualifications. It also required them to hand over, within 24 hours, the diplomas, seals and licenses that accredited them as lawyers and notaries public, as well as the protocols and books in their custody for their professional practice.<sup>90</sup>

The Supreme Court of Justice imposed this sanction in violation of the due process rights of those affected, as it did not hold a prior proceeding allowing them to be heard and to avail themselves of all the means for their defence. In addition, it used deprivation of nationality as an argument to dismiss the cause of action of the legal claims requesting review of the sanctions and protection against their effects.

One of those disqualified from practising law attempted to file a writ of *amparo* (appeal for protection) against the decision of the Supreme Court of Justice. On five occasions,<sup>91</sup> the Office for the Reception of Cases and Writs of the Central Judicial Complex of Managua refused to receive the application. On 25 May, the person concerned was finally able to file the writ, alleging violations of the rights to due process and the principle of legality.

The day following receipt of the application, Henry Antonio Morales Olivares, judge of the First Civil Chamber of the Managua Court of Appeals, ruled that the writ of *amparo* was “inadmissible” on the grounds that the person had been declared a “traitor to the homeland” and sentenced to the loss of Nicaraguan nationality and their rights as a citizen.

In light of this dismissal, on 31 May 2023, the person concerned requested to the First Civil Chamber of the Court of Appeal for certification of the main items in the file of the writ of *amparo*. Access to this documentation is a requirement to be able to appeal the decision due to its unlawfulness. On 7 June, the First Civil Chamber of the Court of Appeal rejected the request, declaring it “out of time”, despite the fact that it had been submitted within the time limit set by law.

This case demonstrates that the suppression of the rights of persons rendered stateless also includes the undue restriction of their right to access to justice. Those concerned have no effective remedy to challenge the arbitrary deprivation of their nationality and the decisions aggravating its effects, nor do they have access to effective means of redress to enable them to have their nationality restored and end their stateless status.<sup>92</sup>

The way in which the judiciary arbitrarily deprived 317 individuals of their Nicaraguan nationality, and issued decisions that maintained and aggravated the effects of an illegitimate measure that is contrary to international human rights law, demonstrates that individuals have no effective access to impartial and independent justice and that the judicial system has been co-opted by the Ortega-Murillo regime. On this point, the IACHR recently stated that “the lack of independence of the justice administration system has facilitated the use and manipulation of criminal law to criminalise and prosecute those who criticise or oppose the government”.<sup>93</sup>

In conclusion, those arbitrarily deprived of their nationality find themselves in a situation of manifest lack of protection, given that there are no effective, impartial and independent domestic legal means of redress and reparation for the violations of their human rights. Claims to assert their rights, besides being unsuccessful, also exacerbate their situation of vulnerability, since it makes them more visible to

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89. According to the National Council of Judicial Administration and Careers, “In accordance with the Nicaraguan legal system and regulations governing the profession of lawyer and notary public, these individuals cannot hold the title or exercise the profession of lawyer and notary public, as they have lost the right to exercise this profession, by virtue of having lost their Nicaraguan nationality. Supreme Court of Justice. National Council for Judicial Administration and Careers. Resolution of May 11, 2023. p. 2.

90. *Ibid.*

91. The Office for the Reception of Cases and Writs of the Central Judicial Complex of Managua refused to receive the application for *amparo* on 18, 19, 22, 23 and 24 May 2023.

92. International human rights law recognises the right of persons arbitrarily deprived of their nationality to have access to a remedy to enable them to have their nationality restored. In this regard, the Human Rights Council, in its Resolutions 7/10 and 10/13, urged States to ensure that persons deprived of their nationality have access to effective remedies, including restoration of nationality. For more information, see UNHCR, *Guidelines on statelessness No. 5: Loss and Deprivation of Nationality under Articles 5-9 of the 1961 Convention on the Reduction of Statelessness*, Distr. GENERAL HCR/GS/20/05 May 2020, paras 106-107.

