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**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION OF PRECAUTIONARY MEASURES 112/2021**

Precautionary Measure No. 412-17  
Families of the Laguna Larga Community regarding Guatemala<sup>1</sup>  
December 31, 2021  
(Follow-up)  
Original: Spanish

**I. SUMMARY**

1. The Inter-American Commission on Human Rights (IACHR) decides to issue this follow-up resolution on precautionary measures in the terms of Article 25 of its Rules of Procedure. The IACHR values the actions implemented by the State, as well as the observations provided by the beneficiaries' representation. The IACHR makes certain clarifications and places itself at the disposal of the parties stating its willingness to carry out an on-site visit when circumstances permit and following the State's consent. As background information, the IACHR had the opportunity to visit the area in 2017.

**II. BACKGROUND INFORMATION**

2. On September 8, 2017, the IACHR granted precautionary measures to evicted and displaced residents of the Laguna Larga Community, in Guatemala. The request alleged that families from the Laguna Larga community, Municipality of San Andrés, in the Department of Petén, Guatemala, were settled in an area considered a "protected area" by the State of Guatemala and were at risk because they had been forced to displace from their community to the community of El Desengaño, belonging to the municipality of Candelaria, State of Campeche, Mexico. The families were living outdoors in tents and "champas" in a rural area at the border between Guatemala and Mexico. At the time of assessing the threatening situation, the Commission took into consideration the information obtained during the 2017 on-site visit to Guatemala. During that visit, a delegation from the IACHR had the opportunity to reach the area where the families of the Laguna Larga community were located. Through Resolution 36/2017 of September 8, 2017, the IACHR requested that the State of Guatemala<sup>2</sup>:

- a) adopt the necessary measures to protect the rights to life and personal integrity of the beneficiaries, through measures aimed at improving, among other aspects, sanitary and health conditions, especially those of children, women, and elderly people. Particularly, through measures that guarantee, among other aspects:
  - i) access to adequate food that is appropriate from the nutritional and cultural points of view, as well as drinking water for the displaced population, in accordance with the levels considered acceptable by international organizations such as the World Health Organization (WHO). Especially, adopt immediate measures to protect the life and integrity of children suffering from malnutrition, with the aim of preventing future cases;
  - ii) accommodation in adequate habitability and health conditions, as well as clothing that offers protection from heat, rain, wind, and other threats to health, as well as security conditions;
  - iii) safe access to the area where they used to live, for the collection of goods, belongings, and crops required for the population's subsistence;
  - iv) continuous education and basic care and assistance services for boys and girls;
  - v) appropriate medical treatment for the pathologies, illnesses, and diseases suffered by the beneficiary population in accordance with applicable international standards, including specialized medical

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<sup>1</sup> In accordance with Article 17(2)(a) of the IACHR Rules of Procedure, Commissioner Edgar Stuardo Ralón Orellana, citizen of Guatemala, did not participate in the meeting or deliberation for this matter.

<sup>2</sup> IACHR. [Resolution 36/2017 "Evicted and displaced residents of the Laguna Larga Community with respect to Guatemala" of September 8, 2017](#), paragraph 7.

treatment for those suffering from chronic diseases, as well as specialized care services for those suffering from chronic diseases, as well as services specialized care in women's health, maternal health, as well as for children and the elderly in conditions of affordability and accessibility;

- b) adopt the necessary measures to protect the rights to life and personal integrity of the displaced population from possible acts of violence by third parties or State officers. The above, guaranteeing in turn the protection of the belongings, properties, and crops that were abandoned in the community before their displacement;
- c) take the necessary measures to continue with the corresponding dialogues and consultations with the displaced persons, to reach a lasting solution for the situation of the evicted and displaced persons;
- d) consult and agree upon the measures to be adopted with the beneficiaries and their representatives; and
- e) report on the actions taken to investigate the events that led to the adoption of this precautionary measure, so as to prevent such events from reoccurring.

3. Representation in these precautionary measures is exercised by *Bufete Jurídico de Derechos Humanos* (Human Rights Law Firm); *Indignación, Promoción y Defensa de los Derechos Humanos* (Indignation, Promotion and Defense of Human Rights); *Oficina del Procurador de los Derechos Humanos de Guatemala* (Office of the Human Rights Ombudsperson of Guatemala), and Rubén Rafael Domínguez López.

### **III. INFORMATION PROVIDED BY THE PARTIES DURING THE TIME THE PRECAUTIONARY MEASURES HAVE BEEN IN FORCE**

4. Following the granting of the precautionary measures, the Commission has continued to monitor and follow up on this matter by means of forwarding and requesting information to the parties under the terms of Article 25, subparagraph 10, of the Rules of Procedure.<sup>3</sup> The IACHR has received responses from the parties throughout the time these precautionary measures have been in force. Similarly, the Commission held seven working meetings with the parties: (1) in February 2018 (167th Period of Sessions), October 2018 (169th Period of Sessions),<sup>4</sup> May 2019 (172nd Period of Sessions), November 2019 (174th Period of Sessions),<sup>5</sup> March 2020 (175th Period of Sessions), December 2020 (178th Period of Sessions),<sup>6</sup> March 2021 (179th Period of Sessions).

5. Moreover, the IACHR held a public hearing on February 15, 2019, in the 171st Period of Sessions.<sup>7</sup> During the hearing, the representation indicated that no effective measures have been taken to address the threatening situation, which is said to remain in force. In particular, the representation questioned the lack of cultural relevance of the humanitarian assistance measures adopted by the State. For its part, the State indicated that it has been adopting measures in their favor, which includes a proposal for the purchase of alternative lands for the inhabitants, for which it awaited the representatives' comments in this regard.

6. With a view to analyzing the information provided by the parties, the Commission decides to focus on the most up-to-date information in order to understand the current situation of the beneficiaries.

#### **A. Amparo granted on January 29, 2021, by the Constitutional Court of Guatemala**

<sup>3</sup> The IACHR requested or transmitted information to the parties in November 2017; March and October 2018; March, May, August, September, and October 2019; May and November 2020; and February, April, and October 2021.

<sup>4</sup> IACHR, [Annual Report 2018: Chapter II: The System of Petitions and Cases and Precautionary Measures](#). Pág.134.

<sup>5</sup> IACHR, [Annual Report 2019: Chapter II: The System of Petitions and Cases, Friendly Settlements and Precautionary Measures](#), pp. 215 and 2016.

<sup>6</sup> IACHR, [Annual Report 2020: Chapter II: The System of Petitions and Cases, Friendly Settlements and Precautionary Measures](#), pp. 266 and 268.

<sup>7</sup> IACHR, [Hearing on PM 472-17 GU, Laguna Larga Community](#). 171 Period of Sessions, Sucre, Bolivia, February 15, 2019.

7. Both the State and the representatives indicated that the Community Development Council of the Laguna Larga Community and its legal representatives filed an appeal in an *amparo* process,<sup>8</sup> indicating as claimed acts: i) the refusal of the National Council of Protected Areas (CONAP) to enable the provisional return of the community to the territory they occupied and from which they were evicted; and ii) the failure of the Presidential Commission on Human Rights (COPREDEH) to execute the precautionary measures granted by the Commission in Resolution 36/2017. The appeal was resolved by the Constitutional Court of Guatemala on January 29, 2021. The Court granted protection to the Community Development Council of the Laguna Larga Community, ordering that: 1) in the shortest possible time, the projects for the provision of adequate housing be completed; 2) the most suitable place must be agreed with members or representatives of the community; 3) the place chosen for relocation must meet the minimum needs to materialize the right to adequate housing; 3.1) plan the establishment of a health center; 3.2) build an educational center that covers school levels; 3.3) provide a place with access to work sources or with suitable characteristics to carry out agricultural activity; 4) while the foregoing is specified, 4.1) individualize community members and determine their most urgent needs, 4.2) continue with dialogues and consultations; 4.3) help the community so that it can exercise its rights to freedom of worship and religion; 4.4) establish a security program; 4.5) seek access to adequate food from the nutritional point of view, 4.6) ensure that vulnerable groups in the community can meet all their essential needs; 4.7) comply with the commitments adopted in Convention 169 of the International Labor Organization; 5) while policies are adopted in the medium and long term, carry out welfare policies and implement plans, programs, and projects to end the systematic violation suffered by the community.<sup>9</sup>

8. On October 21, 2021, the State indicated that the precautionary measures and the judgment of the Constitutional Court of Guatemala are two different lines of action, but they complement each other in most of their points. According to the State, the actions implemented within the framework of the precautionary measures also contribute to compliance with the *amparo* judgment issued by the Constitutional Court, given that the State has reported on the measures adopted in terms of health, education, security, and housing, which have also been ordered by the Constitutional Court. On November 1, 2021, the representatives stated that the measures and actions ordered by the Constitutional Court have not been carried out, especially with regard to guaranteeing a relocation process that meets the minimum needs of the community in the shortest possible time.

