
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 19/2024**

Precautionary Measure No. 73-24

Thirteen members of the La Plata Bahía Málaga Community Council regarding Colombia¹
April 8, 2024
Original: Spanish

I. INTRODUCTION

1. On January 25, 2024, the Inter-American Commission on Human Rights (“the Inter-American Commission”, “the Commission” or “the IACHR”) received a request for precautionary measures presented by the Association for Social Research and Action (Nomadesc) and Saul Valencia González (“the applicants” or “the requesting party”), urging the Commission to require that the State of Colombia (“Colombia” or “the State”) adopt the necessary measures to protect the rights to life and personal integrity in favor of thirteen members of the La Plata Bahía Málaga Community Council, located in Buenaventura, Valle del Cauca. According to the request, the proposed beneficiaries are at risk due to threats, harassment, and the recent invasion of an illegal armed group into their territory.

2. In accordance with Article 25.5 of its Rules of Procedure, the Commission sent a communication to both parties on February 16, 2024. It received a response from the applicants on February 26, 2024, and the State responded on February 28, 2024.

3. Upon analyzing the submissions of fact and law offered by the parties, the Commission considers that the information presented shows *prima facie* that the proposed beneficiaries are in a serious and urgent situation, given that their rights to life and personal integrity are at risk of irreparable harm. Therefore, the IACHR requests that the State of Colombia: a) adopt the necessary and culturally appropriate measures to safeguard the life and personal integrity of the beneficiaries. Among other things, it is requested to take the relevant measures to guarantee that they can safely return to their community; b) adopt the necessary protection measures so that the beneficiaries can continue carrying out their activities in defense of human rights without being subjected to threats, intimidation, harassment or acts of violence; c) consult and agree upon the measures to be adopted with the beneficiaries and/or their representatives; and d) report on the actions taken to investigate the alleged facts that gave rise to these precautionary measures, so as to prevent such events from reoccurring.

II. SUMMARY OF FACTS AND ARGUMENTS

A. Information provided by the applicants

4. The proposed beneficiaries are thirteen territorial authorities, social leaders, and defenders of ethnic-territorial rights of the Community Council of the black communities of La Plata Bahía Málaga,² located in Buenaventura, Valle del Cauca. In 2003, the Colombian Institute of Agrarian Reform

¹ In accordance with Article 17.2 of the IACHR Rules of Procedure, Commissioner Carlos Bernal Pulido, a Colombian national, did not participate in the debate and deliberation of this matter.

² These are the following: (1) Saul Valencia González, legal representative of the community council; (2) Isnel Diaz Arboleda, coordinating councilor of the community council; (3) Argenis Garcia Valencia, administrative councilor of the community council; (4) rut Valencia Manyoma, secretary councilor of the community council; (5) José Simón Gamboa, planning councilor of the community council; (6) Mireya Diaz Mosquera, alternate secretary of the community council; (7) Neida Molano Diaz, alternate treasurer of the community council; (8) Albeiro Palma Moreno, principal observer of the community council; (9) Edier Rebolledo Salazar, alternate observer of the community council; (10) Hoover Carabali Playonero, council of elders of the territory; (11) Santiago Valencia González, council of elders of the territory; (12) Ferney Valencia Belalcázar, no specified position; and (13) Carlos Andrés Hinojosa Victoria, council of elders of the territory.

(*Instituto Colombiano de Reforma Agraria, INCORA*) reportedly delivered a “partial” collective land title, extended in 2012 by the Colombian Institute of Rural Development (*Instituto Colombiano de Desarrollo Rural, INCODER*). Territorial authorities consider the process incomplete.

5. It was indicated that the La Plata Bahía Málaga Community Council has resisted claims of territorial control by illegal armed actors,³ with a considerable number of victims, even after the signing of the Peace Accords.⁴ The applicant highlighted the murders, forced disappearances, death threats, forced recruitment, sexual abuse, gender violence, and armed clashes between various groups, such as the Clan del Golfo, the Autodefensas Gaitanistas de Colombia (AGC), the FARC Jaime Martínez dissidents, the Nueva Marquetalia, the National Army, the National Navy, and the National Liberation Army (ELN). Currently the groups adopt new names such as “los Shottas” or “los Espartanos”, “la Banda de Roberth”, and “Jalisco Nueva Generación”, which constantly disappear and appear under new names. According to the request, these groups profit from port activity, drug trafficking, and plundering natural resources.

