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**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION 3/2023**

Precautionary Measure No. 892-22

Pascuala López López<sup>1</sup> and her family unit regarding Mexico<sup>2</sup>

January 26, 2023

Original: Spanish

**I. INTRODUCTION**

1. On November 11, 2022, the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission”, “the Commission” or “the IACHR”) received a request for precautionary measures presented by the non-governmental organization “*Red Nacional de Organismo Civiles de Derechos Humanos Todos los Derechos para Todas y Todos*” (*Red TDT*) (“the applicants”), urging the Commission to request that the United Mexican States (“the State” or “Mexico”) adopt the necessary measures to protect the rights to life and personal integrity of Ms. Pascuala López López, three members of her family,<sup>3</sup> and Tsotsiles indigenous people residing in the Cuxtitalli el Pinar *ejido* [a piece of land farmed communally under a system supported by the state]<sup>4</sup> located in San Cristóbal de Las Casas, Chiapas (“the proposed beneficiaries”). According to the applicants, the proposed beneficiaries are at serious risk due to threats, harassment, and acts of violence committed by an armed group that is in the *ejido* Cuxtitalli el Pinar, San Cristóbal de Las Casas, Chiapas.

2. In accordance with Article 25.5 of the Rules of Procedure, the Commission requested information from the parties on November 21, 2022. The representatives responded on December 1, 2022. On December 5, 2022, the Commission reiterated the request for information to the State. On the same day, the State requested an extension. Upon granting the request, the State submitted a response report on December 12. The representatives provided additional information on November 18 and December 2, 2022.

3. Upon analyzing the factual and legal allegations submitted by the parties, the Commission considers that Ms. Pascuala López López and her identified relatives are in a serious and urgent situation, given that her rights to life and personal integrity were at risk of irreparable harm. Accordingly, pursuant to Article 25 of its Rules of Procedure, the Commission requests that Mexico: a) take the necessary measures to guarantee the life and personal integrity of Ms. Pascuala López López and her identified relatives, and, specifically, ensure their safety and prevent acts of threats, intimidation, and violence against them by third parties, whilst considering the differentiated approaches based on their gender and cultural relevance; b) consult and agree upon the measures to be implemented with the beneficiaries and their representatives; and c) report on the actions taken to investigate the alleged events that led to the adoption of this resolution, so as to prevent such events from reoccurring.

**II. SUMMARY OF FACTS AND ARGUMENTS**

**1. Information provided by the applicants**

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<sup>1</sup> In certain documents submitted by the representatives, the proposed beneficiary is also identified as Pascuala Lopéz Gómez.  
<sup>2</sup> In accordance with Article 17.2 a of the IACHR Rules of Procedure, Commissioner Joel Hernández García, a Mexican national, did not participate in the debate and deliberation of this matter.  
<sup>3</sup> Her husband, Mario Gómez López; her son, Agustín Gómez López; and his wife, Silvia Mercedes Díaz Gómez.  
<sup>4</sup> In some documents, the parties also refer to the location as El Pinar Cuxtitalli.

4. The proposed beneficiaries are the following (1) Ms. Pascuala López López, (2) her husband, Mario Gómez López, (3) her son, Agustín Gómez López, and (4) his son's wife, Silvia Mercedes Díaz Gómez. Their domicile is reportedly located in the neighborhood of Santa Cruz, within the *ejido* Cuxtitalli el Pinar in San Cristóbal de Las Casas, Chiapas. The request indicates that, for more than five years, an armed group called "*Sentimientos de la Nación*" (Sentiments of the Nation) arrived in the *ejido*, which intensified the violence within it. In November 2019, members of the armed group beat and dragged Mateo Gómez López, Ms. Pascuala's son, in addition to taking his cell phone. Subsequently, in January 2020, the armed group invited Mateo to join them, but he refused. On February 3, 2020, while Mateo was walking inside his *ejido*, he was shot in the stomach and died. The next day, this same group beat several people from the *ejido* and burned trucks. The Indigenous Justice Prosecutor's Office of the state of Chiapas initiated an investigation into the murder of Mateo Gómez López. When requesting information from the current Indigenous Prosecutor, he allegedly told Ms. Pascuala: "[...] wherever you go to complain, I am the one who is in charge and they will not listen to you. Whoever killed your son, you have to point them out and be careful so that you do not end up with your son [...]". In Ms. Pascuala's opinion, the above implied that "they could kill [her]."

5. On March 15, 2020, a group of approximately 100 people who lived in the neighborhood of San Antonio el Pinar arrived with sticks and machetes to "illegally" take possession of the spring and areas of public use in the Ojo de Agua neighborhood. On August 23, 2020, approximately 100 armed subjects appeared at the assembly of elections of the Ejidal Council, and proceeded to attack and threaten the community authorities. They violently removed all the inhabitants; injured several people, including children; and prevented the election of the *ejidal* council, imposing its curatorship.

6. On January 25, 2022, the Center for Human Rights Fray Bartolomé de Las Casas A.C. (*Centro de Derechos Humanos Fray Bartolomé de Las Casas A.C.*) requested the Attorney General's Office of the state of Chiapas to provide Ms. Pascuala with copies of the investigation folders, well as physical protection. On February 18, 2022, Ms. Pascuala, along with other members of the *ejido*, requested the Undersecretary of Government of the state of Chiapas the following: the realization of the registry of victims, the celebration of the *Ejidal* assembly for the election of its authorities, and the arrest of P.P.S., who is the alleged head of the armed organization. As a result of these events, Ms. Pascuala, along with other people from the *ejido*, held peaceful demonstrations at the Government Palace in Tuxtla Gutiérrez and held a press conference with the media during which she mentioned those who were allegedly responsible of the murder.