## **B. Information provided by the State**

9. Following the granting of the precautionary measure, the State has noted in several reports that it continues to carry out the work and the pertinent steps to effectively comply with the precautionary measures granted by the Commission. It was stressed that concrete proposals have been brought to the representation, and that a constant effort has been made with the various state entities, which shows the State's political will. The State has provided information on the actions aimed at achieving the definitive relocation of the displaced beneficiary community.

### *- Measures adopted in matters of security*

<sup>8</sup> The decision of the First Chamber of the Contentious Administrative Court constituted in the Court of *Amparo* by means of a ruling on August 20, 2018 denied the requested constitutional protection, indicating that there is no breach by COPREDEH regarding the implementation of the precautionary measures granted by the Commission Inter-American Human Rights and that CONAP did not have passive legitimacy to act as the authority challenged in the *amparo*, because it was not responsible for the act claimed.

<sup>9</sup> Constitutional Court Guatemala. [Appeal of Amparo Judgment, file 4647-2018](#) of January 29, 2021.

10. It was indicated that the Community of Laguna Larga is located on a borderline, and therefore, the presence of state officers corresponds to a normal activity of the Guatemalan Army to carry out surveillance rounds and monitoring tours in the border areas. Taking into consideration that access is difficult with non-transferable roads, it is difficult to carry out police patrols. Hence, the Laguna Larga Community is under the protection of a group of 30 soldiers from the Special Jungle Operations Brigade (BEOS) and the Nature Protection Division (DIPRONA) of the National Civil Police. In particular, the State mentioned that January 25, March 23, and May 27, 2021, the National Civil Police participated in working meetings with representatives of the Presidential Dialogue Commission, Presidential Commission for Peace and Human Rights, Office of the Inspector General, Land Fund, Ministry of Foreign Affairs, National Council of Protected Areas, and representatives of the Laguna Larga Community.

11. The State indicated that the National Civil Police provided security in the transfer of the inhabitants in the different visits that community leaders have made to learn about possible farms for relocation, which had taken place from April 26 to April 30, 2021, and from June 28 to July 2, 2021.<sup>10</sup> Similarly, it emphasized the creation of the Operations Plan No. 33-2021 “Security for the transfer and relocation of the Laguna Larga community, Petén Department” to effectively provide security to the residents.<sup>11</sup> It was indicated that no complaint has been received from the population related to intimidation, threats, or attacks against their life and integrity. The State added that the National Civil Police will carry out activities to accompany the beneficiaries in the process of returning to the relocation place, in a timely manner.

12. On February 5, 2021, the State reported that regarding safe access to the area where they previously lived, for the collection of goods, belongings, and crops required for the subsistence of the population, the request was processed before the Pluripersonal Court of First Criminal Instance, Drug-trafficking activity, and Crimes against the Environment of San Benito, Petén, for the collection of harvesting by the Laguna Larga community. On September 4, 2017, in a unilateral hearing, the Presidential Commission for Coordination of Executive Policy on Human Rights, the Ministry of Social Development, the National Coordinator for Disaster Reduction, and the Presidential Commission for Dialogue were authorized to enter the area and collect the harvest.

13. On November 4, 2021, the State indicated that, according to information from the Ministry of National Defense, “the Special Jungle Operations Brigade” had no incident with residents of the Laguna Larga Community on April 17, 2021.<sup>12</sup> It was emphasized that for the State it is essential to guarantee adequate security conditions and it will follow-up on the events alleged by the representatives through dialogues with the inhabitants to determine the said events.

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<sup>10</sup> On October 21, 2021, the State presented its observations on the report sent by the representatives on May 6, 2021, which indicated that “the National Civil Police and the Ministry of Defense have not wanted to provide support to the Land Fund for the transfer of the families that would be part of the land verification process.” The State stressed that the National Civil Police provided security in the transfer of the residents in the various visits made by community leaders of Laguna Larga to learn about possible farms for the relocation of the residents. It stressed that COPADEH carried out the logistics of the trip, provided the lodging and food expenses for the delegation of the twelve representatives of the community, requested the support of the Ministry of the Interior for the transfer of them from the *ejido* of Candelera México, where they are currently located towards Santa Elena in Petén.

<sup>11</sup> The objective of the State is “to establish a security detail that allows the displacement of returnees to be carried out smoothly, preventing events that threaten the life, physical integrity and security of people and their property, from their entry into the Mexican border to the place of resettlement.”

<sup>12</sup> It was added that the Special Jungle Operations Brigade was created to serve the vast territory of Petén that requires special attention, and to carry out non-war operations in support of other State institutions to neutralize illegal activities that affect the department of Petén, contribute to the peace, security, and development of the country.

- *Agreement and proposals for relocation*

14. Through a report of September 13, 2019, the State mentioned that the offer made to give the “El Frutal” farm was feasible, and has technical support given that it is private property that can be transferred with no limitation.<sup>13</sup> The Land Fund made an offer to purchase the “El Frutal” farm, but the community members did not accept it.<sup>14</sup> However, the State reported that a proposal was presented concerning the land for relocating the community through the Program for Access to Land Via Subsidiary Credit<sup>15</sup> and that the beneficiaries could submit offers for farms. However, they did not receive such information.<sup>16</sup>

15. Moreover, the State reported on the consultation meeting that was held on October 1, 2019, on the possibility of the beneficiary families returning to the area from which they were evicted. In that meeting, CONAP has expressed that it is impossible to obtain what is requested by the beneficiaries and their representatives because the eviction is caused by a court order and, therefore, is legally unfeasible. On February 5, 2021, it was indicated that, through the Presidential Dialogue Commission (CPD), a dialogue table was installed at the inter-institutional level, with community representatives. Summonses from the Congress of the Republic were attended with the aim of implementing the best mechanisms in favor of the community, creating an Institutional Technical Table on January 25, 2021. During the dialogues, it was raised the proposal for a temporary return due to humanitarian reasons for a period of one year to the place from which they were evicted, while the Land Fund manages to locate a farm for a definitive transfer within the framework of the program Access to Land Via Subsidized Credit.<sup>17</sup>

16. Within this framework, it was reported that the Land Fund has worked on two lines of action: a social line, and another line of a technical nature. The State emphasized that such efforts show its willingness to find a prompt, effective, and dignified solution for the beneficiary community:

- Regarding the first line of action, from March 8 to 14, 2021, Land Fund staff made a technical visit to the community to collect the data, obtaining the following preliminary results on the compliance of the beneficiary population: a total of 120 individualized families, settled in 3 groups: i) 78 families on the border; ii) 9 families in the municipalities of San Benito, La Libertad and San Francisco in the department of Petén, Guatemala; iii) 33 families located in Aldea El Desengaño, Alianza de Productores, Tres Reyes, Balancax, La Tombola, and the municipality of Las Delicias, in Mexican territory. The Land Fund indicated that it still has no information from the beneficiaries on the creation of a legal entity, a fundamental element to continue with the process, given that the land is granted to a community and not to an individual person.<sup>18</sup>

<sup>13</sup> The State reported on April 4, 2019, that the lands that are part of the El Frutal farm in the Municipality of Poptun are said to have an area of 345,07079 hectares, being in the negotiation phase with the owner of the farm.

<sup>14</sup> According to a report from the Land Fund, on October 17, 2018, an offer letter was received from the El Frutal farm, located in the municipality of Poptun, Petén department, which is said to be within the Guatemalan System of Protected Areas. On February 28, 2019, the Land Fund presented to the community representatives and their advisers, photos of the farm, location, accesses, infrastructure, water sources, possible productive projects, among other topics. On July 22, 2019, the negative response from the Laguna Larga community was received to acquire the farm El Frutal.

<sup>15</sup> The program is based on 70% non-refundable funds and 30% financed with favorable rates. The program includes technical assistance support for a period of 3 years.

<sup>16</sup> The State reiterated that, after a working meeting in March 2020, it was agreed that the community representatives would propose the territory they consider suitable to be relocated, so that the Land Fund would proceed to carry out the corresponding studies.

<sup>17</sup> The State reiterated that, after an analysis by the CONAP legal team, it was concluded that it is not feasible because the eviction was by court order and, therefore, the only one who can order a return to the area is a competent judge.

<sup>18</sup> According to the State, the community members have stated that they did not want to organize at this time in any of the proposed forms of organizations.

