
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 35/2021**

Precautionary Measure No. 284-18

**Tzotzil¹ indigenous families from twelve identified communities of Aldama,
Chiapas, regarding Mexico²**

April 23, 2021

Original: Spanish

I. INTRODUCTION

1. On March 28, 2018, the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission,” “the Commission,” or “the IACtHR”) received a request for precautionary measures filed by the Fray Bartolomé de Las Casas A.C. Human Rights Center, and Pedro de Jesús Faro Navarro (hereinafter “the applicants”), urging the IACtHR to request that the State of Mexico (hereinafter “the State”) adopt the necessary protection measures to guarantee the rights of indigenous *Tsotsil* families from the communities of Koko’ (Coco’), Tabak (Tabac), Cotsilnam (San Pedro Cotzilnam), Stselej Potop, Xuxchen (Xuxch’en), Puente, Yocontik, Sepelton, as well as the municipal seat of Aldama (also known as Magdalena de la Paz or Magdalena) in Chiapas (hereinafter “the proposed beneficiaries”). According to the request, the proposed beneficiaries are at risk due to attacks, harassment and threats caused by the presence of an “armed group” from the Manuel Utrilla *ejido* in the Chenalhó municipality, Chiapas (also known as Santa Martha), as well as by an “armed paramilitary group” that allegedly operated in the displacement that took place in 2017 in Chalchihuitán.

2. Upon requesting information under Article 25 of the IACtHR Rules of Procedure, the State responded between 2018 and 2020.³ Similarly, the applicants provided additional information between 2018 and 2021.⁴ Upon requesting information from the State on March 12, 2021, the IACtHR received no response.

3. Having analyzed the submissions of fact and law provided by the parties, the Commission considers that the beneficiaries are *prima facie* in a serious and urgent situation, since their rights to life and personal integrity are at risk. Consequently, in accordance with Article 25 of the IACtHR Rules of Procedure, the Commission requests that the State of Mexico: a) adopt the necessary and culturally pertinent security measures to protect the life and personal integrity of the beneficiaries. Specifically, the necessary measures to guarantee their safety within their communities, and during their displacements, with a view to preventing threats, harassment, intimidation or acts of armed violence against them by third parties; b) agree on the measures to be adopted with the beneficiaries and their representatives; and c) report on the actions taken to investigate the events that led to the adoption of this precautionary measure and thus prevent their repetition.

II. SUMMARY OF FACTS AND ARGUMENTS PROVIDED BY THE PARTIES**1. Information provided by the applicants**

4. The situation allegedly has as its antecedent a territorial dispute over 60 hectares between neighboring *ejidos* Manuel Utrilla in Chenalhó and Aldama, dating back to 1970. The applicants indicated that there is an aggressor group from the Santa Martha sector in Chenalhó that reportedly

¹ The applicants also used *Tsotsil* when referring to the proposed beneficiaries.

² In accordance with Article 17.2.a of the IACtHR Rules of Procedure, Commissioner Joel Hernández García, a Mexican national, did not participate in the debate and deliberation of this matter.

³ The State responded on May 23, 2018, November 28, 2018, July 13, 2019, September 6 and 9, 2019, and November 14, 2020.

⁴ The applicants provided additional information on May 22, October 16, November 9, and December 3, 2018; January 23, February 6 and 7, March 18, 22 and 26, April 10, 12 and 17, May 28, June 21, and August 1 and 26, 2019; January 31, March 2, 4, 26 and 29, May 5, July 18, 19 and 20, October 17, and November 18 and 30, 2020; and February 4 and March 26, 2021.

allied with the same armed group involved in the 2017 displacement in Chalchihuitán. According to the applicants, shots were allegedly fired in different communities of Aldama, as well as attacks on people traveling on roads and going to their plots of land near Aldama's borders, among others. This allegedly generates a generalized state of "terror" in the population due to the probability of being shot and of there being an armed incursion into their communities. According to the applicants, the objective of the armed groups is to enter the communities closest to the territorial limits with Manuel Utrilla, as well as to the municipal capital of Aldama. The neighboring communities include Tabak, Koko', Cotsilnam, Stselej Potop, Xuxchen, Puente, Yocontik and Sepelton.

5. The applicants referred to specific events between February and November 2018 involving gunfire,⁵ which allegedly led to injuries and murders in the area and the displacement of families without basic medical care, shelter, or food. On May 1, 2018, a Joint Operations Base (BOM) of the Army was allegedly installed in "Manuel Utrilla". According to the applicants, the presence of the army allegedly calmed the situation "a little" and some displaced people purportedly returned to their lands.

6. The applicants reported in 2019 about events that occurred between January and August of that year⁶ against the neighboring communities, which involved the use of firearms, in which several people were injured or lost their lives. In particular, on January 23, 2019, army officers reportedly established themselves in the community of Coco, which is allegedly one of the most affected communities due to its proximity to Chenalhó. The applicants indicated that firearm detonations decreased. The BOM was allegedly abandoned on April 9 and reinstated on May 29, 2019. The applicants indicated that patrolling was allegedly conducted. In 2019, the applicants referred to the signing of the non-aggression agreement between Aldama and Chenalhó, being present at the signing the Undersecretary of the Interior, the Governor of the State of Chiapas, the municipal president of Aldama, and the mayor of Chenalhó.

7. In 2020, the following alleged events occurred, even during the COVID-19 pandemic:

- On January 28, 2020, a fire broke out in a house located in the area of the territorial dispute. Also, gunshots were fired.

⁵ On February 27, 2018, shots were fired against the Xuxchen, Tabak and Cotsilnam communities. Those shots are reportedly being carried out along with red lights (like "laser sights"), hitting some houses. On March 2, 2018, four men and one woman from Xuxch'en were shot while working their land. They purportedly did not result injured. On March 3, 2018, a person was shot while in the wilderness. This person was allegedly not injured. That same day, an inhabitant of Aldama who was traveling on a highway near the territorial border between Aldama and Santa Martha was attacked with shots at a car. The car was allegedly abandoned by its owner and later stolen. On March 16, 2018, an armed group from Manuel Utrilla fired shots at the communities of Tabak, Cotsilnam and at the municipal seat of Aldama, hitting houses, the church, the market and the town mayorship (presidencia municipal). On March 17, 2018, there was fire upon the Tabak and Koko' communities and then against the Cotsilnam community. The population reportedly took refuge in the countryside. In the first two communities, detonations similar to bombs were heard. On March 18 and 19, 2018, there were shots fired at the municipal seat of Aldama, along with "laser sights," therefore many residents fled to other communities. On March 24, 2018, at night, shots began from near Santa Martha against the municipal seat of Aldama. From elsewhere, the Cotsilnam, Tabak and Koko' communities were fired upon. On April 2, 2018, three persons from the Cotsilnam community were allegedly ambushed and murdered, while on their way to the section where the Tselejpotoblik community is located, very close to the limits of Manuel Utrilla. On April 15, 2018, shots were purportedly fired at the Tabak, Koko', San Pedro Cotzilnam, and Chuché communities. On April 16 and 19, 2018, strong shots were reportedly fired at night, which allegedly caused a new displacement of many communities. On April 27, 2018, Carlos Santiz Ruiz was wounded, he was hit with a bullet that entered his cheek and exited his ear while he was in Tselejpotoblik, then he was admitted to the hospital. On April 20, 2018, shots were fired at Coco and Tavak. On April 21 and 22, 2018, more shots were fired at Xuxchen, Tavak, Coco and San Pedro Cotzilnam. On April 23, 2018, shots were fired at multiple points on the border between Manuel Utrilla and Aldama. On April 26 and 27, 2018, armed attacks reportedly took place against Xuxch'en, causing a new displacement. On May 3 and 4, 2018, shots were allegedly fired in Coco, Tavac, Xuxch'en. On May 7, 2018, a resident of Santa Martha was captured in the community of Coco. The man carried a machete and three high-caliber bullets. The people of the community detained him and handed him over "to the judge of Chenalho." This person is one of the alleged invaders of the 60 hectares. On July 29, 2018, José Hernández Santiz was shot and wounded while he was in the Xuxch'en community, in a context of bursts of gunfire from an armed group that the applicants identify as "Manuel Utrilla." On October 5, 2018, 12-year-old Juan de Jesús Santiz Perez was shot in his neck in the Coco community and was transferred to the Hospital, where he purportedly underwent surgery. On November 8, 2018, a group of people (between 15 and 20) [were] in Xuxchén to harvest their plots. However, around 11 a.m., persons from Manuel Utrilla allegedly began to shoot at the people who were harvesting, injuring Emiliano Santiz Hernández, who reportedly received two bullet wounds. The applicants indicated that previously, on October 19, 2018, attacks also occurred while harvesting.