7. On April 8,<sup>5</sup> 2022, at approximately 9:00 a.m., it was indicated that Mr. Pascuala experienced an attempted homicide by the aforementioned armed group. Approximately twenty people surrounded her house after she tried to mediate a discussion between members of the armed organization and a neighbor who had gotten into a traffic accident in front of her residence. She was beaten out of her residence, received kicks in different parts of her body, and dragged from her neck to the middle of the road, where she was ordered to kneel. Two of the assailants pointed large-caliber weapons at her head and said "[...] You're going to get it now, go with your son [...]". She was then hit in the face, kicked, hanged, suffocated, process during which she lost one of her teeth. One of the assailants shot her, but reportedly no bullets hit her. Ms. López was then thrown on the road as they believed her to be dead. The proposed beneficiary allegedly did not file a report on the fact as she states that the Prosecutor's Office is not investigating the facts. She fears that if she files a report, she will be attacked again. The proposed beneficiary believes there is a link between the incident and the public demand for justice for her son, specifically the direct signalling of the person who is responsible.

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<sup>5</sup> Some documents mention that it took place on March 8, 2022.

8. On April 12, 2022, the complaint regarding the aggression suffered by Ms. Pascuala on April 8, 2022 was sent to the Undersecretary of Government of the state of Chiapas. The aggressors were identified as: P.P.S., A.S., J.S., C.L.C. and F.S.M., who reportedly called themselves the “False Commissariat of the *Ejido El Pinar*” (*Comisariado Falso del Ejido El Pinar*). The request indicates that, despite the fact that several authorities were informed of this aggression, so far reportedly none issued instructions to the Prosecutor’s Office to initiate the corresponding investigation. On April 17, 2022, members from the Cuxtitali el Pinar *ejido* requested the Governor of the state of Chiapas, the Attorney General’s Office of the state of Chiapas, the General Secretariat of Government of the state of Chiapas, the Congress of the state of Chiapas, and the State Commission on Human Rights of the state of Chiapas to carry out the corresponding investigations for the criminal acts committed by the armed group and to guarantee their safety. The individuals referred to events that took place in 2020.

9. On April 19, 2022, people from the Cuxtitali el Pinar *ejido*, including Ms. Pascuala, requested the Undersecretary of the Chiapas government to execute the arrest warrant against P.P.S., carry out the registry of victims who sought remedies for the violent acts he committed, and immediately convene the General Assembly of *Ejidatarios*. On May 24, 2022, they presented an official letter to the Undersecretary of Human Rights and Population, requesting that the facts be investigated, and that they be guaranteed security. It was requested that Ms. Pascuala’s case be incorporated into the Protection Mechanism for Human Rights Defenders and Journalists (*Mecanismo de Protección para las Personas Defensoras de Derechos Humanos y Periodistas*). On the same day, a complaint was filed with the National Human Rights Commission with the following elements: the murder of Mateo, the attempted murder of Ms. Pascuala, and the faults of the Attorney General’s Office of the state of Chiapas. On May 27, 2022, the Human Rights Commission of the state of Chiapas opened the file for the complaint. Reportedly no progress has been made in this regard.

10. On July 1, 2022, they presented an official letter to the Governor of the state of Chiapas, the Attorney General’s Office of the Republic, the Attorney General’s Office of the state of Chiapas, and the State Commission on Human Rights of the state of Chiapas. They also denounced that the armed group carried out the disposition and sale of five hectares that belonged to an *ejidatario*.<sup>6</sup> They requested that investigations be conducted, and security be provided in favor of the people of the *ejido*. They additionally sought that dialogue tables be formed to solve the problem, and to declare the nullity of the minutes of the Assembly through which the aforementioned aggressors were self-appointed “*ejido* authorities”.

11. On August 5, 2022, two people were killed while traveling in a vehicle after being assaulted by individuals on a motorcycle. In this regard, they report that the armed group has become known for traveling on motorcycles and vans sometimes carrying large-caliber weapons, so they have colloquially been referred to as “*motonetos*”.

12. On October 28, 2022, the Attorney General’s Office of the state of Chiapas reported on the arrest and link to the process of P.P.S. identified as the alleged leader of the “*motonetos*” and the one responsible for the murder of the proposed beneficiary’s son. The applicants reported that in the Attorney General’s Office of the state of Chiapas there are investigation files against the armed group for various crimes such as attempted homicide, qualified injuries, damages, violent robbery, among others. So far, no individuals have been arrested.

13. That same day, a group of individuals linked to the detainee blocked the road that connects San Cristóbal de Las Casas with the city of Comitán, as a measure to demand the release of their leader. This

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<sup>6</sup> There is mention of the existence of a process before the Land Court for the land dispute.

situation was repeated on October 31, 2022, as the highway that connects San Cristóbal de Las Casas with Tuxtla Gutiérrez was blocked for a few hours. On November 8, 2022, a new protest was held in which, according to the applicants, windows from the courthouse, the administrative unit, and the municipal presidency were broken after fireworks were allegedly thrown at them. They also set fire to a parked vehicle. In this context, people from the *ejido* issued a public statement expressing that they do not support the release of the detainee, and demanded that he be investigated and that justice be served.<sup>7</sup> In addition, since the beginning of November 2022, the Altos and Indigenous District Prosecutor's Office, the *Palacio de Justicia de los Altos* [headquarters of the Judicial Branch and the Supreme Court of Justice], and the Administrative Unit of the municipality have remained closed, as they feared that the armed group could hold the public officials against their will. Several schools decided to suspend classes due to the risk of clashes.