- Regarding the second line of action, two letters of offers have been presented regarding the farms “El Maná”<sup>19</sup> and “Monte Ción,” both in the department of Petén. They have coordinated with the beneficiaries and their representatives a visit to recognize the farms so that they can decide on whether to continue with the process of acquiring these or other farms called “Doña Mercedes,” “La Bota,” and “El Venado.” In January 2021, three farms were visited, and an approachment with the relevant owners is being negotiated to present an offer letter that allows the corresponding technical and legal studies to be started. From March 26 to 30, 2021, a recognition visit to the farms has been coordinated with the community members and their representatives, indicating that the community members decide on whether to continue with the process to acquire the farms.

17. The State referred to the measures taken to continue with the dialogues and consultations with the beneficiaries for the acquisition of a viable farm for relocation. It was indicated that the Presidential Commission for Peace and Human Rights (COPADEH)<sup>20</sup> attended technical tables with a representative (*diputado*) of the Congress of the Republic and with representatives of the Presidential Dialogue Commission, where the dates for the visit to the proposed farms were agreed with the representatives of the beneficiaries. COPADEH carried out the logistics of the trip, provided the lodging and food expenses for the delegation of the 12 community representatives of the beneficiary community and requested different institutions to support them to carry out the visit and recognition of the farms. The first field visit took place from April 26 to 30, 2021 to the farms “La Bota,”<sup>21</sup> “El Venado,”<sup>22</sup> “El Maná,”<sup>23</sup> “Doña Mercedes,”<sup>24</sup> and “Monte Sión”<sup>25</sup> in the department of Petén, with the aim of making a first evaluation of the farms proposed by the Land Fund to reach a consensus with the residents of the Laguna Larga community. The State stressed that the Land Fund indicated that the farms are legally viable to be acquired and are not located in protected areas. In the second visit carried out from June 28 to July 2, 2021, three farms were visited, which were selected by the beneficiaries derived from the first field visit (“Doña Mercedes,” “La Bota,” and “El Venado”).<sup>26</sup> The State emphasized that derived from the second visit, the residents selected two farms: “La Bota” and “El Venado,”<sup>27</sup> and the supporting documentation on both farms was sent, requesting that the representatives formally present their stance on the proposed farms. At the end of the field visit, a meeting was held with the representatives and the inter-institutional team.

<sup>19</sup> Fondo de Tierra (Land Fund) made a preliminary visit in December 2020 to the farm “El Maná,” in the department of El Peten, which has an area of 670 hectares. It was determined that the farm presents income problems.

<sup>20</sup> COPADEH is the institution in charge of advising and coordinating with the different dependencies of the Executive Branch, promoting actions and mechanisms to give effect and effectiveness to the protection of human rights, and comply with government commitments on this matter.

<sup>21</sup> The La Bota farm has 26 caballerías of extension and 8 kilometers of navigable river and is suitable for raising livestock and for crops. It is located in a buffer area, therefore, to cultivate crops on the land it would be necessary to request authorization from CONAP.

<sup>22</sup> The El Venado farm has an area of 21 caballerías, has a navigable river and several water sources. They have corrals for cattle, electric fences, and razor wire to delimit the properties. You can develop the raising of livestock, cultivation of pepitoria, corn, beans among others.

<sup>23</sup> The El Maná farm has an area of 15 and a half caballerías, two access roads, a stream, a lagoon, and access to a navigable river. It is suitable for raising livestock and for any type of crop.

<sup>24</sup> The Doña Mercedes farm consists of 15 caballerías, on the bank of a river, is suitable for reforestation for productive use (wood, energy use, etc.), and has possibilities to develop agroforestry activities as the main productive activity, and the raising of livestock. The land of the farm is in condition to be used and the location of the farm is not in the buffer zone.

<sup>25</sup> The Monte Sión farm has an area of 7 caballerías, it will soon have access to electricity, it has a school 3 kilometers away, it is suitable for growing corn and beans. It is located on the banks of the Machaquilá river for 1 kilometer and has access to two water springs for consumption.

<sup>26</sup> Fondo de Tierras (Land Fund) reported that on August 12, 2021, letters of offers were received from the La Bota and El Venado farms with their respective certifications and affidavits. From August 9 to 13, 2021, the field phase of the studies was carried out, consisting of a recognition visit of the farm, registry and cadastral study, and semi-detailed study of soils and land use capacity of the Doña Mercedes farm. On September 3, 2021, a virtual meeting was convened in which the institutional staff reported on the progress of the case. The reports of the technical qualification studies of the three farms are being carried out. On September 7, 2021, in a meeting, the progress of the technical studies, the socio-economic characterization process, and the conformation of the legal figure were reported.

<sup>27</sup> On September 9, 2021, the files with the letters of offer from the La Bota and El Venado farms were transferred to the Legal Subcoordination of Access to Land for analysis and issuance of the corresponding legal opinions.

18. On September 8, 2021, an inter-institutional meeting was held where the Land Fund was required to report the legal situation, plans, letters of offer of the “La Bota” and “El Venado” farms, where it was verified that a portion of the farm “La Bota” was not registered in the name of the owner who is offering. On September 16, 2021, another follow-up meeting was held where the Land Fund provided more details of the farms. The State reiterated that it continues to carry out the necessary actions to provide the residents of the community with an area to live in that has optimal conditions for their development. Similarly, on November 4, 2021, it was reported that COPADEH summoned the institutions and the representatives of the beneficiaries to a virtual meeting, in order to report on the actions carried out by each institution and request information from *Bufete Jurídico de Derechos Humanos*, as representatives of the beneficiaries, on the decision of the community members regarding the farms proposed for relocation.

19. According to the State’s reports, the Land Fund stated that when the proposal is received by the beneficiary community of the farm that interests them, they will enter the negotiating table, they will also prepare an official presentation of each farm and carry out a complete technical study of the potentialities of soils and their suitability, water resources, climatology, and other technical aspects. The State reiterated its request to the representatives to furnish their stance regarding the interest in acquiring any of the properties proposed for relocation, and that this communication is pending to proceed with the corresponding coordination and steps for the acquisition of the chosen farm. The State reiterated its willingness to initiate the corresponding process for the acquisition of the aforementioned farms.<sup>28</sup>

- *Measures related to education*

20. The State indicated in October 2020 that educational centers were closed due to the pandemic, but educational activities continued. In particular, for the year 2020, four active teachers gave worksheets, questionnaires, self-study guides, and posters so that children in the community can study from home. Also, guidelines and infographics were delivered to parents. In September 2020, teachers visited each home to explain the exercises in the guides, reinforce how to study the educational guides, collect the tasks to be graded, and file them in a folder for weighting. The State indicated that, due to their geographical location conditions, they lack basic services, such as electricity, water, road, internet signal, or mobile telephony and therefore, it is not possible to access the means used by the Ministry of Education through television. However, the children are studying in the framework of the *#Aprendo en casa* Program.

21. The State noted that, in 2021, the learning processes at home and in class will continue, as well as the assurance of educational quality, which began on February 22, 2021, following biosafety protocols<sup>29</sup> of the Ministry of Education and will conclude on November 30, 2021. For the 2021 school year, four teachers were assigned to serve 62 students at the elementary level and 21 students at the pre-primary level, and they were provided with school meals and educational materials. The State indicated that, in 2018, 2019, and 2020, school supplies have been delivered to the boys and girls of the community, and it will continue to provide them, in 2021, with support programs such as School Food,<sup>30</sup> School Supplies,<sup>31</sup>

<sup>28</sup> COPADEH recommended that the representatives be able to advise, inform and recommend a prompt response so that the beneficiaries can decide with respect to the farms, making it appropriate to remember that it is an instruction from President Alejandro Giammattei to be able to provide them with a farm to comply with the commitments of the State before the Inter-American Human Rights System, derived from the precautionary measure.

<sup>29</sup> For the implementation of the protocols, the appropriate training will be provided to the director and teachers at the community school.

<sup>30</sup> The State indicated that, through the program “School Food,” during 2019, 2020, and 2021, the delivery of school snacks was managed, consisting of builder foods (proteins), energy foods (carbohydrates), regulating foods (vitamins and minerals), foods sources of fat, and beverages.

<sup>31</sup> The school supplies were delivered through the Parent Organizations (OPF) with the accompaniment of the teachers of the Laguna Larga Community and technical personnel of support services from the Department of Strengthening the Educational Community of the Ministry of Education on 9 March 2021.