⁶ On January 22, 2019, three persons, who were going from San Pedro Cotzilnam to Xuxch'en, were allegedly attacked while passing through the Coco community. Two people were reportedly injured and one person was murdered. On February 23, 2019, Ms. Rosa Hernandez and her son were attacked with firearms by an unknown number of people while they were collecting firewood 200 meters from their home in the Tabak community. Ms. Hernandez was reportedly injured in her chest and was transferred to the Hospital in San Cristóbal de Las Casas. On March 21, 2019, shots were reportedly fired at the Xuxch'en community. On March 23, 2019, shots with high-caliber firearms were allegedly fired against the Xuxch'en and Coco' communities. The same purportedly happened against the Cotzilham community, in Aldama. The next day at noon, shots were fired from the top of a mountain against the Tabak community. A shot reportedly went through a house where boy A.S. was; he was purportedly injured and then taken to a hospital. In the afternoon of March 24, 2019, a burst of 8 shots was fired in front of the Tabak community. On April 9, 2019, shots with high-caliber weapons were reportedly fired towards Xuxch'en, Coco', Tabak, Cotzilham, Yetón, Chivit and the municipal seat of Aldama. That day, 18 state police officers reportedly left the Joint Operations Base in the community of Cocó. From April 10 to 15, 2019, shots were allegedly fired at the Xuxchén, Tábak and Coco communities, including vehicles and people passing on the road. On April 11, 2019, José Jiménez Santiz was shot in the left arm, being referred to the Hospital for medical assessment. On May 22, 2019, Juan Lunes Santiz, a native of the Coco' community, was injured. Technical assistance was provided. On June 7, 2019, the San Pedro Cotzilnam community was attacked with weapons. On July 27, 2019, an attack with firearms was registered against inhabitants of the community of Tabak, Coco and San Pedro Cotzilnam. Filiberto Pérez Pérez from the Tabak community passed away. On July 28, 2019, shooting began again towards the communities of Tabak and San Pedro Cotzilnam of the Aldama municipality. On July 30, 2019, armed individuals, from armed groups from Slumka in the Chenalhó municipality, fired shots with firearms. On April 11, 2019, José Guadalupe Jiménez Santiz, while walking between Coco' and Xuxch' received a bullet impact in his shoulder and another projectile in his neck. Mr. Jiménez was treated by Orthopaedic Traumatology in the city of San Cristóbal de Las Casas. He was diagnosed with spinal cord injury from a firearm projectile and transferred to the Hospital "Dr. Jesús Gilberto Gómez Maza" where he was hospitalized between April 12 and 23, 2019. In June 2019, he was transferred to Mexico City where he would undergo surgery. He was discharged on August 7, 2019. On July 27, 2019, an attack with firearms was registered against inhabitants of the communities of Tabak, Coco and San Pedro Cotzilnam. On that occasion, Filiberto Pérez Pérez, a resident of the community, passed away.

- On February 26, 2020, shots were fired at the community of Tselejpotobtic, municipal seat of Aldama, and at different neighboring houses. On March 1, 2020, several shots were fired with high-caliber firearms in the direction of the community of Tselejpotobtic in the municipality of Aldama.
- On March 3, 2020, shots were fired in the communities of Xuxch'en, Koko, Tabak, San Pedro Cotsilaman, Yetón, Xivit, Tselejpotobtic, Xuxton and the municipal seat of Aldama. On March 24, 2020, against Chivit, Tselejpotobtic, Yetón, Xuxch'en, Coco', and San Pedro Cotzilnam, in Aldama. On March 25, 2020, against the municipal seat of Aldama, as well as towards Xivit and Tselejpotoptic, in Aldama. On March 26, 2020, towards the community of Coco', Tabak, and Xuxch'en, in Aldama.
- On July 14, 2020, shots with high-caliber weapons were reported towards the Tabac community. On July 15, 2020, towards the community of Xuxch'en and Koko'. On July 16, 2020, towards the community of Tselejpotobtik (Stzelejpotobtic), municipal seat of Aldama, San Pedro Cotzilnam, Tabac, Ch'ivit, and Juxton, in Aldama. On July 17, 2020, towards the community of San Pedro Cotzilnam, Tzelejpotobtik, municipal seat, Tabac, Coco' in Aldama. The girl M.L.L.P. from the community of Coco' was injured. On July 17, 2020, towards the community of San Pedro Cotzilnam and Xuxch'en in Aldama. On July 18, 2020, in the direction of the community of Juxtón, Tzelejpotobtik, municipal seat of Aldama, Yeton, and Chivit in Aldama. On July 19, 2020, in the direction of the community of San Pedro Cotzilnam.
- On August 18, 2020, shots were fired in the community of Chayomté in Aldama, hitting a house.
- On September 4, 2020, Mario Pérez Gutierrez and Juan Pérez Gutierrez were wounded in the left part of their back.
- On September 12, 2020, Andrés Ruiz Sántiz, a member of the Sepeltón community, was shot in his head.
- On September 13, 2020, R.P.S. and Armando Pérez Sántiz, both brothers, originally from the community of Xuxch'en, were ambushed in the community of Tabac, while returning home. R.P.S. was injured and taken to hospital.
- On September 29, 2020, there were armed attacks in the communities of Juxtón and Tabac in Aldama.
- On September 30, 2020, Artemio Pérez Pérez, a native of the community of Tabac, was shot and wounded by a firearm.
- On October 11, 2020, Hugo Alfredo Pérez Hernández, a native of the community of Tabac, was shot and wounded on a road in his community.
- In November 2020, shots were fired from large caliber firearms towards the communities of Tabac, Yetón and Coco'. Andres Jiménez Pérez, a native of the San Pedro Cotzilnam community, was injured and was taken to hospital.

8. On May 25, 26 and 27, 2020, the State carried out actions to destroy and dismantle the trenches of the paramilitary civilian armed groups of Chenalhó. By September 2020, the number allegedly mounted to approximately 3,499 displaced indigenous people from 10 communities in Aldama.⁷ The applicants questioned the humanitarian care provided by the State. On August 19, 2020, the National Human Rights Commission (CNDH) urgently requested the Government of the State of Chiapas to comply with precautionary measures granted in favor of the inhabitants of the municipalities of Aldama and Chenalhó.

9. On November 27, 2020, a "definitive agreement" was entered into between the municipalities of Aldama and Chenalhó, in which the Mexican state government sought to resolve the agrarian conflict between the communal property of the municipality of Aldama and Santa Martha, Chenalhó. The signing of the agreement took place in the government palace located in the state capital, and was witnessed by the Undersecretary of Human Rights, Migration and Population of the Ministry of the Interior, and the governor of the state of Chiapas. In this regard, the applicants indicated that the State continues to manage the agrarian conflict with "pacification agreements." However, according to the applicants, the "conflict has exceeded the social peace between both municipalities, due to the presence of paramilitary armed groups," and the residents of Aldama are unaware of the content of the agreement.

⁷ Approximate number of persons in a situation of displacement per community: Xuxch'en (703 persons), Coco' (267 persons), Tabac (323 persons), San Pedro Cotzilnam (690 persons), Chayomté (250 persons), Juxtón (500 persons), Tselejpotobtic (133 persons), Yetón (299 persons), Chivit (200 persons), and Municipal seat Aldama (75 persons).

10. In 2021, the following facts reportedly took place:

- On January 31, 2021, high-caliber gunshots were fired towards the community of Stzelejpobtik and Coco'.
- On February 2, 2021, shots of different calibers were fired towards the community of Xuxch'en, San Pedro Cotzilnam, Tabac, and Xuxch'en.
- On March 20, 2021, residents of the communities of Stzelejpobtik, Cocó, Juxton, Yeton, San Pedro Cotzilnam and Tabác were attacked by firearms for more than 9 hours.
- On March 21, 2021, inhabitants of the communities of Ch'ivit, Yeton, Tabak, Cocó and Xuxch'en experienced gun attacks. While this was happening, the National Guard and State Preventive Police were on the side of Santa Martha-Miguel Utrilla, Chenalhó.
- On March 23, 24 and 25, 2021, there were attacks with high caliber weapons in the communities of Aldama: Chivit, Stzelejpobtik, Tabác, Juxton, San Pedro Cotzilnam, and Cocó.
- On March 24, 2021, shots were fired towards the community of San Pedro Cotzilnam, while the National Guard and the State Preventive Police are in the community of Xuxch'en Aldama. Workers of the company that is carrying out paving work near Tabak were attacked. At this time, the execution of the work is suspended. During the night, residents of the communities of Cocó and Tabák moved to the temporary camps they have used for shelter.
- On March 25, 2021, gunshots of different calibers were fired at the community of Xuxch'en, Cocó, and Stzelejpobtik.