14. Since the arrest of P.P.S., his lawyers have reportedly contacted Ms. Pascuala in order to reach a legal agreement that would allow him to leave the prison. On November 7, 2022, at approximately 9:54 a.m., Ms. Pascuala observed a person outside her home. The individual was watching her house and asking her neighbors about her. Fearing that she would be assaulted again, she had to leave her home along with her husband. On November 10, 2022, at approximately 11:00 a.m., Agustín Gómez López, Ms. Pascuala's son, received a phone call. He was told that his wife Silvia Diaz would be kidnapped in an attempt to coerce him to disclose where his mother was hiding.

15. On November 15, 2022, Ms. Pascuala and her husband decided to return home with the intention of safeguarding their property and belongings. That same night, part of the armed group gathered about 200 meters from the house. At approximately 10:30 p.m., two cars drove by the residence. On November 17, 2022, between ten and fifteen people on motorcycles gathered at the entrance of the *Ejido el Pinar Cuxtitali* at around 9:00 p.m. On November 21, 2022, two cars, one black and one white, both without license plates and with tinted windows, watched the home from 6:00 p.m. to approximately 8:00 p.m. On November 24, 2022, from 5:00 p.m. to approximately 7:00 p.m., two people who were inside the same black car were watching Ms. Pascuala's home. On November 21, 2022, members of the aggressor group took photos and videotaped V.P.S., an inhabitant of the *Cuxtitali el Pinar ejido*. When he returned to the community in San Cristóbal de Las Casas, at around 4:20 p.m., five armed individuals shot at his car in which he was traveling with his wife and three children, but they all emerged unscathed. This fact was reported to the Indigenous Justice Prosecutor's Office of the Attorney General's Office of the state of Chiapas. On November 22, 2022, people from the aggressor group blocked the entrances and exits of the State Center for Social Reintegration for Sentenced Number 5 (*Centro Estatal para la Reinserción Social para Sentenciados número 5*) in the city of San Cristóbal de Las Casas, in order to request the release of P.P.S.

16. Regarding protection measures, it was reported that, on November 10, 2022, the Protection Mechanism for Human Rights Defenders and Journalists notified Ms. Pascuala of the refusal of her request. They stated that: "the possible aggressions she has received arise as a result of being a victim of crime due to the entry of a paramilitary group into her community". Under this approach, it was indicated that the situation that reportedly triggered the aggression or threat against her on April 8, 2022, "is not evidently shown as a result of the exercise of the defense of human rights." In the response issued by the Mechanism, it is established that Ms. Pascuala indicated that she defended the rights of the community in the face of

<sup>7</sup> The statement reportedly stated "[P.P.S.] allies who have publicly stated their support for illegality and violence are usurping functions in our ejido and they have no legal or legitimate representation in this ejido. They self-appointed themselves with false minutes of a general assembly that never took place; The majority of the population of this Ejido do not support illegality or violence; therefore, we do not demand the release of [P.P.], on the contrary, we demand the investigation and punishment corresponding to any person who acted outside the Law. "

the seizure of a paramilitary group, that P.P.S. has taken possession of her community in the place of “*ejidal* commissariat”, and that she seeks the appointment of a new authority in her community called Santa Cruz el Pinar. While analyzing the proposed beneficiary’s situation, the Public Security Undersecretary of the Ministry of Security and Citizen Protection (*Subsecretaría de Seguridad Pública de la Secretaría de Seguridad y Protección Ciudadana*) was officially ordered to implement the following actions in favor of Ms. Pascuala: i) the National Guard was requested to provide emergency contact numbers for the detachment closest to the municipality of San Cristóbal de las Casas, Chiapas, for a period of 30 calendar days, and ii) the National Guard was requested to provide scheduled security rounds in the residential address of Pascuala, for a period of 30 calendar days.

17. The applicant pointed out that the State does not provide Ms. Pascuala with any real and effective protection measures to ensure her safety. It was indicated that the members of the armed group remain close to Ms. Pascuala’s residence. They also allegedly remain close to the road that is the entrance and exit of the *Ejido* the Pinar Cuxtitali, through which the proposed beneficiaries must transit daily. In addition, people living in the *Ejido* el Pinar Cuxtitali have reported various crimes committed by the paramilitary group, such as qualified homicide, attempted homicide, qualifying injuries, damages, and others. So far, there has been no reported progress.

18. They reiterated that the proposed beneficiary has not issued a criminal complaint for the facts she suffered due to the threats she received from the current Indigenous Prosecutor of the Attorney General’s Office of the state of Chiapas. She reportedly does not trust doing so when the other investigations, except that of the murder of her son carried out in Tuxtla Gutiérrez, Chiapas, are under this Indigenous Prosecutor’s Office, and have not yet yielded any results. The applicants request that the State be ordered to implement an effective strategy of dismantling, disarming, investigating, detaining, and penalizing the armed group.