Didactic Bag,<sup>32</sup> Free Education,<sup>33</sup> and Learning modules.<sup>34</sup> The State noted that, for the 2021 school year, the inputs corresponding to each program have been executed and delivered. Furthermore, regarding the expansion of coverage in education, it was indicated that on June 1, 2021, the code for the operation of the National Institute of Tele-secondary Basic Education, Caserío Laguna Larga, was created. On November 4, 2021, the State added that the teaching modality that has been implemented in the community in August and September consists of teachers making home visits to comply with the work plan and ensure that students develop the learning competencies. The modality is complemented by means of learning guides and modules that have contributed to the children of this community being able to receive an education that allows them to enrich their knowledge through the curricular contents. The National Institute of Tele-secondary Basic Education, Caserío Laguna Larga, will have its official operation until the 2022 school year and will guarantee the provision of reinforcement of skills to the students.

- *Food-related measures*

22. Through the briefs sent in 2021, the State reported that, since 2017, the Ministry of Agriculture, Livestock and Food has been able to provide food assistance to the residents of the Laguna Larga community, periodically benefiting approximately 113 families.<sup>35</sup> It was indicated that food was delivered on December 23, 2019, to the community, which consisted of 904 rations delivered to 113 residents, each receiving 8 rations,<sup>36</sup> but that the COVID-19 pandemic forced them to delay the food delivery processes. The Ministry of Agriculture, Livestock and Food carried out the procedures for the delivery of food from September 21 to 25, 2020, with the Mexican authorities to obtain authorization and access to the community through Mexico, given that entry into Guatemalan territory was not possible due to the bad state of the road. The State indicated that the request was not addressed by Mexico given the sanitary measures implemented due to the COVID-19 pandemic and, therefore, it was impossible to deliver food rations to the families of the Laguna Larga community, despite the efforts made. However, it was indicated that, during the week of March 6 to 12, 2021, the Directorate of Food and Nutrition Assistance through the Food Assistance Program managed to deliver 1,356 food rations, distributed to 113 families, 12 rations for each family,<sup>37</sup> and that it plans to serve the beneficiaries at the end of August with another delivery of food rations.<sup>38</sup> Moreover, on June 16, 2021, a delegation from the Ministry of Social Development delivered 106 food endowment bags to 106 families in the Laguna Larga community.<sup>39</sup> On November 4, 2021, the State added that on August 23, 2021, 108 rations were delivered to 9 families located in places around Sante Elena, Flores, Petén; On August 25, 2021, they delivered food to 29 families in the El Desengaño community, Campeche, Mexico, with 348 rations; and 888 rations were delivered to the 74 families living on the border line, with a total of 1,344 rations<sup>40</sup> of food to 112 families.

<sup>32</sup> Teachers were provided with basic materials for the methodological development of learning on March 9, 2021.

<sup>33</sup> The educational establishment was provided with supplies for COVID-19 prevention biosecurity, such as masks, gloves, masks, gel alcohol, powder, and liquid soap on February 25, 2021.

<sup>34</sup> Modules were provided to students in print for ongoing learning at home and in class.

<sup>35</sup> The State noted that, in 2018, 2019 and 2020, deliveries increased from 111 families to 113 families. In 2021, it indicated that there are 107 families duly validated by the National Registry of Persons (RENAP).

<sup>36</sup> A serving is said to contain 10 pounds of black beans, 10 pounds of rice, 4 1-kilogram units of oats, and 3 800-milliliter units of vegetable oil.

<sup>37</sup> The rations are made up of 30 pounds of beans, 20 pounds of rice, 25 pounds of nixtamalized flour, 3 units of 1 kilogram of oat flakes, 5 units of fortified corn flour and soybean mixture of 450 grams, and 2 units of 800 milliliter vegetable oil.

<sup>38</sup> It noted that the Directorate of Food and Nutrition Assistance is negotiating with the World Food Program support with transportation for the transfer of food.

<sup>39</sup> The supply bags consist of 3 pounds of rice, 3 bags of oatmeal, 2 bottles of edible oil, 2 bags of *bienestarina*, 2 pounds of salt, 2 bags of pasta, and 20 bags of dehydrated nutritious food.

<sup>40</sup> The servings contain 30 pounds of beans, 20 pounds of rice, 25 pounds of nixtamalized flour, 3 units of one kg of rolled oats, 5 units of fortified corn flour, and soybean mixture of 450 g, and 2 units of vegetable oil 800 ml.



- *Measures adopted in access to health*

23. Regarding the measures implemented regarding health access, on December 12, 2019, the Ministry of Public Health and Social Assistance, through the Peten Norte Health Area, sent a schedule proposal for the monthly transfer of medications throughout 2020. The State reported that from February 18 to 20, 2020, medical conferences were held in the community, which included the deployment of two nurses and medications weighing approximately 200 pounds. The Vector-Borne Diseases Control Program provided support to meet needs related to general morbidity. The State provided the results of these activities, in particular, after a previous meeting with local authorities and leaders. The reason for the visit and the actions to be carried out for the prevention of malaria were publicized, taking 224 blood samples. A microscopic diagnosis was made at 100% of blood samples *in situ* with mobile equipment; and long-lasting insecticide-impregnated mosquito nets were delivered to each patient diagnosed with malaria and to other people at risk due to age or other conditions. Similarly, the following was carried out: monitoring of the growth and development of children in the community, supplementation with micronutrients and immunizations, attention to the 10 leading causes of morbidity, medical consultations, prenatal controls, deworming, vaccination, provision of a briefcase to midwife, feedback on the alarm signs and care of clean and safe delivery, care for the patient with diabetic foot, supply of medicine bottle, educational talks on hand washing, family planning methods, healthy eating and alarm signs during the pregnancy, childbirth, puerperium and newborn. It was indicated that the leaders were satisfied with the results of the visit.

24. From March 16 to 20, 2020, a medical visit was carried out in which the mobile microscopy center was used, people with malaria symptoms or a fever history were visited, a timely microscopic diagnosis was made, the entire community was nebulized, anopheline hatcheries were monitored and treated to eliminate the vector that transmits malaria. From April 20 to 24, 2020, another medical conference was held and, due to health measures in the framework of the pandemic, the recommendations for hygiene, social distancing, use of a mask, and minimal contact activities were stressed. All homes were visited to collect blood samples, making a microscopic diagnosis. No person was confirmed with malaria. The entire community was nebulized, monitored, and anopheline hatcheries treated to eliminate the vector that transmits malaria. On July 21, 2020, a medical conference was held in which 162 people were treated, with a total of 233 consultations. Medications were provided; specific cases were treated such as the patient with diabetes mellitus, patients with hypertension, and patient with leishmaniasis in the ear; 16 children were vaccinated; 23 doses of TDAP were given to people who accepted the vaccine; 4 doses of VPA were given to girls to avoid womb cancer; 23 children who had growth retardation, without malnutrition, were weighed and carved; 23 children were supplemented and 10 children were dewormed. 38 family planning methods were provided, and 3 prenatal controls were performed. The women were informed of the alarm signs, the four pregnancy delays and the emergency plan to avoid maternal deaths. The State noted that it would have organized health conferences for the months of August, September, October, November, and December 2020, but access to the territory would have prevented it from being carried out and they would not have achieved access through Mexican territory either. With regard to the alleged malaria outbreak, the State indicated that the state health authorities would not be aware of such an outbreak. However, the Vector-Borne Diseases Program has carried out tours and scans to be attentive to the appearance of it and thus give the appropriate treatment.

25. On February 15-19, 2021, a multidisciplinary medical visit was carried out.<sup>41</sup> Personnel from the San José Petén Health District and the Program for Vector-Borne Diseases of the Ministry of Public Health and Social Assistance attended to 169 people, with a total of 231 medical consultations carried out; they filled out files for all the patients who attended the consultation to keep a better control; and indicated that the predominant morbidities were intestinal parasitism, scabies, acute diarrheal diseases, diabetes mellitus, acute gastro-duodenitis, and the common cold. The State stressed that 16 children aged 0 to 6 years were vaccinated, 13 doses of HPV were administered to 10-year-old girls, 43 children were supplemented with sprinkled multivitamins, 43 children under 6 years were dewormed and weighed, and they carved 43 children. It was emphasized that no children with acute malnutrition were found. Furthermore, family planning methods were offered, which were accepted by eight women; 5 prenatal controls were carried out and feedback was given regarding the issue of alarm signs during pregnancy, the four delays, and the emergency plan to avoid maternal deaths. Also, activities were carried out to prevent Vector Diseases (malaria, arbovirus, and leishmaniasis), and epidemiological surveillance through home visits and visits to malaria notification posts. The first-aid kits were stocked at all the stations visited and fogging work was carried out to control the mosquito in its mature stages. A mobile laboratory was set up to carry out microscopic diagnostic tests for malaria *in situ* and community members were trained on the prevention and treatment of parasitic diseases and prevention of arboviruses.