11. The proposed beneficiaries were allegedly not able to go out to plant corn, beans or harvest their coffee, which reportedly affected their income. There purportedly is a climate of fear in the population of the municipality of Aldama bordering Chenalhó. The applicants identified the points from which the aggressions allegedly come.⁸

12. On March 27, 2020, representatives of the communities of the Aldama Municipality filed an appeal for protection of constitutional rights (*amparo*) and requested protection from the federal justice system. The Third District Court, based in Tuxtla Gutierrez, granted on March 28, 2020, the "flat suspension" to protect the life, integrity, and security of the communities of Aldama, Chiapas. The decision had not been complied with, and therefore "a motion for failure to comply with the suspension" was filed to "provide the protection and security required by the plaintiffs [...] the necessary measures to guarantee the life, security and personal integrity of the population of the municipality of Aldama, who are suffering situations of generalized violence and human rights violations, derived from the armed conflict, in order to guarantee public peace."

13. Finally, the applicants submitted questions to the investigations opened by the competent entities. They also indicated that the tours in the Aldama-Chenalhó conflict zone, as a dissuasive and preventive measure, are ineffective and insufficient, and that the same situation applies to the so-called "peace" agreements, since the armed attacks allegedly continue. In various meetings with State authorities, the applicants allegedly indicated that they need to disarm and dismantle the invading group and, above all, identify whether there is a relationship with organized crime. The applicants indicated that the investigations should address its composition and structure, financing, its relationship with the territorial conflict and with the authorities, the origin of the weapons used, the source of training in the use of the weapons to carry out coordinated operations such as those allegedly carried out.

2. State response

⁸ The applicants identified certain points from where the attacks with firearms purportedly take place in the Santa Martha Sector, Chenalhó towards the communities of Aldama: Point "Oxch'om" in the town of Yoc Ventana, Chenalhó towards the community of Xuxch'en; Point "Slumka" is by the town of Sacrum, Chenalhó in the direction of communities Xuxch'en and Coco'; "Tok'oy" point in the town of Sacrum, Chenalhó, towards the Coco' community; Points "Tojtik," "Telesecundaria," "Curva Tontik," "Alcantarilla," "T'elemax" and "Vivero" Santa Martha, Chenalho towards the community of Tabac; Points "T'elemax," "Vivero" Santa Martha Chenalho towards the San Pedro Cotzilnam community; Points "Colado," "Chino," "el Rancho" (Ak'tik 2 Fraction within the disputed 60 hectares) "T'ul Vits," "Vale'tik," "Ontik" Santa Martha Chenalhó towards the San Pedro Cotzilnam community; Points "Vale'tik" Santa Martha Chenalhó, "Ladrillo" (within 60 hectares) towards the communities Yetón and Ch'ivit; Points "Xchuch te," "Temple," and "Sector Santa Martha" from the town of Sector Santa Martha, Chenalhó, towards the communities of Tselejpobtik and Municipal seat of Aldama; Point "Chalontik" Tijera Caridad in the municipality of Chenalhó, towards the community of Juxton.

14. The State indicated that the request does not comply with the procedural requirements and is contrary to the principle of complementarity because it is allegedly diligently addressing the situation at the domestic level. Initially, for the State, there purportedly were no "paramilitary groups," emphasizing that such allegations have no basis, since the conflict was of an agrarian nature. In 2014, the conflict allegedly resurfaced, and dialogue and consultation mechanisms were implemented. However, given the radical stance of the Aldama and Chenalhó groups, no agreement was reached, and in November 2017 the Aldama community members reportedly blocked the stretch of road leading to the municipalities of San Andrés Larrainzar and El Pinar.

15. On March 21, 2018, another working meeting was reportedly arranged between the parties to generate the conditions for compliance with the 2009 agreement,⁹ agreeing to carry out a pact of respect, civility, and non-aggression. Following up on the above, on April 29, 2018, another working meeting was reportedly held in order to consolidate actions to resolve the conflicts that allegedly cause tension among the inhabitants of the region, and where new agreements were established¹⁰. In May 2018, the State indicated that it would continue addressing the needs of displaced persons, such as food, health and shelter.¹¹ With a view to addressing the agrarian conflict, the State indicated that it has presented proposals for a solution that are allegedly being analyzed by the authorities of the communal properties, traditional and municipal authorities, who have reportedly stated that they would give their stance by the end of May 2018. Moreover, the State indicated that it is allegedly carrying out concertation actions. The State also reported that the National Human Rights Commission allegedly granted precautionary measures in favor of the proposed beneficiaries, which have purportedly been implemented.

16. The State indicated that helicopter overflights were conducted over the communities in conflict, in addition to preventive patrols in the vicinity of the communities to protect their security. Furthermore, meetings were allegedly held between state entities and the communities, respecting their customs and traditions, and federal state police entered Santa Martha, Saclum and Koko' in the municipality of Aldama and the town of Manuel Utrilla in the municipality of Chenalhó. The State indicated that given the actions carried out by the Joint Operations Base (BOM), conditions were created for the families who were in a situation of displacement to gradually return to their homes.

17. By November 2018, the State indicated that it has provided attention to the basic needs of food, health and shelter to help mitigate the effects of displacement of the inhabitants of the communities of Tabak, Koko'y Xuchen, including humanitarian aid and preventive health services. In terms of security, the State indicated that preventive patrols are allegedly being carried out in the vicinity of the communities, and overflights of the area allegedly continue when weather conditions permit. The State also indicated that it has urged the representatives of the Communal Property of the municipality of Aldama to provide conditions to allow access to the police. The State indicated that it respects the "uses and customs" of the communities.

18. According to the State, additional working meetings were subsequently being held to

⁹ According to the State, in 2009 both communities accepted that 57-81-83 hectares pass into possession of the Aldama community members, even though the property purportedly continues to be owned by Manuel Utrilla. Furthermore, 02-45-10 hectares have been allegedly located in the trails (*veredas*) "Artic 2," "Chucte," "Pinabeto," and "Chuctic," an area in dispute for possession and usufruct, which is part of the 60-26-93 hectares owned by the Manuel Utrilla community. Because of the above, in 2009 an agrarian settlement agreement was signed to end the social-agrarian conflict for the possession, usufruct and ownership of 60-26-93 hectares of social property, and not the 30-00-00 hectares that were mentioned before. The State emphasized the following commitments: a) The Manuel Utrilla community undertook to continue to respect the possession that the 115 peasants of the Aldama community currently have. b) Of the 60-26-93 hectares, 01-15-22 hectares identified as Artic 2 and Chuct would remain under agreement, both in property and in possession and usufruct, in favor of the Manuel Utrilla community. c) Aldama undertook not to increase the number of 115 community members and to submit to the agreed usufruct and tenure, that is, only of the 59-11-71 hectares fully identified in accordance with the technical work carried out on July 6, 2009. d) Both communities were obliged to ratify the legal instrument called the agrarian settlement agreement, signed on November 5, 2009, to end the legal and material controversy. e) The State Government exhorted them to maintain governance in the countryside and to seek good social development through actions aimed at improving their quality of life. Therefore, both communities agreed that, in the event of any difference arising due to the interpretation or fulfillment of the agreement, it would be resolved by mutual agreement and in accordance with the law.

¹⁰ The State stressed as follows: a) The installation of a table for dialogue and reconciliation between the municipalities of Aldama, Chenalhó and Chalchihuitán. b) The authorities of Aldama, Chenalhó and Chalchihuitán requested that a Joint Operations Base (BOM) be established as soon as possible, which purportedly have the objective of reestablishing the security of the communities. c) In order to resolve the agrarian conflicts between the municipalities of Aldama and Chenalhó, the General Secretariat of the Interior undertook to agree on and resolve those related to community work on the roads, in such a way as to inhibit any disagreement and act that generates violence. The local authorities would contribute to this effect and any pending issue would be addressed at the inter-institutional table.

¹¹ The State indicated that it identified 810 persons, men, women and children, who reportedly make up a total of 235 families from the Tabak and Koko' communities who were in a situation of displacement. 235 pantries, 235 personal hygiene kits, 705 blankets, and 705 mats were delivered. The State indicated that it had not been necessary to provide temporary shelter, given that the people had taken shelter with family and friends.

strengthen the mechanisms for dialogue between the two communities,¹² in which various State agencies purportedly participated in order to avoid confrontation and the occurrence of violent acts. The State explained about a permanent “dialogue and reconciliation table” with the two groups of Manuel Utrilla, Chenalhó and Aldama, in which it indicated that it would exhaust all those actions that allow the construction of bilateral agreements between the groups, with the objective of achieving peace and social tranquility in the region, respecting the cultural differences of their uses and customs.