## **2. Response from the State**

19. The State referred to the issue related to the events of March 15, 2020, in which people armed with sticks and machetes, who live in the neighborhood of San Antonio El Pinar, illegally took possession of parks in the Ojo de Agua neighborhood, and threatened to take possession of the spring of that neighborhood and the soccer fields. The State indicated that the aforementioned arose from the division of members of the same community due to differences in their collective interests. On that occasion, the facts were not disclosed to the Ministry of Government of the state of Chiapas. The same problem allegedly arose on August 23, 2020, the day of the assembly for the election of representative bodies of the *Ejidal* Council. The outgoing authorities were allegedly unsatisfied with the results of the *ejidal* assembly held, considering that the requirements established in the Agrarian Law were not met.

20. The situation has caused a series of acts of destabilization in the *ejido* resulting from the dispute between the group of outgoing authorities and the group of the elected *ejido* commissariat. To date, there is reportedly no official information regarding the alleged participation of an “armed group” within the *ejido* of the City of San Cristóbal de Las Casas.

21. The State indicated that the Government Secretariat has supported reaching agreements through dialogue for the conclusion of peace in the referenced *ejido*. On several occasions, it has served non-conforming groups through various administrative bodies. It was highlighted that on October 21, 2020, a pact of civility and mutual respect was signed between both groups in the City of Tuxtla Gutiérrez, Chiapas. On that occasion, the delegate of the government of the region, staff of the State Human Rights Commission, staff of the Agrarian Prosecutor’s Office, staff of the Municipal City Council of San Cristóbal

de las Casas, as well as the delegation of both parties of the *ejido* Cuxtitali el Pinar, represented by M.P.L., former *ejidal* commissioner and F.S.M., *ejidal* commissioner-elect, were present.

22. The parties agreed to maintain a conduct of peace and harmony within the communities and localities that comprise the Cuxtitali el Pinar *ejido*, understanding that those who violate the pact will have to assume their responsibility before the corresponding jurisdictional authority and that a worktable will be installed in the City of San Cristóbal de Las Casas in order to analyze what corresponds to the *ejido* representative bodies. The Government Delegation of San Cristóbal de Las Casas has requested the implementation of preventive and precautionary measures in the place, the last one on November 29, 2022, in order to avoid acts that violate human rights.

23. In the same vein, the Directorate of Agrarian Affairs (*Dirección de Asuntos Agrarios*) of the State has assisted in the search for alternatives to the conflict caused by the election of the *ejidal* representative body, in the *ejido* Cuxtitali, Municipality of San Cristóbal de Las Casas. The State reported that, through agrarian trial number 166/2022, instructed before the Unitary Agrarian Court, District 3, a judgment was issued on April 29, 2022. According to the judgment, the minutes of the assembly of August 25, 2020 were declared null and void. The Delegation of the Agrarian Prosecutor's Office of the State was ordered to convene a general assembly to elect representative and supervisory bodies in the Cuxtitali agrarian nucleus within a period of thirty days from the date of the judgment. The State indicated that the party that was not favored with the court's ruling promoted direct amparo number 420/2022, before the Collegiate Court in administrative matters of the Twentieth Circuit (*Tribunal Colegiado en materia administrativa del Vigésimo Circuito*). It is therefore pending judgment issued by the Court.

24. On the other hand, the State indicated that the Directorate of Attention to State Organizations (*Dirección de Atención a Organizaciones del Estado*) reported having knowledge of the conflict involving the organized groups of the Cuxtitali el Pinar *ejido* from the request of October 31, 2022, in support of P.P.S., leader of the Organization "*Raíces Fuertes de Chiapas*". The State indicated that it has addressed various issues inherent to its social activity.

25. In relation to the murder of Mateo Gómez López, the State indicated that this occurred in February 2020. It therefore cannot be determined if this circumstance is linked to the current dispute between the inhabitants of the *Ejido* Cuxtitali el Pinar in San Cristóbal de las Casas, which is characterized as an agrarian matter. The State indicated that due to this fact there is an investigation file in the Indigenous Justice Prosecutor's Office of the State Attorney General's Office, and that it refrained from pronouncing itself in this regard in respect of the constitutional autonomy of this body for procuring justice. The State stressed that both the death of Mateo Gómez López, as well as the alleged threats against the proposed beneficiaries, are matters of competence of the investigative authority, in charge of the administration and procurement of justice. In order to strengthen the confidence of the applicants, the General Secretariat of the Government of Chiapas, on behalf of the State Government, provided legal and victim aid.

26. The State stated that, taking into account that Ms. Pascuala reported being attack on April 8, 2022, and that she did not file a report for fear of being assaulted again and, because she considered that the Prosecutor's Office does not investigate, the State is in the best position to generate the necessary actions to channel the case of Ms. Pascuala and her family unit before the competent institutions. The foregoing, with the aim of guaranteeing the necessary and indispensable measures of protection and victim assistance to safeguard her personal life and freedom.

27. Regarding the arrest of P.P.S., on October 27, 2022, executed by the State Attorney General's Office, as likely responsible for the crime of qualified homicide, the State indicated that in order to avoid

acts of social destabilization, preventive and precautionary measures have been implemented permanently. This is in order to safeguard the life, freedom, integrity, and heritage of people. The measures seek to contribute to the generation and preservation of public order and social peace in the *ejido* of Cuxtitalli, El Pinar, in the municipality of San Cristóbal de Las Casas, Chiapas.

