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191st period of sessions of
the Inter-American Commission on Human Rights

Hearing:
"International financial support and
its impact on human rights in Nicaragua".

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Washington DC

Distinguished Chair, Commissioner Roberta Clarke,
Commissioners,

Also on behalf of my colleagues Ms. Ariela Peralta Distefano and Mr. Reed Kálmán Brody, in my capacity as Chair of the Group of Human Rights Experts on Nicaragua, I would like to express my gratitude for the privilege of participating in the hearing of this honourable Commission at its one hundred and ninety-first (191st) session.

The Group of Experts ("GHREN") was established by the United Nations Human Rights Council by resolution 49/3 in March 2022. Its initial mandate was for a period of one year until March 2023 and was renewed for a period of two years, until March 2025, by Council resolution 52/2 in April 2023.

The mandate of the Group of Experts is to:

(1) investigate violations and abuses of human rights committed in Nicaragua since April 2018, including, where possible, identifying those responsible;
(2) make such information accessible and usable in support of ongoing and future accountability efforts;
(3) make recommendations with a view to improving the situation of human rights, and provide guidance on access to justice and accountability, as appropriate; and
(4) to engage, inter alia, with international human rights organisations, with a view to exchanging information, as appropriate.

It is within the framework of this mandate to engage with a view to exchanging information, that I am participating today in my capacity as chair of the Group of Experts in this hearing entitled "International financial support and its impact on human rights in Nicaragua".

Since its establishment, and in accordance with its mandate, the Group of Experts has published two reports, accompanied by six Conference Room

Papers and has provided two oral updates to the Council on the results of its investigations.

These results are based on a total of more than twelve hundred interviews and almost five thousand documents.

On each occasion, we report having established facts and circumstances that constitute, *prima facie*, crimes against humanity, particularly persecution on political grounds; facts, that entail serious human rights violations and abuses; facts, that have remained unpunished and without reparation.

We also report that we have reasonable grounds to believe that the current President of Nicaragua and the Vice-President are primarily responsible.

Commissioners,

As far as the subject of this hearing is concerned, the situation of the justice system in Nicaragua is of central importance.

Today, Nicaragua does not meet even the minimum reasonable standard of judicial independence. Moreover, the government systematically instrumentalises law and justice to eliminate any opposition, real, potential or perceived as such.

There can be no clearer proof of the lack of independence of the judiciary than its systematic instrumentalisation against the population.

There can be no clearer proof of the absence of good governance than the instrumentalisation, as part of the policy of the Government of Nicaragua, of the quintessential model of the exercise of public authority, namely the manipulation of justice for government purposes.

The systematic perversion of justice in the hands of the Government of Nicaragua generates an "inverted rule of law". Its balance of power results in the subversion of the central pillar of democracy: the fundamental rule that no one is above the law.

Commissioners,

As far as the subject of this hearing is concerned, we have pointed out since our first report the relevance of the continuing situation of violations, particularly for the relations of International Financial Institutions (IFIs) with Nicaragua.

In this context, let me focus on conditionality measures related to human rights, in the IFIs' objective to improve the economic stability of their member States.

I will limit myself to the International Monetary Fund's relations with Nicaragua, also in view of the ongoing Article IV Consultations between the Fund and Nicaragua that are taking place this November.

A notorious and particularly serious pattern of the "inverted rule of law" in the hands of the Government of Nicaragua consists of the massive forced cancellation of the legal status of non-profit organisations.

Today, eighty percent of the total number of non-profit organisations reported by the Government of Nicaragua to the Financial Action Task Force (FATF) in its last mutual evaluation have been cancelled. These include social welfare organisations, Christian charities, universities and other centres of higher education, and employers' organisations. In August of this year alone, more than twenty-five percent of the total, i.e. 1,800 organisations, were forcibly cancelled.

A crucial role in the cancellations of the legal status of the organisations plays the implementation of FATF recommendation number eight. Along with the other violations documented so far by the Group of Experts, that practice has resulted in the destruction of the civic space in Nicaragua.

It is particularly striking that this situation comes only two years after the FATF's decision in October 2022 to remove Nicaragua from its list of high-risk countries. In this context, it is particularly important to bear in mind that

Nicaragua accepted, in exchange, the voluntary process to analyse what is called - I quote - "possible unintended consequences related to the implementation of Recommendation 8" - end of quote.

To date, to the best of our knowledge, this commitment by the Government of Nicaragua does not seem to have had any concrete resonance within the FATF. On the other hand, the International Monetary Fund, in its latest report on the Article IV Consultation with Nicaragua of 2023, has addressed (in its usual discreet manner) the abuse and instrumentalisation of FATF recommendation number eight.

The Fund recommended implementing the standard - I quote - " in a more targeted way, aligned with the risk assessment, to avoid unintended consequences of the potential misapplication of the FATF standards which leads to the closure of a large part of the NPO sector" - end of quote -.

In this context, we trust that the Fund, following its current consultations with the Government of Nicaragua, will adopt further and even more straightforward recommendations regarding the fact that the Government of Nicaragua has (again) closed more than 1,800 organisations so far this year.

Commissioners,

The destruction of civic space through the massive cancellation of the legal status of non-profit organisations is related to another human rights issue. This issue is of interest to the Fund because it also has macroeconomic relevance in terms of the Fund's concept of "macro-criticality", i.e. where the Fund considers it an issue to significantly influence present or prospective balance of payments or domestic stability, in particular, important macroeconomic repercussions in the country, even if these effects are not precisely measurable.

We refer here to the issue of confiscations of assets of the non-profit organisations whose legal status has been forcibly cancelled by the authorities.

As pointed out in our last oral update to the Council last September, this practice of "inverted rule of law" in the hands of the Government of Nicaragua is diametrically opposed to another Fund recommendation in the latest report on Article IV Consultations with Nicaragua.

The recommendation states - and I quote - that "the Government (should) strengthen the rule of law by guaranteeing adequate, effective, and fair administrative and judicial recourse to legal proceedings, especially those which have consequences for property rights".

In view of the flagrant failure to comply with the recommendation, here, too, we trust that the Fund will express itself more explicitly in its report on the Article IV Consultation with Nicaragua of 2024.

This is all the truer as the current situation does not only affect property rights in the framework of the massive forced cancellation of the legal status of non-profit organisations. As we have documented throughout our mandate, this applies, similarly, to confiscations in the framework of arbitrary arrests and subsequent instrumentalised criminal prosecutions, citizens arbitrarily deprived of their nationality, and media arbitrarily closed, inter alia.

Commissioners,

We reiterate the recommendations to the international community on the subject matter of this hearing issued throughout our mandate (that you can find on our website https://www.ohchr.org/en/hr-bodies/hrc/ghre-nicaragua/index), and thank you again for giving us the privilege of informing you on this subject.

We consider this subject an issue of utmost importance to improve the situation of human rights in Nicaragua and remain at your disposal to continue engaging with the Commission in order to exchange information on this and other issues related to the situation of human rights in Nicaragua, including the issue of corruption and human rights.

Thank you for your attention.