93. IACHR, *Closure of civic space in Nicaragua*, 23 September 2023, para. 62.

the authorities, exposing them to further reprisals and forms of persecution.

In view of the above, international human rights organisations have concluded that the Supreme Court's rulings of 11 May not only constitute "undue interference in the legal profession in Nicaragua,"<sup>94</sup> but are also aimed at creating "an atmosphere of fear and self-censorship among those who defend political opponents or continue to work in Nicaragua."<sup>95</sup>

## 4. Protection of persons who have become stateless

### 4.1 Individuals outside Nicaragua

Almost all of the individuals who have been made stateless by the Ortega-Murillo regime are outside Nicaragua, facing different situations in terms of recognition of their status and the granting of special protection to allow them to access and exercise their human rights.<sup>96</sup> In the case of the 222 women released from prison and exiled, the US government granted them a temporary residence permit, on urgent humanitarian grounds, authorising them to stay legally in the country for two years and to apply for a work permit.<sup>97</sup>

Another group of people were in exile when the regime arbitrarily deprived them of their nationality. Some of them have had their refugee status recognised by the governments of the host countries.<sup>98</sup> Others are seeking asylum and are awaiting a final decision on their status.<sup>99</sup> In some cases, the applicants do not have a work permit and the decision on their status has been pending for several years.<sup>100</sup>

In at least two cases, persons arbitrarily deprived of their nationality left the country irregularly, days after the decision condemning them to statelessness. One of them was granted refugee status and another is applying for asylum and is experiencing serious difficulties in accessing the means necessary for their subsistence.<sup>101</sup>

One group of people left Nicaragua and went into exile due to persecution by the regime, but on their arrival abroad they did not take any steps to apply for refugee status. For this reason, at the time of the arbitrary deprivation of their nationality they were not covered by any international protection regime.<sup>102</sup>

In response to the arbitrary stripping of nationality carried out by the Ortega-Murillo regime, the governments of Spain,<sup>103</sup> Chile, Argentina, Mexico<sup>104</sup> and Colombia<sup>105</sup> offered to grant stateless persons

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94. Office of the Special Rapporteur on the situation of human rights defenders, *Communication to the State of Nicaragua*, 13 July 2023, Ref: OL NIC 1/2023, p. 8.

95. IACHR, "IACHR Rejects Ongoing Repression and Human Rights Violations in Nicaragua", 16 June 2023, available at: [https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media\\_center/preleases/2023/123.asp](https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media_center/preleases/2023/123.asp)

96. At the international level, there is consensus that stateless persons require recognition of their status, as well as the granting of special protection to enable them to access and exercise their human rights. In this regard, UNHCR has drawn attention to the importance of States establishing a procedure for the determination and granting of a legal status to stateless persons, in accordance with the 1954 Convention relating to the Status of Stateless Persons. UNHCR, *Statelessness Determination Procedures: Identifying and Protecting Stateless Persons*, August 2014, p. 1.

97. US Department of State, "222 Nicaraguan Political Prisoners Released, Enter U.S. – Frequently Asked Questions and Resources", available at: <https://www.state.gov/222-nicaraguan-political-prisoners-released-enter-u-s-frequently-asked-questions-and-resources/>

98. Office of the Special Rapporteur on the situation of human rights defenders, *Communication to the State of Nicaragua*, 18 September 2023, Ref: AL NIC 3/2023, pp. 4-7.

99. *Ibid.*

100. *Ibid.* See also, *Confidencial*, "Stateless Nicaraguans assess ways out of migratory uncertainty", 28 February 2023, available at: <https://confidencial.digital/english/stateless-nicaraguans-assess-ways-out-of-migratory-uncertainty/>

101. Office of the Special Rapporteur on the situation of human rights defenders, *Communication to the State of Nicaragua*, 18 September 2023, Ref: AL NIC 3/2023, p. 7.