19. In 2019, the State indicated that the Secretariat of Security and Citizen Protection of the state of Chiapas has intensified preventive patrols, as interim and precautionary measures, as well as the reinforcement of police personnel, establishing commissions in two points: (i) Santa Martha and Saclum, in the municipality of Chenalhó and, (ii) in the community of Koko', municipality of Aldama. These commissions are under the command of Sub-officer Eliodoro Damián González and Sub-inspector Marco Antonio Martínez de León, who daily carry out preventive operational actions. According to the State, the Secretariat has reinforced security and surveillance in coordination with personnel from the Mexican Army, carrying out constant preventive patrols at different times in order to avoid criminal acts that violate public order. During patrols in the communities of Koko' and Tabak, it has been observed that the prevailing situation is one of “complete calm and tranquility.”

20. On January 17, 2019, the State reported that the commander of the 31st Military Zone located in San Cristóbal de las Casas, Chiapas, was requested to install a BOM in the communities of Xuchen, Koko', Tabak, San Pedro Cotzilnam, Sepetón, Toctonic, Yetón, Chbit, Tselejtopic, all belonging to the municipality of Aldama, Chiapas. Furthermore, on January 14, 2019, the Federal Police was requested to implement security and protection measures in favor of the inhabitants of the communities of Cotzilnam, Tselejpotic, Yetón, Xchuchte, Xuchen, Puente, Tabak, Koko', Chiviltec, and the municipal seat of Aldama, as well as the community of Santa Martha, municipality of Chenalhó, Chiapas. The Attorney General's Office of the state of Chiapas, on April 15, 2019 requested the Commander of the 31st Military Zone located in Rancho Nuevo, Municipality of San Cristobal de las Casas to, in coordination with the different police forces of the three levels of government, reinforce precautionary and precautionary measures and implement preventive patrols with a dissuasive character in the communities of Cvit, Yeton, San Pedro Cotzilnam, Xuxchen, Tabak and Kokó, in the municipality of Aldama, Chiapas, as well as in the communities of Pajaltón, Sanchen, Slumka, Saclum, Santa Martha in the municipality of Chenalhó, Chiapas. On June 6, 2019, the Secretary of Security and Citizen Protection of the state of Chiapas and the Specialized Police attached to the Office of the Prosecutor for Indigenous Justice were requested to reinforce the provisional and precautionary measures in the communities of Koko' and other communities in the municipality of Aldama, Chiapas. On August 21, 2019, the Ministry of Security and Citizen Protection was requested to reinforce precautionary and provisional measures in the community of Chivit, Yetón and San Pedro Cotzilnam, in the municipality of Aldama, Chiapas, in order to safeguard the safety and physical integrity of its inhabitants.

21. In 2019, the State highlighted that, under the powers of the Secretariat of Security and Citizen Protection, the Unit for the Protection and Promotion of Human Rights and Attention to Victims of the General Secretariat of Government of the State of Chiapas, a personal commission of the State Preventive Police was established in the Community of Cocó (Koko'), which was formed with a commander in charge and 19 police officers and official vehicles. This commission has maintained various prevention and security actions to guarantee the safety of the inhabitants of the communities of Tabak, Xuxchen, San Pedro Cotzilnan and Tzelejpotoptic, belonging to the municipality of Aldama, Chiapas, in order to generate conditions of social stability. In this sense, prevention and security actions have been maintained for the benefit of the inhabitants of the aforementioned communities, such as:

- a. Tours and patrols.
- b. Foot patrols.

¹² The State provided information on meetings held on September 13; October 5; October 12, 15 and 22; November 12 and 14; and November 21, 2018.

- c. Permanent surveillance in the border area of both municipalities.
- d. Accompanying villagers to carry out their farming activities in the fields (cleaning and planting coffee and corn).
- e. Accompaniment, in the *chaporreo* and cleaning of rural roads.
- f. Cooperation with the various institutions that provide social assistance, consisting of health brigades, delivery of food supplies, among others.

22. On January 23, 2019, the State Coordination for the Construction of Peace in Chiapas, instructed the permanent installation of a BOM and to conduct tours in the Aldama-Chenalhó conflict zone, as a deterrent and prevention measure, accompanied by the president of the State Human Rights Commission. On June 4, 2019, the "Non-Aggression Agreement between the Municipalities of Aldama and Chenalhó" was signed, mainly by the Municipal President of Chenalhó, the Municipal President of Aldama, the representative of the commoners of the municipality of Chenalhó, the representative of the commoners of the municipality of Aldama, the president of the commissariat of communal property of Manuel Utrilla-Santa Martha, municipality of Chenalhó, and the president of the commissariat of the communal property of the municipality of Aldama. The Constitutional Governor of the State of Chiapas and the Undersecretary of Human Rights, Migration and Population of the Ministry of the Interior were present as "witnesses of honor."

23. The purpose of this Agreement was to contribute to the resolution of the historical conflict between the municipalities of Aldama and Chenalhó, to achieve the conciliation of the parties, providing a definitive and fair solution in strict compliance with rights, for which the following agreements were reached:

"FIRST: As a consequence of the differences and problems in which blood has been spilled in an unjust manner, today we consider it the ideal moment to sign this Non-Aggression Agreement, honoring the ancestors of each municipality.

Therefore, in this document we express our wishes as brothers, where there is tolerance, mutual respect, peace, and preservation of the beliefs and customs that identify both peoples, leaving aside old grudges so that, united, we can solve the disagreements. We definitely do not want more violence, or more bloodshed, or confrontations with weapons, we want to work together for the development of both communities, forgetting the enmities, and directing our sight towards the future, where our children will be the heirs of two twinned communities.

From now on, any incident that may arise, before any act of violence, we will resolve it through conciliation, dialogue and amicable composition, without provoking further confrontations, so we agreed by common consent to a non-aggression pact, forcing us to build together the rule of law and civility that Aldama and Chenalho need so much. We sign this agreement of wills to reestablish together the rule of law and civility.

SECOND: "THE PARTIES" declare that in the signing of this instrument they have freely expressed their will and consent, without any error, violence, fraud or bad faith, or any other defect of consent, and therefore they hereby waive the right to assert them as causes of nullity or legal non-existence.

THIRD: "THE PARTIES" agree that the government of the State [of Chiapas] will be the guarantor of compliance with the agreements and commitments set forth herein."

24. On May 5, 2020, representatives of the National Guard held a meeting with residents of Chenalhó and Aldama to address security needs in the conflict zone. At the meeting, it was agreed to cooperate with the federal and state authorities, and the non-aggression pact and possible solutions to the problem were reiterated. On May 21, 2020, a meeting was held with officials of the General Secretariat of Government, Municipal Presidents of Aldama and Chenalhó, as well as a delegation of ejido authorities, in order to contribute to the peace and social tranquility of both municipalities, agreeing to allow the destruction of parapets in both communities (places where detonations are carried out), reaching the following agreements:

- "a. The commitment is renewed to monitor and raise awareness among the populations of both municipalities to put an end to acts of aggression, among others.
- b. The next meeting is scheduled for upcoming June 4."

25. On May 22, 2020, a meeting was held with authorities from the 3 levels of government, including the 13th Battalion of the Ministry of National Defense, in order to coordinate the visit to the municipalities of Chenalhó and Aldama on May 26, 2020, to dismantle the parapets. On May 27, 2020,

it was reported that the parapets were taken down with the accompaniment of the State Human Rights Commission. On July 6, 2020, a working meeting was held between inhabitants of the communities of Aldama and Chenalhó and the Secretary General of Government. The Regional Coordination for the Construction of Peace and Security in San Cristóbal de las Casas has been instructed to carry out various inter-institutional tours to establish dissuasive actions and constant presence of security forces in the area, in order to bring tranquility to the inhabitants and address the problems. On instructions from the Undersecretary for Human Rights, Population and Migration of the Ministry of the Interior, on July 10, 2020, the intervention of the Ministry of Security and Citizen Protection (SSPC) was requested in order to analyze the possible security risks in the communities of the municipality of Aldama, Chiapas, in the Roundtable on Security and Justice for Peace, in Chiapas, attaching for that purpose various communications from the applicants. The SSPC informed that, in the Ordinary Session of the State Roundtable, on July 15, 2020, the intervention of the General Secretariat of Government was determined, an instance that intervenes permanently and continuously in the issue, as well as the State Attorney General's Office, the State Secretariat of Security and Citizen Protection, the National Guard in Chiapas and the State Human Rights Commission.