26. Similarly, the State reported that the Ministry of Health carried out health conferences to attend to the residents of the Laguna Larga Community on April 13 and June 16, 2021. On the day of April 13, 2021, a multidisciplinary team attended to 132 people and 216 general consultations were carried out. They were given medicines, they vaccinated 16 children from 0 to 6 years old, supplemented 22 children with powdered vitamins, dewormed 22 children, weighed, and carved 36 children, in whom only growth retardation was found, and no children with acute malnutrition were found. Food was delivered to 11 children with rations for two months (4 kilos per child), providing training to mothers on how to prepare food; 5 prenatal controls were carried out and masks were distributed to the inhabitants of the community, providing them with information about COVID-19 and the necessary measures to prevent it. In the same way, on the health day of June 16, 2021, the multidisciplinary team attended to 162 people, with a total of 223 consultations, they were given medications, 12 children from 0 to 6 years were vaccinated, and 10 people were vaccinated against COVID-19. Sprinkled multivitamin supplements were provided to 28 children, 28 children under 6 years were dewormed, 28 children were weighed and carved, in whom only growth retardation was found, without presenting with symptoms of acute malnutrition, and fortified complementary food rations were delivered 16 children for two months (4 kilos per child). Family planning methods were offered, 6 prenatal check-ups were carried out, and alarm signs and an emergency plan were made known to prevent maternal deaths.

27. On November 4, 2021, the State reported that a work session was held within the framework of the Program for Vector-Borne Diseases between October 26 and 29, 2021, with the accompaniment of 1 microscopist member, 6 polyfunctional members and 1 technician in malaria. The visit was aimed at actively searching for feverish people, supplying volunteer collaborators, make a timely diagnosis of malaria or paludism; and to do spatial nebulization to combat the adult mosquito and the larval search of anophelines. The Ministry of Health purportedly carried out two visits scheduled to take place in November and December 2021.

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<sup>41</sup> The State indicated that the objective was to attend to the predominant morbidities within the community, vaccination, food and nutritional security, family planning and prenatal controls.

28. Regarding the death of a newborn mentioned by the representation, the State reported that personnel from the Ministry of Public Health and Social Assistance appeared on February 18, 2020, to carry out a field investigation into the incident. According to the information collected, the community midwife was unaware of mother's pregnancy since she never went to her for a pregnancy check. When speaking with the baby girl's mother, she pointed out that she planned to be cared for by her husband at home as she did with the other three pregnancies, and indicated that the baby girl had been born still and with a "malformation" on her head. She replied that she did not like going to a midwife and that for financial reasons she did not go to a health service on the Mexican side. The State reported that it had provided her with an educational plan on the importance of prenatal checkups, family planning methods, in a language in which she reportedly understood the information.

### **C. Information provided by the representatives**

29. The representation indicated that the State did not take suitable measures to address their risk situation, and that the humanitarian crisis derived from community displacement has worsened over time. It was indicated that the beneficiaries continue in their displacement situation installed on the border line between Mexico and Guatemala. Therefore, the representation reiterated at various times after the granting of the precautionary measures, a request to the Commission to request provisional measures before the Inter-American Court.

30. During the time the precautionary measures have been in force, the representatives have reported on the death of several people, stating that the deaths in the camp during the period after the forced displacement of the beneficiary community are preventable. In particular, on March 21, 2019, the representation reported the death of a lady on March 10, 2019, due to pulmonary sepsis and fungal pneumonia. On January 22, 2020, the representation reported on the death of a newborn baby and reiterated its concern about the high rate of ailments and diseases to which the community is subjected, especially pregnant women.<sup>42</sup> On April 2, 2020, they referred to the death of a child under 13 months of age, while they still do not receive medical attention, especially to address predominantly respiratory problems and infections. Through communication dated May 10, 2020, the representation reported on the death of two minors and a newborn baby, presumably due to the unsanitary conditions in the camp and the inaction of the State. In the brief of April 2, 2020, the representatives reported on the death of a 13-year-old boy on March 26, 2020, emphasizing the high rate of illnesses and diseases to which the community is subjected. On December 13, 2020, the representatives reported the death of three people from the community.

31. Regarding the issue of relocation of the beneficiary community, on September 16, 2019, the representation submitted its comments regarding the proposed farm mentioned by the State in the public hearing for the relocation of the beneficiary community. In particular, it was mentioned that the "El Frutal" farm does not have water for human consumption, and therefore, prior to being consumed it must undergo a treatment process to avoid diseases. It was indicated that there is no quantitative information to support that the water is sufficient for the families of the Laguna Larga community. The representation considered that, based on their own technical studies, the "El Frutal" farm does not have the minimum conditions for a dignified life for the beneficiaries.

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<sup>42</sup> It was noted that the State had been informed with respect to the high level of vulnerability of pregnant women, who have to travel many times with contractions on a motorcycle or on foot, which many times has caused abortion. According to the medical and nutritional studies indicated, the pregnancies, the boys and girls are at "high risk," which is why prompt and specialized attention was demanded from the State in a timely manner.

32. By letter of May 10, 2020, the representation stated that dialogue with State institutions has begun again to address the issue of the provisional return for humanitarian reasons of the Laguna Larga community in the context of the COVID-19 pandemic. The representation confirmed that a meeting was held with COPREDEH on April 3, 2020, where the issue of the provisional return of the community for humanitarian reasons and their possible relocation was addressed.<sup>43</sup> Moreover, according to a letter sent on December 13, 2020, two meetings were held before the Vice Presidency of the Republic, who delegated to the Presidential Dialogue Commission, the coordination of an inter-institutional roundtable for the resolution of the case, summoning the state institutions.<sup>44</sup> According to the representation, the call for dialogue was attended to on November 11, 13, 17, and December 4, 2020, at the inter-institutional table. However, they indicated that the results have not been fruitful since CONAP has declared the refusal and the legal impossibility of provisional return. According to them, they are based on an ordinary law, the Protected Areas Law.

33. On May 6, 2021, the Land Fund began a process of identifying farms in the department of Petén in order to find land for a relocation of the families of the community.<sup>45</sup> In order to speed up the process and in response to the requirements of the pertinent State entities, a commission of 12 people from the community was formed to verify the lands. On October 5, 2021, the representatives indicated that the community authorities showed their dissatisfaction to acquire the farms presented by the State because they would have to go into debt; the area of these farms was smaller than the one they had before the eviction; and the farms are within a protected natural area, therefore they are in the same situation as before.

34. On November 1, 2021, the representatives presented details on the relocation process of the beneficiary community through the Access to Land through Subsidized Credit Program. In particular, it was indicated that after several meetings and offers of dates to visit the proposed farms with the state institutions, a first day of visits to five farms, “La Bota,” “El Venado,” “El Maná,” “Monte Sión,” and “Doña Mercedes,” was coordinated, and a second visit to three farms “La Bota,” “El Venado,” and “Doña Mercedes,” with the participation of twelve representatives of the community, their representatives, and delegates of the state entities, Land Fund, COPADEH and the National Civil Police. As a follow-up to the visits, community meetings were held to analyze each farm visited, taking into account basic services, access roads, water, land conditions, and the conditions of the program in terms of contracting a pecuniary debt with the State. In the same way, the representatives alleged a lack of transparency and seriousness, as well as lack of coordination among the state institutions in the meetings held after the aforementioned visits. It was indicated, as an example, that the information provided by the Land Fund has been focused on decreasing territory and changing access to river flows and piped water, which at first glance was purportedly explained as one of the main characteristics. This allegedly carried difficulties for the community to make an informed decision about the lands to acquire.

35. According to the representatives, the main characteristic of the Subsidized Credit Access to Land Program is that the acquisition of the farm or farms is granted to the community with a debt of approximately 30% of the total value. Four of the proposed farms are located in protected areas, which generates uncertainty, confusion, and lack of legal certainty in ownership, since the reason for the initial eviction was to be located in an area like that. Although the Land Fund postulates that the debt that the

<sup>43</sup> In December 2019, 20 families decided to return to Laguna Larga, but were later displaced again.

<sup>44</sup> Ministry of Agriculture, Livestock and Food; Ministry of Health and Social Assistance; Ministry of Development; Land Fund; Human Rights Ombudsperson; Office of the Attorney General of the Nation; National Council of Protected Areas; and the Peace and Human Rights Commission.