102. *Confidencial*, "Stateless Nicaraguans assess ways out of migratory uncertainty", 28 February 2023, available at: <https://confidencial.digital/english/stateless-nicaraguans-assess-ways-out-of-migratory-uncertainty/>

103. *El País*, "España ofrece la nacionalidad a los 222 presos políticos desterrados por Ortega" (Spain offers nationality to 222 political prisoners banished by Ortega), 10 February 2023, available at: <https://elpais.com/internacional/2023-02-10/espana-ofrece-la-nacionalidad-a-los-222-expresos-politicos-desterrados-por-ortega.html>. See also: *El País*, "España ofrece la nacionalidad a los 94 opositores a los que se la ha quitado Daniel Ortega" (Spain offers nationality to the 94 opponents who have been stripped of it by Daniel Ortega), 17 February 2023, available at: <https://elpais.com/internacional/2023-02-17/espana-ofrece-la-nacionalidad-a-los-94-opositores-a-los-que-se-la-ha-quitado-daniel-ortega.html>

104. *BBC News Mundo*, "Argentina, Chile y México ofrecen la ciudadanía a los nicaragüenses opositores a los que despojaron de su nacionalidad" (Argentina, Chile and Mexico offer citizenship to Nicaraguan opponents deprived of their nationality), 22 February 2023, available at: <https://www.bbc.com/mundo/noticias-america-latina-64730172>

105. DW, "Colombia y México ofrecen ciudadanía a apátridas" (Colombia and Mexico offer citizenship to stateless persons),

the nationalities of their states. Between May and July 2023, the Government of Spain granted 90 of them Spanish nationality by providing them with a naturalisation certificate.<sup>106</sup>

The granting of a nationality is an essential measure to address the protection needs of stateless persons and to provide durable solutions to their situation.<sup>107</sup> However, its scope only covers persons who have been arbitrarily deprived of their nationality, and does not take into account the situation of their family members, including children under the age of 18, who in most cases were also forced into exile as a result of persecution against their relatives.

This limitation results in families having to go through regular migration procedures that do not take into account the vulnerability and special nature of their situation. This is the case of Ernesto Medina Sandino, who was granted Spanish nationality on the basis of a naturalisation certificate pursuant to Royal Decree 361/2023 of 11 May 2023. The academic had not applied for recognition of his refugee status, and therefore, despite the granting of nationality, his family members are experiencing difficulties in regularising their migratory status and obtaining residence permits.

In relation to persons arbitrarily deprived of their Nicaraguan nationality, host states should take into account that they may be both stateless and refugees. According to UNHCR's legal assessment of the situation of persons who were forced to flee Nicaragua, "individuals opposing and those perceived as opposing the national government" are among the populations requiring international protection as refugees,<sup>108</sup> in accordance with the 1951 Convention relating to the Status of Refugees.<sup>109</sup> Within this group, UNHCR includes several of the profiles of persons who have been rendered stateless, including human rights defenders, leaders of political opposition parties and persons perceived as opponents for supporting demonstrators.<sup>110</sup>

In terms of the international protection offered by recognition as a refugee or a stateless person, IACHR considers that recognition under the Convention relating to the Status of Refugees provides more protection.<sup>111</sup> Refugee status grants protections that are not provided for in the regime governing stateless persons, including the right not to be returned to places where one's life and liberty would be in danger, the right not to be punished for irregular entry into a country, and the possibility that refugee status may be extended to relatives.<sup>112</sup>

In any case, it should be borne in mind that the 1951 Convention provides for the status of stateless refugees. These are persons who have left their country owing to a well-founded fear of being persecuted, and "not having a nationality and being outside the country of [their] former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it". In such cases, UNHCR has noted that states may recognise both protection statuses through the same procedure.<sup>113</sup>

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23 February 2023, available at: <https://www.dw.com/es/colombia-y-m%C3%A9xico-ofrecen-nacionalidad-a-ap%C3%A1tridas-de-nicaragua/a-64793143>