28. On November 8, 2022, the State Human Rights Commission issued a preventive or precautionary measure to contribute to the restoration of peace and security of the inhabitants. An Inter-institutional Group composed of the Ministry of National Defense SEDENA, National Guard, and State and Municipal Police, carry out constant patrols and protection of strategic areas. Their aim is to safeguard the population and ensure the freedom and security of the inhabitants. Furthermore, the Government Secretariat of the state executes actions that promote dialogue between the parties to reach agreements that allow the solution of the conflict which gave rise to dispute between the inhabitants of the *ejido*.

29. The State stressed that, with the participation of the three orders of government, the Social Fabric Reconstruction Program (*Programa de Reconstrucción del Tejido Social*) for San Cristóbal de Las Casas is being developed. Through the Program, a process of dialogue and agreements is promoted in order to allow carrying out actions that impact on an improvement in social, political, economic, and educational conditions, which leads to peace within municipality. The aforementioned process is developed within the framework of the right to citizen consultation, based on the recognition of the community as an active subject of change and development.

30. Regarding the representative's reports about the alleged fault of this Protection Mechanism in disregarding Ms. Pascuala, the State clarified that it is not possible to incorporate Ms. Pascuala in its mechanism as she is not a member of any group that promotes, defends, or fosters human rights. However, the Protection Mechanism submitted communications to the Secretariat of Security and Citizen Protection. In them, it requested that security measures be implemented in a preventive manner through the National Guard. These measures consisted in an emergency number and scheduled security rounds near the proposed beneficiary's home. Regarding the implementation of the security measure in favor of Pascuala, the State indicated that on November 15, 2022, the State Coordination of the National Guard in Chiapas reported that they communicated with her via telephone. They stated that she was notified of the measures and stated that she had changed her address, but did not provide her current address or more information about it. She was given the direct number of the nearest base of the National Guard to the municipality of San Cristóbal de las Casas. In addition, attention continues to be given to both groups, in a coordinated manner, through the government delegation in the region.

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

31. The mechanism of precautionary measures is part of the Commission's function of overseeing compliance with the human rights obligations set forth in Article 106 of the Charter of the Organization of American States. These general oversight functions are established in Article 41(b) of the American Convention on Human Rights, as well as in Article 18(b) of the IACHR Statute. The mechanism of precautionary measures is set forth in Article 25 of the Commission's Rules of Procedure. In accordance with that Article, the Commission grants precautionary measures in serious and urgent situations in which these measures are necessary to avoid an irreparable harm to persons.

32. 24. The Inter-American Commission and the Inter-American Court of Human Rights ("the Inter-American Court" or "I/A Court H.R.") have repeatedly established that precautionary and provisional

measures have a dual nature, both protective and precautionary.<sup>8</sup> Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.<sup>9</sup> To do this, the IACHR shall assess the problem raised, the effectiveness of state actions to address the situation described, and how vulnerable the persons proposed as beneficiaries would be left in case the measures are not adopted.<sup>10</sup> Regarding their precautionary nature, these measures have the purpose of preserving legal situations while under the consideration of the IACHR. They aim to safeguard the rights at risk until the petition pending before the inter-American system is resolved. Their object and purpose are to ensure the integrity and effectiveness of an eventual decision on the merits and, thus, avoid any further infringement of the rights at issue, a situation that may adversely affect the useful effect (*effet utile*) of the final decision. In this regard, precautionary or provisional measures enable the State concerned to comply with the final decision and, if necessary, to implement the ordered reparations.<sup>11</sup> In the process of reaching a decision, according to Article 25(2) of its Rules of Procedure, the Commission considers that:

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

33. In analyzing those requirements, the Commission reiterates that the facts supporting a request for precautionary measures need not be proven beyond doubt. The information provided should be assessed from a *prima facie* standard of review to determine whether a serious and urgent situation exists.<sup>12</sup> Similarly, the Commission recalls that, by its own mandate, it is not called upon to determine any individual liabilities for the facts alleged. Moreover, in this proceeding, it is not appropriate to rule on

<sup>8</sup> See in this regard: I/A Court H.R. Matter of the Yare I and Yare II Capital Region Penitentiary Center. Request for Provisional Measures submitted by the IACHR regarding the Bolivarian Republic of Venezuela. Order of the Inter-American Court of Human Rights of March 30, 2006, considerandum 5; I/A Court H.R. Case of Carpio Nicolle et al. v. Guatemala. Provisional Measures. Order of July 6, 2009, considerandum 16.

<sup>9</sup> See in this regard: I/A Court H.R. Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center. Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, considerandum 8; I/A Court H.R. Bámaca Velásquez Case. Provisional Measures regarding Guatemala. Order of the Court of January 27, 2009, considerandum 45; I/A Court H.R. Case of Fernández Ortega et al. Provisional Measures regarding Mexico. Order of the Court of April 30, 2009, considerandum 5; I/A Court H.R. Matter of Milagro Sala. Request for Provisional Measures regarding Argentina. Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5 [only in Spanish].

<sup>10</sup> See in this regard: I/A Court H.R. Matter of Milagro Sala. Request for Provisional Measures regarding Argentina. Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5 [only in Spanish]; I/A Court H.R. Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center. Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, considerandum 9; I/A Court H.R. Matter of the Criminal Institute of Plácido de Sá Carvalho. Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of February 13, 2017, considerandum 6 [only in Spanish].