26. It was emphasized that on July 30, 2020, there was a solemn act for the ratification of the agreement of détente and mutual respect of the communal assets referred to as Manuel Utrilla (formerly Santa Martha) of the municipality of Chenalhó and Aldama (formerly Santa María Magdalena) in Aldama, Chiapas. The purpose of this event was to reaffirm the non-aggression agreement signed on June 25, 2019, aiming at the reconciliation of the peoples based on principles of tolerance, mutual respect, peace and preservation of the beliefs and customs that identify both parties. Within this framework, several working meetings were held, and this resulted in the signing and recent ratification of the Non-Aggression Agreement between the Municipalities of Aldama and Chenalhó.

27. The State noted that the Prosecutor's Office, in the framework of the corresponding investigations of the events denounced, has ordered the implementation of precautionary and protective measures to safeguard the life and integrity of the proposed beneficiaries. According to the State, since the beginning of the conflict, the State Police, the Mexican Army and later the National Guard were asked to implement precautionary and protective measures, the latter also in relation to their competence for the violation of the Federal Law on Firearms and Explosives. The security measures implemented, in accordance with the investigations and the signing and ratification of the Non-Aggression Agreement, have focused on avoiding any incident that may place the proposed beneficiaries at risk and generating the necessary conditions to guarantee the resolution of the conflict.

28. Lastly, the State referred to records of attention, investigations, and criminal cases on alleged facts regarding the matter at hand:

- (i) A record of attention dated May 17, 2018 regarding shootings in the communities of Tabak, Koko', San Pedro Cotsilnam and Chuchte in the municipality of Aldama. Permanent and continuous precautionary and protective measures have been implemented in the communities to safeguard their integrity. The reinforcement of the measures was requested.
- (ii) Investigation of events that occurred on April 2, 2018 for the homicide of Manuel Gómez Pérez, Alonso Gómez Hernández and José Antonio Gómez Hernández, originally from Aldama. Precautionary and protective measures were requested in the town of Tzelej Potobtic, in the Municipality of Aldama. The investigation was also sent to the Office of the Inspector General of the Republic (*Procuraduría General de la República*) regarding the crime of illegally carrying a weapon that is for use of members of the army, navy and air force only.
- (iii) Investigation of the homicide related to the finding of the corpse of Sebastián Velasco López, as reported by a judge on April 2, 2018. The judge informed of a confrontation between two groups over properties in the vicinity of Santa Martha, adding that there were no means to reach the community as the inhabitants were allegedly armed. Within the framework of this investigation, precautionary and protective measures allegedly existed for the communities of Cotsilnam, Stselej, Potop, Xchuch Te, Xuxchen, Puente, Koko', and the municipality of Aldama. It was reported that the deceased person had no personal, political, land or any other

conflicts as he lived away from Aldama and allegedly had no connection to the matter. Similarly, family members stated that unknown people allegedly opened fire several times from a nearby mountain, with one of the shots reaching Sebastián Velasco López in the face and killing him. Copies of the investigation were sent to the Public Ministry of the Federation for possible federal crimes.

- (iv) Investigation into the crime of homicide against José Hernández Sántiz since July 29, 2018. Information was provided on the procedures and expert opinions carried out, as well as the police reports carried out, indicating that Mr. José Hernández Sántiz was discharged from the Hospital on August 5, 2018. On August 27, 2018, the dossier was forwarded to the Inspector General's Office for the crime of illegally carrying a weapon that is for use of the army, navy and air force only.
- (v) An investigation started on November 11, 2018 for the crime of injuries to Héctor Sánchez Pérez, who received medical attention at the Hospital due to a gunshot wound. Protection measures were requested in favor of Mr. Sánchez Pérez, which have since been implemented. Mr. Sánchez Pérez was voluntarily discharged on November 11, 2018.
- (vi) Investigation for the injuries to Juan de Jesús Sántiz Pérez, who was allegedly admitted to the Hospital as on October 5, 2018, with the diagnosis of "underage male with a firearm-related injury". His brother reportedly stated that he was playing outside when he suddenly realized that his brother fell to the ground and was bleeding from the neck, not knowing who was responsible for the events. Protection measures were requested.
- (vii) Record of attention on possible criminal acts committed against the people in charge of a Kindergarten School in the municipality of Aldama, and the school in San Pedro Cotzilnam of Aldama. The implementation of precautionary and protective measures was requested.
- (viii) Investigation of events of March 13, 2019 when firearms were shot in various points in the vicinity of the municipality of Aldama at the Manuel Utrilla community, municipality of Chenalhó. On March 30, 2019, the Secretariat for Citizen Security and Protection and the Regional Commander of the Specialized Police for Indigenous Zones were requested to implement the necessary precautionary and protective measures in the communities of Chivit, Yetón and San Pedro Cotzilnam in order to safeguard the security and physical integrity of its inhabitants and so as not to violate their human rights. The Constitutional Municipal President of Aldama and the Constitutional Municipal President of Chenalhó were asked to intervene in accordance with their legal attributions to resolve said conflict. On April 2, 2019, the commander of the 31st Military Zone was asked to intervene and reinforce the precautionary measures, as well as carry out dissuasive patrols in the region and in due time.
- (ix) Investigation of facts, 2019. On May 12, 2019, the Chiapas State Secretariat for Security and Citizen Protection was requested to reinforce precautionary and protective measures in favor of the inhabitants of the communities of Tabak and Koko', municipality of Aldama, to safeguard the security and physical integrity of its inhabitants.
- (x) Investigation of the events of July 27, 28 and 30, 2019, which led to the death of Mr. Filiberto Pérez Pérez. It was reported that his relatives did not allow the transfer of the body to the Forensic Medical Service to carry out the necropsy due to their own practices and traditions, only allowing the coroner to inspect the corpse for the corresponding body identification. Among the procedures carried out, a sodium rhodizonate test was performed on both hands which obtained a positive result from the palm of the right hand. After Lorenzo "N" was identified as the alleged perpetrator, it was indicated that the corresponding arrest warrant would be requested. The Commander of the Specialized Police attached to the Office of the Prosecutor for Indigenous Justice, the Secretariat of Security and Citizen Protection of the state of Chiapas, the Commissary-in-Chief of the Seventh Territorial Zone of the San Cristóbal de las Casas National Guard, Chiapas, and the Director of the Municipal Police of Aldama, Chiapas, were all requested to implement protection measures in favor of the victims Magdalena Santiz Hernández, Bartolo Pérez Santiz and other relatives of Filiberto Pérez Pérez. On August 21, 2019, a request was made to reinforce the protection measures for the victims and inhabitants of the Tabak area in the municipality of Aldama, Chiapas.
- (xi) Investigation for the crime of homicide against Manuel Gómez Pérez, Alonso Gómez Hernández and José Antonio Gómez Hernández. The progress of the proceedings was reported. The psychology department was requested to provide comprehensive support for the direct victim, Rosa Hernández Santiz. The commander of the Preventive State Police of Sector 1, San Cristóbal, was asked to implement urgent protection measures in favor of Rosa Hernández Santiz. Preventive patrols were carried out as precautionary and protective measures in favor of Ms. Rosa Hernández and her family.
- (xii) Investigation started on April 2, 2019 for the crime of the homicide of Sebastián Velasco López. The proceedings were reported. The Chiapas State Secretariat for Security and Citizen Protection and the Federal Police were asked to implement precautionary and protective measures in the communities of Catsilam, Stselej, Potop, Xchinch Te, Xuchen, Puente, Koko' and the municipality of Aldama.
- (xiii) Investigation started on July 28, 2018 for the crime of attempted homicide of José Hernández Santiz. The corresponding procedures were carried out. The implementation of protective measures was requested in favor of Mr. José Hernández Santiz. These were implemented at Hospital de las Culturas de San Cristóbal de las Casas, Chiapas, by the State Preventive Police, Municipal Police and Specialized Police.
- (xiv) Investigation that began on November 11, 2018 for the crime of injuries against Héctor Sánchez Pérez due to