6. During the first quarter of 2022, around 2,000 people from ethnic communities fled the rural area and gathered in four shelters in Buenaventura. On March 22, 2023, the Black Communities Process (*Proceso de Comunidades Negras, PCN*), Palenque Regional El Congal, published a statement on the humanitarian situation of the community councils and ethnic-territorial organizations of Buenaventura. On March 23, 2023, a dialogue table was set up with the National Government delegation, the Mayor of Buenaventura, delegates from the Ombudsperson’s Office, the Office of the Attorney General, the Office of the District Attorney, the United Nations Human Rights Organization (UN), the Mission to Support the Peace Process of the Organization of American States (MAPP-OAS), the United Nations Verification Mission in Colombia (UNVMC), and delegates from the communities. On March 24, 2023, an agreement was signed between the National Government and the District Government of Buenaventura with the Community Councils and ethnic-territorial organizations of the PCN.⁵ On April 4, 2023, the territorial authorities of the nine river basins of Buenaventura and the High Commissioner for Peace met with the aim of working towards signing an agreement.⁶

7. However, they indicated that the humanitarian crisis in Buenaventura continues. On July 2, 2023, a video allegedly circulated showing 16 hooded individuals carrying long- and short-range weapons. In July 2023, the Community Council began receiving phone calls and messages in which an armed

³ Early Alert 039, issued by the Ombudsperson’s Office on December 4, 2023, reports threats to community leaders and how these have affected their freedom of movement. The actions of illegal armed groups in recent years have focused on the population, with special emphasis on the leaders who have been spokespersons for the resistance to the entry of coca crops, illegal mining, and armed actors into the territory. These actions have not only affected economic and productive activities, but also the rights to life, liberty, mobility, security, and integrity of the population as a whole.

⁴ The applicant indicated that, according to the Unit for Victims (UARIV), between 2016 and 2022, 96,188 people were victims of the armed conflict in Buenaventura, among which 57% belong to the ethnic population and 53% are women. Moreover, the UARIV reported 20,378 victims of displacement between January and November 2022, 60% ethnic population and 54% women; 2,085 victims of confinement between January and November 2022, 99.5% ethnic population and 47% women; 39 victims of crimes against freedom and sexual integrity in development of the armed conflict as of November 2022. In addition, the National Institute of Legal Medicine recorded, between September 2021 and September 2022, 286 homicides, 66% ethnic population and 34% women. Between January and September 2022, 22 people were reported missing. According to the Statistical, Criminal, Contraventional, and Operational Information System of the National Police (*Sistema de Información Estadístico, Delincuencial, Contravencional y Operativo de la Policía Nacional, SIEDCO*), in 2021 in Buenaventura there were 61.6 cases of homicide per 100,000 inhabitants. This is 5 points above the average of Valle del Cauca and 34 points above the national average.

⁵ According to the applicant, six aspects were prioritized: 1. Peace negotiation process; 2. Collective protection measures; 3. Humanitarian aid; 4. Comprehensive and collective reparation; 5. Fundamental right to prior consultation and free and informed consent and 6. Regulation and implementation of Law 70 of 1993. Work schedules and lines of action and compliance were agreed upon.