<sup>11</sup> See in this regard: I/A Court H.R. Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center. Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, considerandum 7; I/A Court H.R. Matter of “El Nacional” and “Así es la Noticia” newspapers. Provisional Measures regarding Venezuela. Order of the Court of November 25, 2008, considerandum 23; I/A Court H.R. Matter of Luis Uzcátegui. Provisional Measures regarding Venezuela. Order of the Court of January 27, 2009, considerandum 19.

<sup>12</sup> See in this regard: I/A Court H.R. Matter of Members of the Miskitu Indigenous Peoples of the North Caribbean Coast regarding Nicaragua. Extension of Provisional Measures. Order of the Inter-American Court of Human Rights of August 23, 2018, considerandum 13 [only in Spanish]; I/A Court H.R. Matter of the children and adolescents deprived of their 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.



violations of rights enshrined in the American Convention or other applicable instruments.<sup>13</sup> This is better suited to be addressed by the Petition and Case system. The following analysis relates exclusively to the requirements set forth in Article 25 of the Rules of Procedure, which can be resolved without making any determinations on the merits.<sup>14</sup>

34. As a *preliminary point*, the Commission would like to point out that it will only analyze the specific situation of Ms. Pascuala López López and the identified members of her family. In the case of the universe of proposed beneficiaries referring to all the indigenous Tsotsiles residing in the *ejido* Cuxtitali el Pinar in San Cristóbal de Las Casas, Chiapas, the Commission considers that further details and information on their current situation are required in the light of Article 25 of its Rules of Procedure. Notwithstanding the foregoing, the Commission recalls that the State maintains all of its international obligations set forth in Article 1.1. of the Convention and other applicable instruments, including protecting from situations of imminent risk, as appropriate.

35. At a *contextual level*, the Commission notes that, based on the information alleged by the parties, there is a conflict within the Cuxtitali el Pinar *ejido*. The conflict is allegedly related to the election of certain *ejido* authorities and the legal controversies surrounding such elections, referring to 2020 events and ongoing legal processes.

36. In this regard, the Commission observes that, according to the applicants, there have been incidents of violence and the presence of armed persons in the area. They also claim the existence of an “armed group” known as “*motonetos*” (see *supra* para. 4, 5, and 11). Recently, the applicants indicated that two people were killed by this group in August 2022 (see *supra* para. 11), and, in November 2022, an inhabitant of the aforementioned *ejido* was reportedly shot at while traveling with his family (see *supra* para. 15). For its part, the State indicated that there has been “a series of acts of destabilization” in the *ejido* resulting from a “dispute” between outgoing *ejido* authorities and those who support the elected *ejido* commissariat (see *supra* para. 19 and 20). Faced with this situation, the State indicated that it had reached agreements with the parties. This led to the signing of “a pact of civility and mutual respect” in October 2020 and the installation of a working table to analyze what corresponds to the *ejido* representative bodies (see *supra* para. 21 and 22). The State explained the ongoing legal proceedings brought by the parties involved in the conflict within the *ejido* (see *supra* para. 23). The State also stated that there is no “official information” on the involvement of an “armed group” within the *ejido* (see *supra* para. 20).

37. Given the nature of the information submitted, the Commission understands that the conflict reportedly led to situations of violence within the *ejido*. Although the State questioned the existence of an “armed group”, the available information allows the Commission to indicate, considering the allegations of the State itself, that there are “organized groups” that are in conflict. In addition, aggression and violence with the use of weapons have been occurring since, at least, since 2020. Similarly, according to the applicants, on November 10, 2022, the Protection Mechanism for Human Rights Defenders and

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

<sup>14</sup> In this regard, the Court has indicated that “[it] cannot, in a provisional measure, consider the merits of any arguments pertaining to issues other than those which relate strictly to the extreme gravity and urgency and the necessity to avoid irreparable damage to persons.” See in this regard: I/A Court H.R. Matter of James et al. regarding Trinidad and Tobago. Provisional Measures. Order of the Inter-American Court of Human Rights of August 29, 1998, considerandum 6; I/A Court H.R. Case of Barrios Family v. Venezuela. Provisional Measures. Order of the Inter-American Court of Human Rights of April 22, 2021, considerandum 2 [only in Spanish].

Journalists reportedly commented on the entry of a “paramilitary group” into the proposed beneficiary’s community (see *supra* para. 16).

38. In addressing the conflict situation in the area, the Commission notes that the applicants alleged that Ms. Pascuala’s son was shot dead in 2020 (see *supra* para. 4). More recently, in April 2022, Ms. Pascuala was subjected to violence when armed persons pointed large-caliber weapons at her head (see *supra* para. 7). The assault ended when the assailants believed she was dead, and she was thrown onto the road (see *supra* para. 7). Similarly, it has been reported that the arrest of the alleged leader of one of the organized groups, in October 2022, is related to the investigation into the murder of Ms. Pascuala’s son (see *supra* para. 8, 12, and 25). In October and November 2022, there were alleged acts of violence of such intensity that they reportedly led to the closure of national offices in the area (see *supra* para. 13). In this sense, the available information allows us to understand that there is a situation of underlying conflict in the area.

39. Having specified the above at a contextual level, the Commission proceeds to analyze the specific situation of Ms. Pascuala and her family unit. When analyzing its situation, the Commission considers the context in which it occurs.