- events that occurred on Emiliano Zapata Avenue, in the municipality of Aldama, Chiapas.
- (xv) An investigation started regarding firearms being used in various points in the vicinity of the municipality of Aldama with the community of Manuel Utrilla, municipality of Chenalhó.
- (xvi) Criminal case on the events surrounding Mr. Lorenzo Álvarez Hernández who, along with his partner Juana Hernández and their children Julio and Liliana Álvarez Hernández, received gunshot wounds on January 4, 2019. He managed to identify one of the aggressors as Cristóbal Santiz. Ms. Juana Hernández received a gunshot in the frontal right region of the head, with the cause of death being a possible neurogenic shock due to head trauma. On March 14, 2020, Mr. Cristóbal Santiz López was detained pursuant to the arrest warrant issued against him on October 1, 2019, within the framework of criminal case 112/2019. Later, Mr. Cristóbal Santiz was transferred to the Social Reintegration Center for Sentenced Criminals number 14 - "El Amate", waiting for further action by the corresponding court.
- (xvii) Record of attention of 2020, after which the commander of the Specialized Police of the Indigenous Zone was asked to carry out the corresponding investigations including interviewing witnesses, identifying possible defendants, conducting a police inspection at the scene of the events and implementing precautionary and protective measures in the aforementioned communities. The local Secretariat for Security and Citizen Protection was requested to implement precautionary measures in the affected communities.
- (xviii) Record of attention of 2020 for possible criminal acts in the bordering communities of Aldama and Chenalhó, Chiapas. The commander of the Specialized Police of the Indigenous Zone was asked to carry out the corresponding investigations and implement precautionary and protective measures in the neighboring communities of Aldama and Chenalhó. The local Secretariat for Security and Citizen Protection was requested to implement precautionary measures in the affected communities.
- (xix) Record of attention for information that on April 21, there was a report of gunfire aimed at the communities of Coco and Tabac, Aldama. The commander of the Specialized Police of the Indigenous Zone was asked to carry out the corresponding investigations and implement precautionary and protective measures in favor of the municipality of Aldama. The local Secretariat for Security and Citizen Protection was requested to implement precautionary and protective measures in the municipal seat and the Coco and Tabac communities, Aldama. The Municipal Police commander was asked to implement precautionary measures in said municipality. The head of the Specialized Police Group reported that along with the National Guard, Preventive Police and Municipal Police, they started patrolling the aforementioned communities without any news to report. The Ministerial Police reported that, along with authorities of the 3 levels of government and human rights personnel, they set up camp in border communities of Aldama and Chenalhó, patrolling Xuxchen, Coco, Tabac, San Pedro Cotzilnan, Crucero Chivit and Canalumtik. Additionally, patrols also took place between San Cristóbal de las Casas, and the municipality of Aldama and other nearby towns, along with the National Guard, the Indigenous Justice Prosecutor's Office, the State Preventive Police, the National Human Rights Commission and the Police Municipal, without news to report.
- (xx) Record of attention for alleged firearms attacks in 2020. The commander of the Specialized Police of the Indigenous Zone was asked to carry out the corresponding investigations and implement precautionary and protective measures in favor of the municipality of Aldama. The State Secretariat for Security and Citizen Protection was requested to implement precautionary and protective measures for the municipality of Aldama and the community of Yetón. The Municipal Police of Aldama was asked to implement the corresponding measures. There are continuous patrols in the communities of Aldama, and reports were requested regarding the actions carried out within the framework of the precautionary and protective measures ordered to the Command of Sector 1, San Cristóbal. The Specialized Police of the Indigenous Zone was asked to reinforce the measures for the communities of Tabac, Coco, San Pedro Cotzilnam, Xuxche'n, Tzelejpotob and the municipal seat of Aldama.
- (xxi) Record of attention for events of July 17, 2020, in which a 13-year-old girl was injured by a firearm and record of attention was started. The injured girl was rushed to the Aldama Hospital and later to the Hospital de las Culturas in San Cristóbal de las Casas.
- (xxii) Record of attention of 2020 regarding the applicants' communications of July 18 and 19, 2020. The Specialized Police of the Indigenous Zone was asked to carry out the corresponding investigation and implement precautionary and protective measures in favor of the inhabitants of the municipality of Aldama, specifically San Pedro Cotzilnam, Xuxche'n, Juxtón, Tzelejpotodtik Yetón. The State Secretariat for Security and Citizen Protection and the Municipal Police of Aldama were requested to implement precautionary and protective measures for the aforementioned communities. The commander of the Specialized Indigenous Police was asked to reinforce the measures in Cotzilnam, Xuxche'n, Juxtón, Tzelejpotodtik, Yetón, Chivit and the municipality of Aldama, as well as in neighboring places.
- (xxiii) Record of attention of 2020 for alleged criminal acts committed against those offended and instructed against those responsible for the events that occurred in Aldama, Chiapas. The commander of the Specialized Police of the Indigenous Zone was instructed to implement precautionary and protective measures in favor of the inhabitants of the municipality of Aldama, specifically in the communities of Stzelejpotobtik, Xuxck. The Ministry of Security and Citizen Protection and the Municipal Police of Aldama were requested to implement precautionary and protective measures for the municipality of Aldama and the aforementioned communities. A reinforcement of the precautionary and protective measures was requested in Aldama, Chiapas.

- (xiv) On August 24, 2020, the case was added to an investigation dossier for the crime of carrying firearms for the exclusive use of the army, committed against society in general. The original of this dossier was turned over to the Office of the Attorney General of the Republic for their own processes.
- (xxv) Record of attention for the crime of injuries against Juan Pérez Gutiérrez and Mario Pérez Gutiérrez, who were treated at the Aldama Basic Community Hospital. The commander of the Specialized Police of the Indigenous Zone was asked to inspect the scene and conduct interviews to those involved. The corresponding procedures were carried out. In follow-up, on September 4, 2020, there was an interview with the general physician of the Health Center where they were treated. According to him, they were discharged after treatment as they did not have any life-threatening injuries.

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

29. The mechanism of precautionary measures is part of the Commission's function of overseeing the compliance of Member States 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 41(b) of the American Convention on Human Rights, as well as in Article 18(b) of the Statute of the IACtHR. The precautionary measures mechanism is described in Article 25 of the Rules of Procedure of the Commission. 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 to persons.

30. The Inter-American Commission and the Inter-American Court of Human Rights (hereinafter "the Inter-American Court" or "I/A Court H.R.") have established repeatedly that precautionary and provisional measures have a dual nature, both precautionary and protective. Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights. Regarding their precautionary nature, these measures have the purpose of preserving a legal situation while it is under consideration by the IACtHR. Their precautionary nature aims 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 the decision on the merits and, thus, prevent the alleged rights from being violated, a situation that may adversely affect the useful effect (*effet utile*) of the final decision. In this regard, precautionary or provisional measures allow the State concerned to comply with the final decision and, if necessary, to implement the ordered reparations. For purposes of decision making, and in accordance with Article 25(2) of the Rules of Procedure, the Commission considers that:

- a. "serious situation" refers to a grave impact that an action or omission can have on a protected right or on the eventual effect of a pending decision in a case or petition before the organs of the Inter-American system;
- b. "urgent situation" 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.

31. In analyzing those requirements, the Commission reiterates that the facts supporting a request for precautionary measures need not be proven beyond doubt; rather, the purpose of the assessment of the information provided should be to determine *prima facie* if a serious and urgent situation exists¹³.

32. Similarly, it is not appropriate to determine the international responsibility of the State in this proceeding or to replace the analysis carried out by the Commission in the framework of a petition or if the normative presuppositions for it are granted. It does not correspond to the IACtHR, by its own mandate, to attribute criminal responsibility for the events indicated either. The following analysis is limited to the three requirements established in Article 25 of the IACtHR Rules of Procedure. This

¹³ In this regard, for instance, referring to provisional measures, the Inter-American Court has indicated that a minimum of detail and information is required to make a *prima facie* assessment on whether an extremely serious and urgent situation exists. IACtHR, *Matter of Children and adolescents 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.

analysis can be carried out without reaching substantive determinations, which are typical of a petition or case.

33. Before proceeding with the corresponding analysis, the IACtHR makes two clarifications regarding the universe of the proposed beneficiaries in this matter. These clarifications are necessary to the extent that the parties, throughout the proceeding, have made references to various communities in the area.

34. First, the Commission notes that a wide universe of proposed beneficiaries was initially presented. Even as more information was forwarded between the parties, the names of new communities started to be considered as part of the universe of proposed beneficiaries. Given the above situation, and considering that it is necessary to have sufficient, detailed and updated information to identify specific risk situations¹⁴, the Commission has decided to consider the inhabitants of the following twelve communities as the proposed beneficiaries for this application: (1) Coco', (2) Tabac, (3) Xuxch'en, (4) San Pedro Cotzilnam, (5) Chayomte, (6) Juxtón, (7) Tselejpotobtic, (8) Yetón, (9) Chivit, (10) Sepelton, (11) Yocontik and (12) municipal seat of Aldama, all part of the Municipality of Aldama, Chiapas. At the time of making this determination, the Commission takes into account, first, that such communities are part of Aldama and located in neighboring areas or borders with Chenalhó, therefore in principle they would be the most exposed; second, such communities have been identified throughout the procedure and information forwarded between the parties, providing specific information about them; and third, the parties have had the opportunity to rule on their situation in the alleged context.