<sup>45</sup> On December 13, 2020, the representatives indicated that it should not be the obligation of the community to search for farms when they purportedly do not have the tools or the possibilities to carry out this task, emphasizing that it is the responsibility of the State to provide access to a place of return in decent conditions and to carry out the entire search, selection, and analysis process involved.

community will acquire would be paid through the productive projects developed by the community, it allegedly does not guarantee that these projects will be profitable and successful. It was added that the community demands another type of land acquisition process. Therefore, the community has decided not to accept any of the farms offered by the State.

36. Regarding the actions taken in the framework of access to health, the representatives indicated that medical visits have been reactivated in September 2020, with a periodicity of one visit every fifteen days, noting that the support is being provided by the Mexican State and not by the State of Guatemala. The representation emphasized that even though Mexican physicians come every two weeks, there is an outbreak of malaria in the community. In particular, they expressed with concern that almost all the people in the camp have symptoms related to COVID-19, but it could not be confirmed whether they are really infected with COVID-19.<sup>46</sup> It was added that the ongoing rains have caused outbreaks of flies and, therefore, diseases continue to occur without having the appropriate medications. They noted that there are four children suffering from fever and diarrhea. The representation stated that there have been 18 new births in the community, all alive and without complications. They indicated that there are only 10 people vaccinated in the community, with only one dose. Therefore, they urge the State to take the necessary care to assist the community against the risk posed by COVID-19.

37. According to the information presented regarding the issue of education, it was stated on March 6, 2020, that classes had been suspended two months ago, which had been confirmed after his visit to the community on October 19, 2020. In this vein, in December 2020, the representatives regretted that the beneficiaries have not received food supplies in twelve months. On November 1, 2021, the representatives reiterated that, as reported by the State, no food rations were delivered during 2020. However, they confirmed that both the teachers assigned to the Laguna Larga Community and the health personnel have been able to access the community to carry out school activities and medical days throughout 2020. They expressed particular concerns regarding the delivery of food, as well as the expiration time of the products delivered, given that foods already expired or that will expire soon have been delivered, and that the deliveries lack other essential products for the diet, not complying with international standards.

38. Through a communication dated June 19, 2020, the representatives expressed their concern about the state of the camp in which the beneficiaries are located due to the passage of tropical storm, Cristóbal, at the beginning of June 2020.

39. Furthermore, it was reported, in a letter dated April 17, 2021, concern for the safety of the community's families due to the increase in the military presence in the area. It was indicated that elements of the special forces of the Guatemalan Army crossed through the camp for displaced persons with a "shipment" heading towards the place where the community had previously located. The community members allegedly tried to stop them for a dialogue, but allegedly the soldiers "tried to run over" the community members, almost resulting in injuries to an adult and a child. In addition, they have reported that approximately two hundred Army officers were walking in two columns along the highway that leads to all the communities of Laguna del Tigre, San Andrés Peten, on March 17, 2021. In its report of October 5, 2021, the representation also noted the presence of two Guatemalan Army helicopters flying over the area. On November 1, 2021, the representatives reported alleged harassment by the Guatemalan National Army, evidenced in a military incursion into the camp in mid-October. Another concern

<sup>46</sup> They expressed concern regarding the high level of vulnerability to contracting COVID-19, in light of the lack of information, controls and care, unsanitary and unsanitary conditions, and the geographic location exposing the beneficiaries to people from both Mexico and from Guatemala.

expressed was the installation of electrical wire in the territory of the border with Mexico, which allegedly generates fear of electrocution to the inhabitants, especially children.

40. Finally, by means of a letter of November 2021, the representatives reported that in September 2020 a visit to the community was carried out with the accompaniment of an expert in development, data collection, and public policies. According to his first findings, he indicated that the right to health has been mainly guaranteed by the Mexican State, who has cared for girls and boys sick with respiratory or intestinal infections. Although the most critical phase of food unsafety may have already been overcome, even children have a diet limited to little diversity of foods and adults generally do not eat three times a day. Since 2018, they have not renewed the eco-filters they use to treat the water they drink, considering that the lagoon to which they have access is stagnant and contaminated water. Regarding the right to education, the expert stressed that, although the pre-primary and primary schools have a code in the Ministry of Education and receive the transfer of funds, the infrastructure and health conditions to carry out education are unacceptable.

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

41. The precautionary measures mechanism is part of the Commission's function of overseeing compliance with the human rights obligations set forth in the Charter of the Organization of American States, and in the case of the Member States that have not yet ratified the American Convention, the Declaration of the Rights and Duties of Man. These general oversight functions are established in Article 18 of the Statute of the IACHR, and the precautionary measures mechanism is described in Article 25 of the Commission's Rules of Procedure. In accordance with this Article, the Commission grants precautionary measures in serious and urgent situations in which these measures are necessary to avoid irreparable harm to persons.

42. The Inter-American Commission and the Inter-American Court of Human Rights have established repeatedly that precautionary and provisional measures have a dual nature, both protective and precautionary. Regarding their protective nature, these measures seek to avoid irreparable harm and preserve the exercise of human rights. Regarding their precautionary nature, these measures have the purpose of preserving legal situations while they are under consideration by the IACHR. In the process of reaching a decision, according to 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.

43. With respect to the foregoing, Article 25(9) provides that "the Commission shall evaluate periodically, at its own initiative or at the request of either party, whether to maintain, modify or lift the precautionary measures in force." In this regard, the Commission should assess whether the serious and urgent situation and possible irreparable harm that caused the adoption of the precautionary measures persist, so as to keep the precautionary measures in force. Moreover, the Commission should consider if new situations that might meet the requirements set forth in Article 25 of the Rules of Procedure have

subsequently arisen. Similarly, Article 25(10) establishes that the Commission shall take appropriate follow-up measures, such as requesting relevant information from the interested parties on any matter related to the granting, observance, and maintenance of precautionary measures. These measures may include, as appropriate, timetables for implementation, hearings, working meetings, and visits for follow-up and review.<sup>47</sup> In this regard, the IACHR ruled on the possibility of issuing follow-up resolutions in its Resolution 2/2020 of April 15, 2020.

44. On this occasion, the Commission decides to issue a *Follow-up Resolution* with a view to promoting the implementation of these precautionary measures as part of those appropriate follow-up measures for the matters that are in force. At the time of adopting this decision, the Commission takes into account the information provided by both parties, taking into special consideration the challenges alleged during implementation, as well as the repeated requests from the representation to have the precautionary measures properly implemented or the request for the activation of the mechanism of provisional measures before the Inter-American Court (see *supra* para. 29).

45. In this regard, the Commission recalls that Article 76 of its Rules of Procedure establishes in paragraph 1 that “[t]he Commission may request that the Court adopt provisional measures in cases of extreme seriousness and urgency, when it becomes necessary to avoid irreparable damage to persons. When taking this decision, the Commission shall take into account the position of the beneficiaries and their representatives.” In this sense, the Commission observes that, although it can be understood that some risk factors for the beneficiaries continue, there are not enough indications or elements to determine that they are facing an “extreme” risk, considering the allegations made by the representation in the specific case and under the current conditions of the beneficiaries. Nor are there any elements to support an increase in the situation presenting a risk to them.

46. Considering this, the Commission notes that the information provided is not sufficient to conclude that there exists an “extreme” risk, taking into account the measures adopted by the State and the information available to date. In light of the above, The Commission has decided not to activate that mechanism, given that it does not have sufficient elements at this time to do so under the terms of Article 76 of the IACHR Rules of Procedure and Article 63(2) of the Convention. However, it has decided to carry out a series of evaluations to promote the proper implementation of these precautionary measures in favor of the beneficiaries. In this sense, if new assessment elements are subsequently presented, the Commission will assess the corresponding actions within the framework of its mandate. Given the information available at this time, the Commission decides to continue monitoring these precautionary measures.

47. Considering the situation of the beneficiaries that led to the initial granting of precautionary measures, the Commission recalls that, in the case of indigenous or peasant communities, forced evictions are often linked to the lack of legal certainty over their lands.<sup>48</sup> The Inter-American Court has also indicated the situation of vulnerability and defenselessness in which displaced persons generally find themselves. In this regard, the Inter-American Court, in the *Case of Members of the Chichupac Village and neighboring communities of the Municipality of Rabinal v. Guatemala of 2016*:

“[...] has established that due to the complexity of the phenomenon of internal displacement and the wide range of human rights that it affects or puts at risk, and in view of the circumstances of special vulnerability and defenselessness in which the displaced generally find themselves, their

<sup>47</sup> IACHR. [General guidelines for monitoring the recommendations and decisions of the Inter-American Commission on Human Rights](#). September 30, 2019, para. 29.