40. In relation to the requirement of *seriousness*, the Commission notes that, following Ms. Pascuala’s armed aggression in April 2022 (see *supra* para. 7), and the subsequent arrest of the alleged perpetrator of her son’s murder in October 2022 (see *supra* para. 12), a series of events have happened to the proposed beneficiary. The Commission understands, from the information available, that her current situation is allegedly related to the actions she took in seeking justice for murder of her son, and due to her questioning of the elections of *ejido* authorities. In this regard, the applicants indicated the events that occurred, on various days in November 2022, against the proposed beneficiary and her relatives:

- i. reported surveillance of her home and an individual was seen asking about the proposed beneficiary. This event allegedly led the proposed beneficiary and her husband to leave their house (see *supra* para. 14);
- ii. the proposed beneficiary’s son allegedly received a telephone call where he was threatened with the abduction of his wife, with the aim of getting him to provide information about his mother (see *supra* para. 14);
- iii. when the proposed beneficiary decided to return to her house, armed people gathered near residence. Cars were also near her house or watched her house (see *supra* para. 15);
- iv. She was reportedly surveillance by individuals in vehicles with tinted windows and without license plates (see *supra* para. 15).

41. The Commission warns that, according to the information available, these events reportedly occurred after the proposed beneficiary was contacted by lawyers representing the alleged person who is responsible for the murder of her son with the aim of reaching a “legal agreement” that would allow him to leave the prison (see *supra* para. 14). The foregoing is relevant given the acts of violence were performed by people linked to the alleged responsible after his arrest in October 2022, as well as the intensity of acts.

42. Upon requesting information from the State, the Commission acknowledges the measures taken by the State to address the conflict of organized groups within the *ejido*, as well as the attention provided, including the implementation of the Social Fabric Reconstruction Program for San Cristóbal de Las Casas (see *supra* para. 29).

43. Regarding protection measures, the Commission notes that the State adopted the following measures: (i) The Government Delegation of San Cristóbal de Las Casas requested the implementation of preventive and precautionary measures, the last one being on November 29, 2022 (see *supra* para. 22); (ii) In order to strengthen the confidence of the applicants, the General Secretariat of the Government of Chiapas, on behalf of the State Government, considered legal and victim aid (see *supra* para. 25); (iii) after the arrest of the alleged person responsible for qualified homicide in October 2022, preventive and precautionary measures have been permanently implemented, seeking to contribute to public order and social peace in the *ejido* of Cuxtitali, El Pinar, in the municipality of San Cristóbal de Las Casas, Chiapas (see *supra* para. 27); (iv) on November 8, 2022, the State Commission on Human Rights issued a preventive or precautionary measure in order to contribute to the restoration of peace and security of the inhabitants (see *supra* para. 28); (v) an Inter-Agency Group composed of the SEDENA National Defense Secretariat, National Guard, and State and Municipal Police carry out constant patrols and protection of strategic areas, with the aim of safeguarding the population (see *supra* para. 28); and (vi) the Secretariat of Government of the state executes actions that promote dialogue between the parties to reach agreements that allow the resolution of the conflict, which gave rise to the dispute between the inhabitants of the *ejido* (see *supra* para. 28).

44. Moreover, the State specified that the proposed beneficiary was not incorporated into the Protection Mechanism because “she is not a member of any group that promotes, defends, or fosters human rights.” Notwithstanding the foregoing, it is noted that, according to the State, the Protection Mechanism sent communications to the Secretariat of Security and Citizen Protection (*Secretaría de Seguridad y Protección Ciudadana*). In them, it requested that security measures be implemented in a preventive manner through the National Guard. These consist of emergency number and scheduled security rounds at the proposed beneficiary’s residence (see *supra* para. 30). The applicants also provided information to the same effect (see *supra* para. 16).

45. In this regard, the State indicated that on November 15, 2022, the State Coordination of the National Guard in Chiapas reported that they communicated with her via telephone. She reported that she changed her address, but did not provide her current address or more information about it (see *supra* para. 30). She was given the direct number of the nearest base of the National Guard to the municipality of San Cristóbal de las Casas (see *supra* párr. 30).

46. The Commission acknowledges the protection measures adopted, both in favor of the entire population of the area and those relating to the proposed beneficiary. It also acknowledges that the State has expressed its “best disposition” to generate the necessary actions to channel the matter of Ms. Pascuala and her family unit before the competent institutions, with the aim of guaranteeing the corresponding protection measures (see *supra* para. 26). With regard to the proposed beneficiary’s particular situation, the Commission observes that the applicants have stated that information on the general situation in the *ejido* and the particular situation of proposed beneficiary have been made known to various national institutions, such as the Undersecretary of Government of the State of Chiapas, the Undersecretary of Human Rights and Population, the Governor of the State of Chiapas, the Protection Mechanism for Human Rights Defenders and Journalists, the National Human Rights Commission, the Human Rights Commission of the State of Chiapas, among others.