35. Although the Commission understands that other communities may possibly be involved in the situation presented, at this time there is no information available to assess their situation in accordance with the requirements established in Article 25 of the Rules of Procedure. Consequently, the Commission will proceed to rule on the situation presenting a risk to the inhabitants of the communities already mentioned and identified in the previous paragraph.

36. Second, the IACtHR has identified that the parties have referred to the twelve communities with various forms of wording. For example, the Koko' community was also referred to as Coco', Koko, or Coco. Although the lack of a clear identification of their names does not make it impossible to analyze the procedural requirements, insofar as it is possible to identify their inhabitants and determine them according to their ethnicity and common geographic location, the IACtHR deems it important that the parties standardize the name to be used in the follow-up of the precautionary measures. At any rate, for the purposes of this analysis, the IACtHR will refer to such communities under the names identified according to paragraph 34, having made the appropriate recommendations.

37. The Commission then proceeds to analyze the procedural requirements. Regarding the requirement of *seriousness*, the Commission recalls, according to the Inter-American Court, that when assessing a situation of risk, a set of political, historic, cultural, or other factors or circumstances that affect the proposed beneficiaries or place them in a situation of vulnerability at a certain time and exposing them to receive injuries to their rights may be taken into account.¹⁵

38. Thus, the Commission considers that the specific facts alleged in this request should be considered in the particular and temporal context that they belong to. Hence, the fact that there is a long-standing agrarian conflict in the area has not gone unnoticed by this Commission. Both parties have agreed that such a conflict does exist. In particular, according to the State, this conflict resurfaced in 2014. After that date, various acts of violence have taken place –including allegations of high-caliber firearms used against the proposed beneficiaries– with varying levels of intensity depending on the

¹⁴ IACtHR, Resolution 4/2019 PM 496-14 and 37-15 Persons deprived of their liberty at 15 police stations or other police facilities in the province of Buenos Aires, regarding Argentina [Extension], February 11, 2019, para. 54.

¹⁵ I/A Court H.R. Matter of the Members of the Indigenous Community of Choréachi. Request for Provisional Measures. Provisional measures regarding Mexico. Order of the Inter-American Court of Human Rights of March 25, 2017. Considerandum 19. Available [in Spanish] at http://www.corteidh.or.cr/docs/medidas/choréachi_se_01.pdf

measures that have been implemented by the State. These acts of violence have led to injuries and even deaths of people in the communities identified as proposed beneficiaries, as well as their displacement due to the violence in the area.

39. As indicated by the applicants themselves, the Commission observes, for example, that after the installation of a Joint Operations Base (BOM) in "Manuel Utrilla" with Army personnel in 2018, the situation improved "a little" and some displaced persons were allegedly able to return to their lands (see *supra* para. 5). Similarly, in 2019, after the army posted personnel in the Coco community, the applicants indicated that the number of firearms detonations decreased (see *supra* para. 6) Halfway through 2019, the applicants also reported that the "Non-aggression Agreement between Aldama and Chenalhó" was signed, with the Undersecretary of the Interior, the Governor of the State of Chiapas, the municipal president of Aldama and the Mayor of Chenalhó, among other authorities as witnesses (see *supra* para. 6). However, the Commission observes that the acts of violence against the inhabitants of the identified communities have continued despite the actions implemented by the State. This is noticeable even in 2020 and 2021 during the COVID-19 pandemic.

40. When assessing the seriousness of the specific situation of the inhabitants of the identified communities, the Commission observes that the events alleged in 2020 and 2021 reflect the following:

- i. The existence of a constant cycle of violence in the face of the presence of armed persons from the Chenalhó area, who allegedly open fire at the aforementioned communities in Aldama to either create an atmosphere of generalized terror or even raid the communities.
- ii. The armed group in the area might allegedly be organized enough to carry out these actions on a recurring basis.
- iii. The use of weapons of a different caliber, including some of "high caliber", against the inhabitants of the identified communities has resulted in injuries, hospitalization, and sometimes death. The allegations that suggest that special protection groups, such as children, have been affected are of particular concern to the Commission.
- iv. The attacks have also been directed at the homes of the inhabitants of the identified communities.
- v. The situation of violence led the inhabitants of the identified communities to leave their communities to seek refuge several times and for varying periods of time (see *supra* para. 8).
- vi. The situation prevented the inhabitants of the identified communities from carrying out their day-to-day activities such as planting corn, beans, or harvesting coffee. This situation has also had an impact on their means of economic subsistence as they cannot receive income from such activities.

41. The Commission observes that, following the request for information to the State made in accordance with Article 25 of the Rules of Procedure –including the forwarding of information–, the Commission was informed of a series of measures intended to protect the rights of the proposed beneficiaries. These include:

- i. The Non-Aggression Agreement in 2019, ratified in 2020 (see *supra* paras. 22, 23, 24 and 26)
- ii. Humanitarian assistance for displaced people (see *supra* paras. 15 and 17)
- iii. Dialogue and consultation measures (see *supra* paras. 14, 15, 16, 18, 24 and 25),
- iv. Security measures based on patrols, overflights, and the setup of a Joint Operations Base with the army (see *supra* paras. 16, 17, 19, 20, 21, 22, 24, and 25),
- v. Investigations and criminal cases in process, as well as proceedings and the progress for each of them (see *supra* paras. 27 and 28),
- vi. Various internal protection measures by the National Human Rights Commission, as well as

the Prosecutor General's Office in the framework of the ongoing investigations, as well as the participation of the State Police, the Mexican Army and the National Guard in the implementation of the precautionary and protective measures (see *supra* paras. 15, 20, 21, 24, and 25).

42. When analyzing the State's response, the Commission notes that the State has provided humanitarian assistance to the population that has suffered displacement. The applicants have generally questioned the relevance and adequacy of the humanitarian assistance provided by the State. However, the Commission does not identify specific and current information that may, at this time, disprove what the State has indicated regarding its sufficiency for each of the identified communities. In this sense, the Commission does not have sufficient elements of assessment regarding this allegation and, therefore, will not consider them as part of the risk factors in this matter. However, the Commission calls for the continuation of humanitarian aid as long as it is relevant.

43. Nevertheless, with regard to armed attacks, the Commission first observes that, despite the existence of a non-aggression agreement since 2019, which was also purportedly ratified in 2020, serious risk events have continued to occur towards the persons of the identified communities. In this sense, it is especially serious that several persons have been injured by the shots that have occurred in the border area between Aldama and Chenalhó, thus requiring medical care, while others have lost their lives in the past years.

44. Secondly, the Commission observes that, although various protection measures have been implemented in favor of the inhabitants of the area, these have not mitigated the risk. In particular, the Commission takes into consideration that the situation has been so serious in the last year that, on August 19, 2020, the National Human Rights Commission urgently requested the Government of the State of Chiapas to comply with the precautionary measures granted in favor of inhabitants of Aldama and Chenalhó.¹⁶ More recently, on October 17, 2020, the same National Human Rights Commission again exhorted to guarantee the life, personal integrity, and security of the inhabitants of the Municipalities of Aldama and Chenalhó.¹⁷ At that time, the National Commission indicated as follows:

- “[...] The situation of insecurity and social instability that prevails among the inhabitants of these Municipalities is worrisome, a circumstance that shows that the efforts of the local government to guarantee the life, personal integrity and security of the indigenous communities that live in the region have been notoriously insufficient.”
- “[...] In recent months, social differences between the communities themselves have exacerbated, ungovernability prevails and conflict zones persist due to mutual attacks with firearms that, according to the residents, are for the exclusive use of the Army, Navy and Air Force; the above has resulted in the regrettable loss of human life, multiple injuries, material damage and the displacement of families.”
- “It does not go unnoticed that on July 31, 2020, in the presence of the Governor of the State of Chiapas and Federal Authorities, the “Non-aggression Agreement between the Municipalities of Aldama and Chenalhó, Chiapas” was ratified, signed on June 4, 2019, between Municipal authorities and the state Government; a pact that remains in force, but that in reality shows its ineffectiveness.”