⁶ The applicant indicated that, in addition to the points regarding the non-compliance with the ethnic chapter of the agreement with the FARC - EP and the participation in the decisions of the agreements and approaches at the dialogue tables with other actors, the risk of the leaders of the community councils of the nine watersheds of Buenaventura was evident. The High Commissioner for Peace undertook to socialize the security strategy aimed at leaders.

group demanded twenty million pesos to finance the group. Upon failing to comply with the demand, the Community Council allegedly continued to receive phone calls, video calls, and messages. The messages indicated the following: “we are aware of all your movements, we know when you travel from Bahía Málaga to the Tourist Pier of Buenaventura”; “We know when, how, and with whom you move”; “You think this is a game”; “I know all your movements, you have been here in the port for a few days. You have been here for about two to three days to be here, you arrived by the Rampla. But you are aware that a topic was discussed with you the last time.” On July 11, 2023, Mr. Saul Valencia González, legal representative of the Community Council, reportedly received a call in which the threats were reiterated and the members of the Community Council were declared a military target. They also allegedly threatened to appropriate the assets of the Community Council. On July 11, 2023, Mr. Valencia Gonzalez filed a complaint with the Judicial Police of the municipality of Buenaventura. He indicated that he had been continuously being extorted by the armed group “Los Espartanos” since April 1, 2023.

8. On October 4, 2023, the Council of State, Contentious-Administrative Chamber, Second Section, Subsection B, reportedly confirmed the trial court’s decision of an appeal for protection of constitutional rights (*amparo*). In its ruling, the Council of State affirmed that “it has been showed that the members of the community council have been subjected to intimidation” and concluded that “it is pertinent, as indicated by the trial court judge, to order the director of the National Protection Unit [UNP] to adopt the appropriate actions to evaluate the situation of the members of the community council of the Black Community of La Plata Bahía Málaga and to adopt the security measures deemed pertinent”.

9. On January 22, 2024, at least six armed men entered the Community Council. They stated that they were part of “the Shottas”,⁷ and that they were going to “take over the town”. These individuals allegedly entered carrying rifles in an attempt to kidnap two members of the community council, who were not at the site at the time of the raid. The armed men attempted to damage the inhabitants’ belongings and steal boats and engines that they use for daily community fishing activities. The community resisted the attempted occupation and the men left, claiming that they were going to “return with more men to take over the community.” The applicant indicated that the incident happened again on January 23, 2024, when the armed group entered the community and fired aimlessly. The community reportedly spotted a boat with at least ten armed men heading towards the Community Council. They therefore contacted the Coast Guard, who interceded the boat and captured three people. The supervisory judge reportedly declared the arrest illegal and set them free, despite the fact that they had arrest warrants. These facts were reported to the Office of the Attorney General, the Ombudsperson’s Office, the National Government, the Ministry of the Interior, the Ministry of Foreign Affairs, and the Presidential Counselor’s Office for Human Rights. The National Army, which is reportedly “only a few kilometers” from the community, alleges that it does not have the security conditions to be present in the Community Council.

10. Since then, the communities belonging to the Community Council have been confined “in the face of the terror imposed by the armed group in the territory”. On January 23, 2024, Mr. Saul Valencia González filed a complaint with the Basic Criminal Investigation Unit (*Unidad Básica de Investigación Criminal*, UBIC) of Buenaventura. In his statement, Mr. Valencia affirmed that since October 2023 three young men from the community of Mangaña had been recruited. In addition, four individuals entered the community and claimed to be linked to the ELN “to cause more fear”, as they were still linked to the “Los Shottas” gang.

11. On January 24, 2024, the inhabitants reportedly stated that the armed group slept in the territory and did not leave the location. In addition, two members of the community council were reportedly approached by members of the armed group, who “threatened them directly and told them that all the leaders were fully identified.” On the same day, January 24, 2024, the National Office of the Attorney General

⁷ In a previous communication, the applicants indicated that they were the dissidents of the FARC “Jaime Martínez”.

requested the National Police to carry out the pertinent activities to “provide police protection and avoid future damages to the life and integrity” of Saul Valencia Gonzalez. On January 25, 2024, a communication was sent to the President of Colombia to call various authorities and bodies to a humanitarian mission to the Community Council of La Plata Bahía Málaga. On January 30, 2024, a UNP official reportedly contacted Mr. Valencia Gonzalez and stated the following: “yesterday I saw the statement and made internal inquiries, I noticed that they do not have a collective protection route underway”, despite the fact that the request was reportedly issued in July 2023. The applicant alleged that, although collective and individual protection measures were requested before the National Police and the UNP, none of the proposed beneficiaries were assigned protection measures. The foregoing has led to the displacement of some social leaders,⁸ which prevents the exercise of territorial authority for which they were elected by the community.

