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NICARAGUA IS RESPONSIBLE FOR THE VIOLATION OF THE POLITICAL RIGHTS OF FABIO GADEA MANTILLA, PRESIDENTIAL CANDIDATE OF THE NOVEMBER 2011 ELECTIONS

San José, Costa Rica, January 23, 2025. In the judgment notified today in the case of *Gadea Mantilla v. Nicaragua*, the Inter-American Court of Human Rights declared the international responsibility of the State of Nicaragua for the violation of the right to participate in government, judicial guarantees and judicial protection of Fabio Gadea Mantilla during the presidential elections of 2011. The Court concluded that the lack of integrity of the electoral process favored the reelection of President Daniel Ortega. In addition, it concluded that the Supreme Court of Justice and the Supreme Electoral Council showed bias and did not guarantee an effective judicial remedy to review the decisions that questioned the irregularities of the proceedings.

The official summary and the full text of the judgment can be accessed [here](#).

On October 15, 2009, President Daniel Ortega and several officials made a request to be able to participate in the election of popular election posts, with no limitations other than age and the suspension of rights through a final judgment, seeking the non-application of the electoral prohibition established by the Political Constitution that prevents running for certain posts, including President of the Republic, consecutively or more than twice. In 2009, the Supreme Court of Justice of Nicaragua declared inapplicable the articles of the constitution that prohibited the presidential reelection, thus enabling Daniel Ortega to run for a third consecutive mandate. In addition, Executive Decree 3-2010 extended the mandates of the key judges of the Supreme Electoral Council and the Supreme Court, although the Political Constitution established that these positions were selected by the National Assembly.

On November 6, 2011, national elections were held for the Presidency of the Republic, which were characterized by a number of irregularities and favoritism of the Supreme Electoral Council towards the ruling party. These irregularities were confirmed by international observers, who indicated that the process lacked transparency and impartiality, thus affecting the fairness of the electoral process and the rights of voters.

The Inter-American Court noted that the decisions of the Constitutional Chamber and the Plenary Session of the Supreme Court, by expressly failing to apply a constitutional norm that disallowed the presidential reelection, sought to give an appearance of legality to the decision that authorized the reelection of President Daniel Ortega. The Court considered that there were sufficient elements to conclude that these decisions sought to allow President Daniel Ortega to register as presidential candidate and to remain as head of the Executive Branch, which constituted an abuse of the state apparatus to favor the official candidate. The Court concluded that there was an especially grave jurisdictional abuse, since they openly acted against the constitutional limitation that disallowed the presidential reelection in order to specifically benefit the person who was in power since 2011 and continues to do so.

The Court also indicated that States have the obligation to guarantee the integrity of electoral processes, which includes preventing the abusive use of state apparatus to favor a candidate or political group. Consequently, in the context of the events of the

case, it considered that the Constitutional Chamber and subsequently the Plenary Session of the Supreme Court of Justice favored President Daniel Ortega, directly affecting the right to participate in government of Mr. Gadea Mantilla, since they created conditions where one candidate was favored over another, which profoundly compromised the integrity of the elections, violated the reliability of norms and the guarantee of alternating the exercise of the executive branch, which should have been protected.

In addition, due to the irregularities in the makeup of the Supreme Electoral Court, the territorial electoral councils and the voting stations, these organs were biased toward one of the candidates. The lack of impartiality in the electoral administration affected the integrity of the electoral process, thus affecting the political rights of Fabio Gadea Mantilla. Moreover, there was no effective remedy to be able to question the irregularities of the electoral process.

The Court determined that Nicaragua violated Articles 23(1) (right to participate in government), 8(1) (judicial guarantees) and 25(1) (judicial protection) of the American Convention on Human Rights, indicating that the elimination of the limits on reelection and the irregularities in the organization of the elections compromised the principles of periodicity, authenticity, universality, freedom and equality of electoral processes. It also found that these actions infringed not only the rights of Fabio Gadea Mantilla but also the collective right of Nicaraguans to free elections.

The Court ordered the following reparation: (i) to adopt the measures necessary to adapt the Nicaraguan body of law to the standards set forth in this judgment and in Advisory Opinion AO-28/21 regarding the restriction on indefinite presidential reelection; (ii) to guarantee that the Supreme Electoral Court acts with impartiality and independence in the exercise of its functions; and (iii) adopt the legislative measures necessary to establish a simple, quick and effective judicial remedy that allows controlling the decisions of the Supreme Electoral Court that affect human rights.

Judges Rodrigo Mudrovitsch and Eduardo Ferrer Mac-Gregor Poisot disclosed their individual concurring opinions. Judge Patricia Pérez Goldberg disclosed her partially dissenting opinion.

The Court's composition for the issuing of this judgment was as follows: Judge Nancy Hernández López, President (Costa Rica); Judge Rodrigo Mudrovitsch, Vice-President (Brazil); Judge Humberto Antonio Sierra Porto (Colombia); Judge Eduardo Ferrer Mac-Gregor Poisot (México); Judge Ricardo C. Pérez Manrique (Uruguay); Judge Verónica Gómez (Argentina) and Judge Patricia Pérez Goldberg (Chile).

This press release was drafted by the Registrar's Office of the Inter-American Court of Human Rights; it is solely responsible for this document.

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