45. Thus, the information available indicates that protection measures have been effectively implemented in favor of the communities. However, the information available also indicates that such measures have not been effective and suitable, since they have not mitigated the alleged risk, and even injuries to residents of the area have come to fruition over time. In this regard, as the Inter-American Court has indicated, the mere fact that there are domestic protection measures does not prevent the organs of the Inter-American System from assessing a potential situation presenting a risk. In this

¹⁶ National Human Rights Commission (CNDH), The CNDH urgently requires the Government of the State of Chiapas to complete the Precautionary Measures granted to inhabitants of the municipalities of Aldama and Chenalhó, August 19, 2020. Available at https://www.cndh.org.mx/sites/default/files/documentos/2020-08/Com_2020_253.pdf

¹⁷ National Human Rights Commission (CNDH), CNDH urges the Government of the State of Chiapas to guarantee the life, personal integrity and security of the inhabitants of the Municipalities of Aldama and Chenalhó, October 17, 2020. Available at https://www.cndh.org.mx/sites/default/files/documentos/2020-10/COM_2020_332.pdf

regard, the Inter-American Court has indicated:

"[...] it should not be understood that in any case or matter the mere existence of an internal protection mechanism, or of judicial remedies that could be suitable, derives in the inadmissibility of the action of this Court. This must be examined in each case or matter, taking into account the particular circumstances of the risk that may exist, and the level of effectiveness of the intervention of internal authorities in relation to it."¹⁸

46. Thirdly, the Commission notes that, to date, and despite the time that has elapsed, it has not been possible to identify all the persons responsible for the risk events that the inhabitants of the identified communities have faced. Although the State has reported on various open investigations, the Commission observes that, according to the information provided, no substantive progress has been made in punishing those allegedly responsible for most of the risk events, which is a relevant aspect when establishing the risk that the proposed beneficiaries purportedly face and the possibilities of their recurrence. Except for some investigations in which the perpetrators have been identified or arrest warrants have been issued, the Commission notes that it has not been possible to achieve the disarmament and dismantling of the perpetrating group or identify whether there is a relationship with organized crime, for example. According to the information provided by the applicants, the Commission understands that it would be appropriate to address, at least, the composition, structure, and financing of the armed persons, as well as their relationship with the territorial conflict. In the same way, it would also be relevant to identify the origin of the weapons used and the source of the training in the use of such weapons.

47. Fourth, following what was indicated by the UN Rapporteur on the Rights of Indigenous Peoples following her visit to Mexico in 2018, the authorities should resolve the underlying factors behind the displacement experienced by the communities, such as territorial and political conflicts, the presence of organized crime and armed groups, through investigation, punishment, reparation, and justice processes.¹⁹ In this regard, the Commission observes that various open investigations show that persons in the area are using firearms, which, according to the State itself, may constitute the crime of "illegal possession of weapons exclusive for the army, navy and air force." (See *supra* para. 28.)

48. Fifth, the Commission recalls, in line with what was indicated by the Inter-American Court, that the lack of identification, delimitation, and effective demarcation of indigenous territories creates a "climate of permanent uncertainty."²⁰ Inasmuch as the specific situation occurring in the Aldama communities is part of a major and long-standing agrarian conflict, in the Commission's opinion, this situation may generate greater situations of violence and affect the social peace of the groups, preventing them from being able to live peacefully in their territories.

49. In summary, the Commission considers that, despite the measures adopted by the State, based on the information recently furnished by the applicants and the analysis carried out by the State, it is possible to see that the measures adopted by the State have not mitigated the risk faced by the inhabitants of the identified communities. In view of the foregoing elements, and in light of the specific context in which they reportedly take place, the Commission considers that under the *prima facie* standard of the precautionary measures mechanism, the rights to life and personal integrity of the proposed beneficiaries are at risk.

50. Regarding the *urgency* requirement, the Commission considers that the elements contained in the request suggest the possibility that the proposed beneficiaries may see the harm to their rights

¹⁸ I/A Court H.R. Case of the Rochela Massacre v. Colombia. Provisional Measures. Order of the Inter-American Court of Human Rights of February 16, 2017. Considerandum 56. Available [in Spanish] at https://www.corteidh.or.cr/docs/medidas/rochela_se_03.pdf

¹⁹ UN, Report of the Special Rapporteur on the rights of indigenous peoples on her visit to Mexico, June 28, 2018, para. 131. Available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/192/94/PDF/G1819294.pdf>

²⁰ I/A Court H.R., Case of the Community Mayagna (Sumo) Awas Tingni v. Nicaragua. Judgment of August 31, 2001. Merits, Reparations and Costs. 153. Available [in Spanish] at http://www.corteidh.or.cr/docs/casos/articulos/Seriec_79_esp.pdf

coming to fruition, as has already happened during this year so far. The information available indicates that the alleged risk persists, despite the measures adopted by the State to date. In this regard, the Commission considers that it is necessary to strengthen efforts when adopting the necessary actions to mitigate the risk to the proposed beneficiaries.

51. As it pertains to the requirement of *irreparable harm*, the Commission finds it met, since the possible impact on the rights to life and personal integrity constitutes the maximum situation of irreparability.

52. Lastly, in relation to the arguments of the State regarding the principle of complementarity, the Commission considers it pertinent to recall that, in effect, the State, through its domestic authorities, is primarily responsible for protecting the human rights of the persons under its jurisdiction; in this regard, the nature of international jurisdiction is "auxiliary" or "complementary," without replacing it.²¹ The Commission notes, however, that invoking the principle of complementarity to support that the adoption of precautionary measures is unwarranted requires that the State concerned satisfy the burden of proving that the proposed beneficiaries are no longer in a serious and urgent situation pursuant to Article 25 of the Rules of Procedure, in the sense that the measures adopted by the State have had a substantive impact in reducing or mitigating the risk, so that compliance with the procedural requirements is no longer fulfilled and therefore international intervention to prevent irreparable harm is required.²²

53. In this matter, although the Commission takes into account and assesses the actions taken by the State to protect the rights of the proposed beneficiaries, upon analyzing the situation, it deems the requirements set forth in Article 25 of the Rules of Procedure met, and therefore considers that the adoption of precautionary measures is appropriate.

IV. BENEFICIARIES

54. The Inter-American Commission declares that the beneficiaries of this precautionary measure are the Tzotzil indigenous families who live in the following twelve communities: (1) Coco', (2) Tabac, (3) Xuxch'en, (4) San Pedro Cotzilnam, (5) Chayomte, (6) Juxtón, (7) Tselejpotobtic, (8) Yetón, (9) Chivit, (10) Sepelton, (11) Yocontik, and (12) Municipal seat of Aldama, who live in the Municipality of Aldama, Chiapas. These families are determinable pursuant to Article 25.6.b. of the IACtHR Rules of Procedure.²³

V. DECISION

55. In view of the aforementioned background, the IACtHR 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, the Commission requests that the State of Mexico:

- a) adopt the necessary and culturally pertinent security measures to protect the life and personal integrity of the beneficiaries. Specifically, the necessary measures to guarantee their safety within their communities, and during their displacements, with a view to preventing threats, harassment, intimidation or acts of armed violence against them by third parties;
- b) agree on the measures to be adopted with the beneficiaries and their representatives; and
- c) report on the actions taken to investigate the events that led to the adoption of this precautionary measure and thus prevent their repetition.

²¹ See, *inter alia*: IACtHR, Francisco Javier Barraza Gómez regarding Mexico (PM-209-14), Resolution of August 15, 2017, para. 22. Available [in Spanish] at <http://www.oas.org/es/cidh/decisiones/cautelares.asp>; IACtHR, Paulina Mateo Chic regarding Guatemala (PM 782-17), Resolution of December 1, 2017, para. 34; available [in Spanish] at <http://www.oas.org/es/cidh/decisiones/pdf/2017/49-17MC782-17-GU.pdf>; and IACtHR, Santiago Maldonado regarding Argentina (PM 564-2017), Resolution of August 22, 2017, para. 16. Available [in Spanish] at <http://www.oas.org/es/cidh/decisiones/pdf/2017/32-17MC564-17-AR.pdf>.

²² Ibid.

²³ See, *inter alia*: I/A Court H.R. *Matter of Inhabitants of the communities of the Miskitu indigenous people of the North Caribbean Coast Region of Nicaragua*. Request for Provisional Measures. Order of the Inter-American Court of Human Rights of September 1, 2016. Operative Paragraph 1. Available [in Spanish] at http://www.corteidh.or.cr/docs/medidas/miskitu_se_01.pdf. In this matter, the Inter-American Court granted provisional measures in favor of members of the Miskito indigenous people who live in 5 communities, and of the persons who allegedly have had to leave those communities and wish to return.

56. The Commission also requests that the Government of Mexico kindly inform the Commission, within a period of 15 days as of the date of this communication, on the adoption of the precautionary measures that have been agreed upon and to periodically update this information.

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

58. The Commission instructs the Executive Secretariat of the IACtHR to notify this resolution to the State of Mexico and the applicants.

59. Approved on April 23, 2021 by Antonia Urrejola Noguera, President; Julissa Mantilla Falcón, First Vice President; Flávia Piovesan, Second Vice President; Margarette May Macaulay; Esmeralda Arosemena de Troitiño; and Edgar Stuardo Ralón Orellana, members of the IACtHR.

María Claudia Pulido
Acting Executive Secretary