106. Spanish nationality was granted gradually and in groups. 14 persons were granted nationality on 11 May (see: <https://www.boe.es/boe/dias/2023/05/12/pdfs/BOE-S-2023-113.pdf>); 14 persons were granted nationality on 23 May (see: <https://www.boe.es/boe/dias/2023/05/24/pdfs/BOE-S-2023-123.pdf>); 18 persons on 29 May (see: <https://www.boe.es/boe/dias/2023/05/31/pdfs/BOE-S-2023-129.pdf>); 29 persons on 13 June (see: <https://www.boe.es/boe/dias/2023/06/14/pdfs/BOE-S-2023-141.pdf>); 8 persons on 4 July (see: <https://www.boe.es/boe/dias/2023/07/05/pdfs/BOE-S-2023-159.pdf>); 7 persons on 11 July (see: <https://www.boe.es/boe/dias/2023/07/12/pdfs/BOE-S-2023-165.pdf>).

107. According to the IACHR "The only circumstance that can put an end to the international protection granted to a stateless person is acquisition of a nationality". IACHR, *Due Process in Procedures for the Determination of Refugee Status and Statelessness and the Granting of Complementary Protection*, 5 August 2020, para. 375.

108. UNHCR, *International Protection Considerations with regard to People Fleeing Nicaragua*, HCR/PC/NIC/2023/01, January 2023, p. 6.

109. According to Article 1 of the 1951 Convention, a person is a "refugee" when (i) he/she is outside the country of his/her nationality; (ii) he/she has a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion; and (iii) owing to such fear, he/she is unable or unwilling to avail himself/herself of the protection of that country.

110. UNHCR, *International Protection Considerations with regard to People Fleeing Nicaragua*, HCR/PC/NIC/2023/01, January 2023, pp. 35 and 36.

111. IACHR, *Due Process in Procedures for the Determination of Refugee Status and Statelessness and the Granting of Complementary Protection*, 5 August 2020, para. 330.

112. *Ibid*, paras 330, 334 and 368.

113. UNHCR, *Statelessness Determination Procedures: Identifying and Protecting Stateless Persons*, August 2014, p. 5.

## 4.2 Individuals who remain in Nicaragua

According to the information available, two of those who have become stateless and remain on Nicaraguan territory are human rights defender Vilma Nuñez de Escorcia and Bishop Rolando Álvarez Lagos. They are in a situation of extreme defencelessness. On the one hand, they are experiencing systematic suppression of their human rights as a result of the arbitrary deprivation of their Nicaraguan nationality. On the other hand, they face repression by the Ortega-Murillo regime without access to any effective domestic remedy to protect them from the arbitrary exercise of public power.

While Vilma Nuñez de Escorcia is under strict police siege,<sup>114</sup> Bishop Rolando Álvarez is in state custody, in prison, and since 25 March 2023 his physical and psychological condition, as well as his location, have been unknown.<sup>115</sup> On 28 November, the Ministry of the Interior published a press release stating that Bishop Rolando Álvarez had allegedly received family and medical visits between March and November 2023.<sup>116</sup> Although the information published by the executive branch proves that the Bishop is in detention, it does not reliably prove either the conditions in which he is being held or his state of health.

In cases such as theirs, known as “*in situ*” statelessness cases, the only appropriate protection option is the restoration of nationality.<sup>117</sup> According to UNHCR, the profound connection of persons to their countries of birth and long-term residence, as well as the absence of links with other nations, imposes a “political and moral imperative” on the state to restore their nationality status.<sup>118</sup> This is also the most rapid way to resolve the situation of stateless persons.<sup>119</sup>

The possibilities for the restoration of the rights of Vilma Nuñez de Escorcia and Bishop Rolando Álvarez Lagos are limited, as they depend exclusively on the discretion of the Ortega-Murillo regime. The actions taken by the authorities, with the adoption of orders that have exacerbated the effects of their statelessness, are indicative of their unwillingness to remedy the situation.