<sup>48</sup> IACHR, Country Report: Situation of human rights in Guatemala. OEA/Ser.L/V/II. Doc. 208/17. December 31, 2017, para. 215

situation can be understood as a *de facto* condition of lack of protection. This situation, in accordance with the American Convention, obliges the States to adopt positive measures to reverse the effects of their condition of weakness, vulnerability, and defenselessness, even with respect to the actions and practices of private third parties. [...]"<sup>49</sup>

48. Similarly, through its monitoring mandate, the Commission has followed up on the context of internally displaced persons in Guatemala. In this regard, it has made the following pronouncements:

- In its *Country Report 2017*, the Commission urged the State to recognize the problem, prepare a diagnosis, and collect data on the different types of internal displacement, as well as the development and implementation of public policies aimed at its prevention and treatment, among which are the adoption legislation based on the Guiding Principles on Internal Displacement, which must guarantee the participation of displaced persons, the Office of the Human Rights Ombudsperson, and civil society organizations. Similarly, it was requested to designate an institutional focal point to address this problem and implement the public policy that is developed in this matter, which must have adequate budgetary resources for its effective implementation.<sup>50</sup>
- On July 20, 2018, the IACHR, the Special Rapporteur on Adequate Housing and the United Nations Special Rapporteur on the Human Rights of Internally Displaced Persons expressed their concern about the practice of forced evictions that the Guatemalan State has been carrying out in recent years, as well as the internal displacement that has been generated therefrom. The IACHR and the UN experts urged the Guatemalan State to comply with international and inter-American rules and standards to prevent forced evictions and internal displacement, as well as for protection, humanitarian assistance, and the achievement of durable solutions when these occur.<sup>51</sup>
- In its *Annual Report 2019*, the Commission observed that forced evictions with excessive use of force by the security forces purportedly continued to be carried out in Guatemala. In view of this, the IACHR reiterated that evictions should only be carried out in compliance with international rules and standards, in accordance with the principles of exceptionality, legality, proportionality, and appropriateness.<sup>52</sup>
- In its *Annual Report 2020*, the Commission addressed the situation of internal displacement in Guatemala, noting that the evictions were related to the lack of legal certainty regarding the land. In this regard, the IACHR indicated that the situation of displaced persons places them in a condition of vulnerability and lack of protection of their rights to life, dignity, and security. Faced with such problems, the State must adopt the necessary measures to reverse the effects of this defenseless condition, avoiding the actions of private third parties that could increase their situation of vulnerability.<sup>53</sup>

49. Taking into account the previous considerations and contextual elements mentioned, the Commission considers it pertinent to assess, through this follow-up resolution, the information provided

<sup>49</sup> I/A Court H.R. Case of Members of the Chichupac Village and neighboring communities of the Municipality of Rabinal v. Guatemala. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 30, 2016. Series C No. 328. para. 173.

<sup>50</sup> IACHR, Country Report: Situation of human rights in Guatemala. OEA/Ser.L/V/II. Doc. 208/17. December 31, 2017, para. 214.

<sup>51</sup> IACHR, Press Release No.158/18, IACHR and UN experts express concern over the situation of forced evictions and internal displacement in Guatemala, July 20, 2018.

<sup>52</sup> IACHR, Annual Report 2019, Chapter V, Guatemala. paras. 202 and 204

<sup>53</sup> Annual Report 2020. Chapter V, Guatemala. paras. 213 and 214



by both parties and promote its implementation, as well as improve the route of agreement between the parties. Given the particularities of this matter, the Commission has paid special attention to the situation described through its various mechanisms, seeking to accompany the process of implementation of these precautionary measures over time. In the framework of precautionary measures, the Commission has continued with requests for information from the parties (see *supra* para. 13); has called working meetings (see *supra* para. 13); and has held a public hearing (see *supra* para. 5). The instant *Follow-up Resolution* seeks to complement the follow-up actions that the Commission has been adopting with the precautionary measures that are in force.

i. *Amparo judgment of the Constitutional Court of Guatemala on the situation of the families of the Laguna Larga Community*

50. According to the information presented by the parties, the Commission observes that the Constitutional Court of Guatemala resolved an appeal for *amparo* whereby it ordered that the State adopt a series of measures in favor of the families of the Laguna Larga community, including the following: provision of housing; construction of an educational center; access to sources of work; establishment of health center; access to adequate food; implementation of support and social aid programs; among others (see *supra* para. 7). In this regard, the Commission positively values the internal actions ordered by the country's high constitutional court to address the situation of the proposed beneficiaries. Such assessments are relevant insofar as they allow the Commission to learn about the situation of the beneficiaries, and the considerations that the Constitutional Court has regarding the measures adopted by the State to address them.

51. In this regard, the Commission shares what the State indicated when it indicated that the judicial decision and this mechanism complement each other in certain points and with regard to mitigating the risk faced by the beneficiaries. However, the Commission also observes that, despite the internal actions taken by the State, including that judicial decision of the highest constitutional court of the country, it has continued to allege that the risk for the beneficiaries persists (see *supra* para. 8).

ii. *Agreement between the parties for the implementation of these precautionary measures*

52. Given the nature of the information furnished and taking into account the type of matter that is raised, the Commission considers that it is vital that the spaces for consultation between the parties continue, which allow reaching agreements to address the particular situation of the beneficiaries regarding the mechanism at hand, with respect to their rights to life and personal integrity of the beneficiaries. In this regard, the Commission positively values the various open spaces at the internal level for the purpose of coordinating actions to implement these precautionary measures. In this regard, it is noted that meetings were held, the most recent ones being those held between 2019 and 2021, including at the inter-institutional level (see *supra* paras. 10, 15, 18, and 32).

53. The Commission considers it extremely important to maintain spaces for dialogue between the parties to promote the effective implementation of these precautionary measures. In this regard, in the terms of the Inter-American Court, the Commission recalls that the "useful effect" of international protection measures:

"depends, to a great extent, on the real possibility that exists that these will be implemented. When ordering the State to adopt the necessary measures to protect the life and personal integrity of the beneficiaries, the Court did not determine the particular modalities of protection required. However, it ruled that these protection measures should be implemented in such a way as to be

effective and, in particular, through participation mechanisms that are generated between the beneficiaries or their representatives and the state authorities in charge of planning and implementing them.”<sup>54</sup>

54. The Commission calls on the parties to continue participating in these spaces, as they represent an opportunity for consultation to achieve the effective implementation of these precautionary measures. The Commission considers that the lack of dialogue or agreement prevents progress in its proper implementation, which in the long run ends up affecting the beneficiaries and the situation in which they find themselves.

*iii. Relocation of the families of the Laguna Larga community*

55. The Commission notes that one of the measures agreed between the parties refers to the relocation of the families of the Laguna Larga community to lands that are alternative to those they currently occupy.

56. In this regard, the Commission notes that the parties have shown an interest in seeking various solutions for the relocation of beneficiary families from the community. In particular, it is observed that the parties have coordinated visits to certain lands and that the beneficiaries have shown willingness to consider the options offered. However, the Commission notes that, according to what was indicated by the representation, there were certain discrepancies regarding the information provided by the State on the legal situation and conditions of the properties offered, a situation that is said to have produced confusion and uncertainty in the beneficiaries. In that sense, the IACHR considers it appropriate for the State to address the concerns and questions raised by the representation, particularly regarding the lack of clarity of the information provided on the land visited and offered, as well as regarding its request to consider another type of land procurement procedure. To this end, the Commission deems it important to continue providing spaces for dialogue between the parties in order to agree on the measures and actions applicable in the search and acquisition of lands that meet the optimal and adequate conditions for the relocation of beneficiary families.

57. In this sense, the Commission values the State’s willingness to continue with the dialogues with the beneficiaries and their representation for their relocation. Thus, for example, it is noted that recently the State referred to the visit of five farms offered by the Land Fund, in order to make an evaluation thereof and agree between the parties on the corresponding aspects. The Commission values the State’s willingness to continue taking the necessary actions for the relocation of the families of the community, as well as the information on how the process works (see *supra* para. 19). In that sense, it calls on the representation to continue in such spaces and achieve the prompt relocation of the families, also considering that the Constitutional Court of Guatemala decided that the place to be chosen for relocation meets the minimum needs for adequate housing and is agreed with the members of the community, and their representatives (see *supra* para. 7).

*iv. Measures adopted in matters of food, health, and education of the beneficiaries*

58. The Commission observes that the State has reported on a series of measures implemented in this regard. Thus, for example, the State indicated that, with respect to humanitarian aid, it continues to provide assistance in favor of the beneficiaries since 2017 through the delivery of food on a regular basis.