47. The Commission understands that, although the proposed beneficiary has indicated that she has not filed a complaint with the prosecutor’s office for the aggression she was subjected to in April 2022, her situation was made known to other national bodies, who have been monitoring her situation throughout 2022. The Commission considers it important to recall that when an authority becomes aware of a situation that threatens a person’s life, it is up to that authority “to identify or determine whether the

person being threatened or harassed requires protection measures or to refer the matter to the competent authority for that purpose”, who must “offer the person at risk pertinent information on the measures available.”<sup>15</sup> The Commission has stressed the importance of national mechanisms or programs for the protection of human rights defenders, given that they can encourage timely and specialized intervention, taking into account all the contextual and specific aspects when analysing the risk situation of a human rights defender.<sup>16</sup>

48. When analyzing the specific situation of the proposed beneficiary, the Commission notes that it does not have elements of assessment on the scope of the preventive and precautionary measures that were allegedly implemented internally. In particular, how these measures have had an impact on the specific situation of the proposed beneficiary in the light of the facts alleged. The Commission also understands that patrols and safeguards of strategic areas for the population were reportedly carried out. However, the Commission does not have an assessment of the actions that were taken as part of this patrol in favor of the proposed beneficiary. The available information indicates that the National Guard contacted the proposed beneficiary on November 15, 2022, while she was away from home, following the arrest of her son’s alleged aggressor. In this regard, the Commission does not have any assessment elements that indicate whether the patrols had indeed been carried out at her home before that date, considering that the aggression occurred in April 2022 near her home. The above consideration is relevant since, according to the applicants, the members of the organized group allegedly remain close to Ms. Pascuala’s residence to date. They are also allegedly close to the entrance and exit road of the *Ejido* el Pinar Cuxtitali, through which the proposed beneficiaries must transit daily (see *supra* para. 17).

49. Regarding the emergency numbers and scheduled police rounds near her residence, the Commission acknowledges the implementation of these measures. In this regard, the Commission understands that, despite the implementation of these measures, and the proposed beneficiary’s position regarding the authorities appointed in the *ejido*, negative events have continued to be happen against her. For example, the monitoring and surveillance of unidentified persons near her domicile in November 2022, which led the proposed beneficiary to leave her domicile.

50. The Commission observes that, according to the information provided, no substantive progress has been made in penalizing those who are responsible for the events that has placed her at risk, particularly on the events that took place in April 2022, which is a relevant aspect when establishing the risk that the proposed beneficiary allegedly faces and the possibilities of their recurrence. In relation to the above, the Commission notes that the alleged risk situation is reportedly related to the proposed beneficiary’s decision regarding the elections of authorities in the *ejido* and in relation to the demands for justice for her son’s murder. In this regard, the Commission understands that, following the arrest of the person who is allegedly responsible for her son’s death in October 2022, risk events have continued to happen to her and her relatives.

51. In view of the above, and taking into account the assessments made in the preceding paragraphs, the Commission considers that, from the *prima facie* standard, the existence of a situation of serious risk to the rights to life and personal integrity of Ms. Pascuala López and her family unit is sufficiently established.

<sup>15</sup> I/A Court H.R. *Matter of Luna López v. Honduras*. Merits, Reparations, and Costs. Judgment of October 10, 2013. Series C No. Series C. No. 269, para. 127. Available at [http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_269\\_esp.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_269_esp.pdf).

<sup>16</sup> IACHR, “Second Report on the Situation of Human Rights Defenders in the Americas,” OEA/Ser.L/V/II.Doc. 66, December 31, 2011, para. 484.

52. With regard to the requirement of *urgency*, the Commission considers that it is also met. It takes into account the persistence of the acts of risk against the proposed beneficiary, its close nature in time, and the alleged insufficiency of the protection measures that, in these circumstances, allow the materialization of attacks or aggressions against the proposed beneficiaries at any time. In particular, the Commission understands that, after the arrest of the alleged perpetrator in October 2022, the proposed beneficiary allegedly received special attention from his lawyers and risk events have continued to happen to her in a context of conflict in the *ejido* to which she belongs.

53. Regarding the requirement of *irreparability*, the Commission considers that it has been met, since the potential impact on the rights to life and personal integrity constitutes the maximum situation of irreparable harm.

#### **IV. BENEFICIARIES**

54. The Commission declares as beneficiaries of these precautionary measures: (1) Ms. Pascuala López López; (2) her husband, Mario Gómez López; (3) her son, Agustín Gómez López; and (4) her son's wife, Silvia Mercedes Díaz Gómez. All these persons are duly identified in this procedure.

#### **V. DECISION**

55. The Commission considers that this matter meets *prima facie* the requirements of seriousness, urgency, and irreparable harm set forth in Article 25 of its Rules of Procedure. Consequently, the Commission requests that Mexico:

- a) take the necessary measures to guarantee the life and personal integrity of Ms. Pascuala López López and her identified relatives, and, specifically, ensure their safety and prevent acts of threats, intimidation, and violence against them by third parties, whilst considering the differentiated approaches based on their gender and cultural relevance;
- b) consult and agree upon the measures to be implemented with the beneficiaries and their representatives;
- c) on the actions taken to investigate the alleged events that led to the adoption of this resolution, so as to prevent such events from reoccurring.

56. The Commission requests that the State of Mexico report, within 15 days from the date of this resolution, on the adoption of the precautionary measures required and to update that information periodically.

57. The Commission emphasizes that, in accordance with Article 25(8) of its Rules of Procedure, the granting of this precautionary measure and its adoption by the State do not constitute a prejudgment of any violation of the rights protected in the American Convention and other applicable instruments.

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

59. Approved on January 26, 2023, by Julissa Mantilla Falcón, President; Edgar Stuardo Ralón Orellana, First Vice-President; Margarette May Macaulay, Second Vice-President; Esmeralda Arosemena de Troitiño; Roberta Clarke; and Carlos Bernal Pulido, members of the IACHR.

Tania Reneaum Panszi  
Executive Secretary