In addition, the state of Nicaragua continues to fail to fulfil its international human rights commitments and to cooperate with UN bodies. On 23 October 2023, the Ambassador and Permanent Representative of Nicaragua withdrew from the opening session of the periodic review by the Committee on the Elimination of Discrimination against Women (CEDAW) after making a statement containing “baseless accusations”. The Committee then had to proceed with the review without being able to engage in a constructive dialogue with the state delegation.<sup>120</sup>

This refusal was notwithstanding the Human Rights Council’s resolution of 27 March 2023, calling on the state of Nicaragua to cooperate fully with the Office of the High Commissioner, the Human Rights Council and its mechanisms, and the relevant treaty bodies, “including during its upcoming review by the Committee on the Elimination of Discrimination against Women.”<sup>121</sup>

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114. IACHR, *Closure of civic space in Nicaragua*, 23 September 2023, para. 67.

115. Office of the Special Rapporteur on the situation of human rights defenders, *Communication to the State of Nicaragua*, 2 August 2023, Ref: AL NIC 2/2023, p. 4.

116. *Confidencial*, “Ortega Regime Releases Photos of Alleged ‘Prison Visits’ To Bishop Rolando Álvarez”, 28 November 2023, available at: <https://confidencial.digital/english/ortega-regime-releases-photos-of-alleged-prison-visits-to-bishop-rolando-alvarez/>

117. According to UNHCR, in these cases, the application of a statelessness determination procedure is not appropriate, since “the appropriate status for such individuals in their ‘own country’ is nationality of the State in question (...), in these cases the correct mechanism for determining an individual’s or a population group’s status is one that is concerned with the restoration or conferral of nationality.” UNHCR, *Handbook on Protection of Stateless Persons under the 1954 Convention relating to the Status of Stateless Persons*, Geneva, 2014, para. 165.

118. *Ibid*, para. 164.

119. UNHCR, *Statelessness Determination Procedures: Identifying and Protecting Stateless Persons*, August 2014, p. 9.

120. “UN women’s rights committee deplors withdrawal of Nicaraguan Ambassador from public review”, 25 October 2023, available at: <https://www.ohchr.org/en/press-releases/2023/10/un-womens-rights-committee-deplors-withdrawal-nicaraguan-ambassador-public>

121. Human Rights Council, *Resolution on the promotion and protection of human rights in Nicaragua*, A/HRC/52/L.38, 27 March 2023, para. 20.

## Recommendations

The arbitrary deprivation of Nicaraguan nationality in respect of 317 individuals, carried out on 10 and 15 February 2023, shows the intensification of the persecution and punishment of those perceived to be opponents of the government, including human rights defenders.<sup>122</sup> It is also designed to intimidate civil society as a whole, as it reaffirms that “any person critical of the government and their relatives will be punished.”<sup>123</sup> In short, this measure is yet another step towards the destruction of civic and democratic space which has been progressively promoted by the regime since 2018, and which aims to ensure that there is no room for dissent in Nicaragua.<sup>124</sup>

This document does not provide an exhaustive picture of the situation. The cases presented here illustrate the seriousness and systematisation of the human rights violations suffered by persons arbitrarily deprived of their Nicaraguan nationality. However, it should be noted that, at the time of writing, we do not know the situations of all stateless persons, who may be facing similar or worse situations of lack of protection than those described in this note.

In response to this aberrant situation, which has no recent precedent in the region, we call on States and international organisations to:

- Strongly condemn the arbitrary deprivations of nationality imposed by the Ortega-Murillo regime against 317 Nicaraguans and the measures that have further aggravated the effects of their statelessness, including the erasure of their public identity records, the confiscation of their property, and the suppression of their rights to access to justice, to enjoy a retirement pension and to exercise their profession.
- Call for the repeal of Law No. 1145 of 2023 enabling loss of nationality to be imposed on persons declared “traitors to the homeland,” and urge the Government of Nicaragua to immediately restore the Nicaraguan nationality of all persons deprived of it.
- Call for the repeal of Laws No. 977,<sup>125</sup> 1055<sup>126</sup> and 1060,<sup>127</sup> which have been invoked selectively by the Ortega-Murillo regime to persecute dissidents,<sup>128</sup> and urge the state of Nicaragua to immediately repeal the criminal sanctions imposed pursuant to these laws, including the sentences handed down against the 317 persons arbitrarily deprived of their nationality.
- Urge the state of Nicaragua to immediately and unconditionally release Bishop Rolando Álvarez Lagos and all political prisoners in Nicaragua.
- Urge the state of Nicaragua to guarantee the integrity and security of human rights defender Vilma Núñez de Escorcía and Bishop Rolando Álvarez Lagos, who are both stateless in the country.
- Continue to closely monitor the situation in Nicaragua, with particular emphasis on the situations of Vilma Núñez de Escorcía and Bishop Rolando Álvarez Lagos, ensuring that their freedom and their physical and psychological integrity are respected.