<sup>54</sup> I/A Court H.R. Matter of the Peace Community of San José de Apartadó regarding Colombia. Provisional Measures. Order of the Inter-American Court of Human Rights of August 30, 2010, considerandum 35. Available at [https://www.corteidh.or.cr/docs/medidas/apartado\\_se\\_09.pdf](https://www.corteidh.or.cr/docs/medidas/apartado_se_09.pdf)

In turn, it clarified that due to the COVID-19 pandemic they were forced to delay the housing delivery processes. However, food deliveries were subsequently made to families in the community. Regarding the measures aimed at guaranteeing access to health services, the State alleged that several medical conferences were held in order to provide medical care to the beneficiary community. Among the actions reported, the following were indicated: activities for the prevention of malaria; delivery of mosquito nets with insecticide; mobile laboratory enablement; control of growth and development of boys and girls; delivery of micronutrient supplements; care for morbidity; medical consultations; prenatal checkups; deworming; provision of medicine cabinet; family planning methods; epidemiological surveillance; among others.

59. In addition, and in response to the health measures implemented in the framework of the COVID-19 pandemic, hygiene recommendations, social distancing, use of a mask and minimal contact activities were given. With regard to the alleged malaria outbreak, the State indicated that the competent authorities are not aware of it. Regarding access to education for children in the community, the State alleged that educational activities have continued despite the limitations and sanitary measures resulting from the pandemic. During 2020, worksheets, questionnaires, self-study guides, and posters were delivered so that students could study at home. A visit to each home was also made by the teachers to reinforce the educational activities. By 2021, the State reported on the ongoing learning processes at home and in class, following biosafety protocols, and these purportedly include support programs such as School Feeding, School Supplies, Didactic Bag, among others (see *supra* paras. 20, 21, and 24).

60. The Commission values the efforts and the various actions implemented by the State in favor of the beneficiaries. Similarly, it observes that the parties are agreeing to measures through their respective representations with the objective of dealing with the situation of the beneficiary community from its multiple points of view.

61. First of all, the Commission observes that, with respect to humanitarian aid in favor of the beneficiaries, there have been disagreements regarding the measures implemented. The Commission estimates, based on the information available, that the State has made periodic deliveries of food in favor of the beneficiary community, with the exception of the delays reported for 2020. However, it notes that, according to what is alleged by the representation, the food delivered does not match the diet of the beneficiaries and that, on some occasions, they were even expired. In the same way, the Commission notes with concern the allegation that the beneficiaries do not have optimal means to treat water for human consumption. In view of this, the Commission recalls that the States have the obligation to adopt the necessary measures to guarantee access to an adequate standard of living for internally displaced persons and to provide for this purpose, if necessary, the essential humanitarian assistance in that context.

62. Under such a premise, it is noted that the beneficiaries are still in a situation of displacement, and in such a condition, they allegedly find themselves seriously limited to access food sources to provide themselves with adequate nutrition. Similarly, they reportedly do not have alternative means of obtaining drinking water, since the only water resource at their disposal is a small pond that they allege is contaminated. Therefore, it is fundamental that the measures and actions carried out by the State, aimed at providing aid are timely, adequate, and necessary, considering their status as displaced persons and, therefore, who deserve special protection.

63. Second, with regard to access to medical services by the beneficiaries, the State reported on a range of activities and measures that it is allegedly carrying out in favor of the beneficiaries, from laboratory tests, family planning, prenatal control of pregnant women, medical consultations, among others. Considering this, the Commission notes that, although the state authorities are implementing

measures to provide medical care to the beneficiaries, it is worrying that deaths continue to be reported in the beneficiary community. The Commission does not have sufficient elements to adequately assess the allegations as to whether the health care has been adequate and suitable, particularly with respect to the deaths reported. However, it expresses its concern about them and values the information received by the State insofar as it allows it to explain what happened (see *supra* para. 28). The Commission is also concerned that, according to the available information, there are beneficiaries who have shown symptoms of COVID-19 infection and that, to date, the corresponding tests have not been carried out to determine the number of people infected by the virus. Although the State has made progress with vaccination programs for various diseases, it is noted, based on the information provided by the representatives, that there are challenges in the corresponding vaccination coverage against COVID-19 in the area.

64. Given the above, the Commission urges the State to continue providing health care, and if applicable, carry out the necessary corrections to continue guaranteeing the necessary medical assistance, as well as access to the corresponding medical treatments, in order to ensure the life and health of the beneficiaries, especially for children, pregnant women, and older adults in the community.

65. Third, the Commission notes that, with regard to access to education for children from the beneficiary community, the parties agree that the measures implemented by the State have been positive. In this sense, the Commission values the efforts of the State in the implementation of measures and actions aimed at guaranteeing access to education for the children of the beneficiary community and that, despite the incidence caused by the COVID-19 pandemic in the different school activities, these have continued effectively, thanks to the adoption of educational methodologies and support programs according to the situation of the students. Considering this, the Commission encourages the State to continue implementing the corresponding measures in order to guarantee access to education for the beneficiaries.

v. *Safety measures*

66. Regarding this aspect, the Commission observes that the representation presented certain allegations that questioned the military presence in the area (see *supra* para. 39). However, after analyzing the information provided by the State, it is observed that the military presence in the area is because it is a border area between the State of Guatemala and the State of Mexico (see *supra* paras. 10 and 13). With regard to security in general, the Commission positively values the actions implemented by the State regarding the accompaniment to visit the farms that have been observed between the parties. Similarly, the Commission values the existence of an operations plan for the safety of the beneficiaries (see *supra* para. 11). Finally, beyond the concerns presented by the representation, the Commission notes, based on the information available, that no complaint or specific threatening event against beneficiaries which has an impact on their security has been reported internally. In response to this, the Commission calls on the State to continue providing the corresponding security measures in favor of the beneficiaries.

vi. *On-site visit to the area*

67. The Commission identified that, although the State is implementing measures in favor of the beneficiaries, it continues to have a series of challenges regarding their effectiveness and suitability. In addition to this, the beneficiaries are still displaced, a situation that places them in a situation of special vulnerability because they do not have a safe place and with the appropriate conditions for their development. Thus, in response to the situation presented and to the extent that the Commission seeks to assist the State in complying with its obligations, as well as in the implementation of these precautionary measures, it places itself at the disposal of the parties to carry out an on-site visit in the area, when circumstances permit, and after having the consent of the State. The Commission considers that it would

be an opportunity to continue evaluating the progress made by the State in this matter, as well as to have spaces for direct dialogue with the beneficiaries and State authorities involved in the process of implementation of these precautionary measures.

#### **IV. DECISION**

68. The Inter-American Commission on Human Rights decides the following:

- a) Maintain the precautionary measures granted in favor of the families of the Laguna Larga Community. Therefore, it requires the State of Guatemala to continue adopting the necessary measures to effectively guarantee the life and personal integrity of the beneficiaries in the terms of the requests made through Resolution 36/2017, considering the assessments of this resolution;
- b) Not to request provisional measures from the Inter-American Court in light of the information available, and continue to follow up on this matter under the terms of Article 25 of the IACHR Rules of Procedure;
- c) Request that the parties send specific, detailed, and updated information on the situation of the beneficiaries with a the aim to continue to analyze their situation pursuant to Article 25 of its Rules of Procedure; when providing such information, they are asked to specify the situation of the beneficiaries; progress in the implementation of these precautionary measures; if changes or modifications have been made to the implemented measures; and progress on the issue of relocation of the beneficiaries of the community;
- d) Request that the parties continue with the consultation and coordination spaces at the domestic level within the framework of the implementation of these precautionary measures;
- e) Express the willingness of the IACHR to carry out an on-site visit to Guatemala in the terms set forth in this Resolution. During that visit, the Commission would seek to carry out a *work meeting* between the IACHR and the parties to this matter, in order to establish a space for dialogue to address the challenges identified, as well as to obtain more details regarding the situation of the beneficiaries and the implementation of these precautionary measures. The foregoing, as part of the appropriate follow-up measures for the effective implementation of these precautionary measures; and
- f) Continue to implement the appropriate follow-up measures pursuant to Article 25(10) and other provisions of its Rules of Procedure.

69. The Commission requests that the parties submit the information to the Commission indicated above, within a period of 90 days from the date of this resolution.

70. The Commission instructs its Executive Secretariat to notify this resolution to the State of Guatemala and the representation.

71. Approved on December 31, by Antonia Urrejola Noguera, President; Julissa Mantilla Falcón, First Vice-President; Flávia Piovesan, Second Vice-President; Margarette May Macaulay; Esmeralda Arosemena de Troitiño; and Joel Hernández García, members of the IACHR.

Maria Claudia Pulido  
Assistant Executive Secretary