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122. IACHR, *Closure of civic space in Nicaragua*, 23 September 2023, para. 67.

123. OHCHR, *Human Rights Situation in Nicaragua, Report of the United Nations High Commissioner for Human Rights*, 10 August 2023, A/HRC/54/60, para. 75.

124. *Ibid.*, para. 76.

125. Law No. 977 *Contra el Lavado de Activos, el Financiamiento al Terrorismo y el Financiamiento a la Proliferación de Armas de Destrucción Masiva* (on money-laundering, the financing of terrorism and the financing of the proliferation of weapons of mass destruction), adopted in 2018.

126. Law No. 1055 *de Defensa de los Derechos del Pueblo a la Independencia, la Soberanía y Autodeterminación para la Paz* (on the defence of the rights of the people to independence, sovereignty and self-determination for peace), adopted in 2020.

127. Law No. 1060 *Ley de Reforma y Adición a la Ley N.º.406, Código Procesal Penal de la República de Nicaragua* (reforming Law No. 406 on the Code of Criminal Procedure of the Republic of Nicaragua), adopted in 2021.

128. OHCHR, *Human Rights Situation in Nicaragua, Report of the United Nations High Commissioner for Human Rights*, 10 August 2023, A/HRC/54/60, para. 21.

To the states that have received Nicaraguan individuals who have become stateless, we recommend that they:

- Adopt special, simplified and expedited procedures to provide them with protection. These measures should presume their status as stateless refugees and include their families as beneficiaries of protection. Given the particular vulnerability caused by statelessness, it is essential that the procedures envisaged guarantee access to social and economic rights from the moment individuals apply for protection, and provide durable solutions to their situation, including the acquisition of a nationality and local integration into the community that has received them.

We call on the United Nations High Commissioner for Refugees (UNHCR), in accordance with its mandate to prevent statelessness and to act to ensure that stateless persons enjoy fundamental human rights, to:

- Conduct and disseminate a study on the situation of statelessness among the Nicaraguan population in order to better understand the scope and dimension of the problem, identify the populations affected and their protection needs. This research should include the situation of those who find themselves in a situation of de facto statelessness<sup>129</sup> caused by the refusal of the Nicaraguan authorities to renew their expired passports and to issue other identity documents.<sup>130</sup>
- Prioritise assistance and support to Nicaraguan nationals who have been rendered stateless in the submission of their applications for protection to host states.
- Intervene proactively with the authorities of the host states to advocate for the granting of protection to Nicaraguan nationals who have been made stateless.

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129. According to UNHCR, statelessness can occur when there is no formal act, but where the practice shows that the state has ceased to consider an individual or group as nationals. For example, by repeatedly refusing to issue or renew their documents without providing justification. UNHCR, *Guidelines on statelessness No. 5: Loss and Deprivation of Nationality under Articles 5-9 of the 1961 Convention on the Reduction of Statelessness*, Distr. GENERAL HCR/GS/20/05, May 2020, para. 9.

130. On this point, the IACHR Special Monitoring Mechanism for Nicaragua has received information from individuals who are unable to return to Nicaragua and have faced the State's refusal to renew their passports and issue their identity documents. IACHR, "IACHR Rejects Ongoing Repression and Human Rights Violations in Nicaragua", 16 June 2023, available at: [https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media\\_center/preleases/2023/123.asp](https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media_center/preleases/2023/123.asp)





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