12. Mr. Valencia González filed a criminal complaint with the Office of the Attorney General, reporting the raid in the community of Bahía Málaga where three individuals were captured. He also provided information for an operation in the community of Mangaña, which was unsuccessful due to the previous withdrawal of members of the armed group. Community residents alerted Mr. Valencia Gonzalez about the armed group’s interest in identifying those who provided information for the raid on a house where the people had spent the previous night. As a result, the proposed beneficiary reportedly received a video call from one of the perpetrators, accusing him of being responsible for the complaint regarding the raid. He warned him of his eventual release from prison in “two or three months”, along with threats of violence if he continued with the complaint. On January 30, 2024, the teacher from the school located in the Community Council reportedly found a letter among her belongings. It was reportedly sent to her by an armed group and read: “Teacher, we respectfully address you to ask for your collaboration for the organization. If the answer is yes, please leave the letter where you found it. Don’t talk or say anything to anyone. Everyone will benefit from it”. The teacher immediately reported the situation to the Office of the Attorney General.

13. A Humanitarian Mission took place on February 4 and 5, 2024.⁹ On February 4, 2024, the Mission went to the Miramar village of the Community Council. The intention was to address the humanitarian situation in the village and detail the context of threats and harassment. However, a delegation of the illegal armed group “Los Shottas” showed up, even though they were not summoned to the mission, and set up shop in the same community hall where the leaders were explaining the circumstances. Faced with the safety problems caused by their presence, the mission had to be suspended for that day. In the report prepared by the members of the humanitarian mission, it was “recognized that this event increases the vulnerability of the life, integrity and safety of people, and affects the exercise of the right to participation.”

⁸ Rut Valencia Manyoma, Mireya Diaz Mosquera, Hoover Carabali Playonero, Santiago Valencia González, Carlos Andrés Hinojosa, and Ferney Valencia Belalcazar.

⁹ The humanitarian mission was carried out in the Community Council of the Black Communities of La Plata Bahía Málaga on February 5 and 6, 2024, by call of the Process of Black Communities – Palenque el Congal, the Nomadesc Association and the Community Council of La Plata Bahía Málaga. On behalf of the national government, the mission consisted of the Presidential Advisor for Human Rights and International Humanitarian Law, accompanied by delegates from the Vice-Presidency of the Republic; the Office of the High Commissioner for Peace; the Human Rights Directorate and the Directorate of Affairs for Black, Afro-Colombian, Raizal and Palenquero Communities of the Ministry of the Interior; the Ministry of Defense; the Victims Unit; and the National Protection Unit. During the Humanitarian Mission, the communities of La Sierpe, Miramar, and La Plata were visited. The community of Mangaña could not be visited due to lack of safety guarantees in the territory. The visit to the community of Miramar also included the participation of the Pacific Regional Ombudsperson and his team, the Secretariat of Government and the Peace Manager of the District Mayor’s Office of Buenaventura, the representative to the Chamber Alejandro Ocampo, a delegate of the Secretariat of Territorial Peace and Reconciliation of the Government of the Valley. Along with the commission of the District Mayor’s Office, the Valley Government, the Ombudsperson’s Office, and Congressman Alejandro Ocampo, who participated in the visit to the community of Miramar, two spokespersons of the Shottas organization were transported to the Instance of Socio-Legal Dialogues between the Colombian government and Shottas and Spartans.

14. On February 6, 2024, the leaders of the Community Council received requests to go to “La Barra”, a village near Bahía Málaga that allegedly “has become a center of operations for the illegal armed group”, to speak with members of the group. No leaders attended the call. In order to safeguard their safety, they left the territory and are currently displaced. The applicant stated that this was reportedly the same modus operandi used to make Abencio Caicedo and Edinson Valencia disappear. They were leaders of the Community Council of the Yurimanguí River, also located in the rural area of the district of Buenaventura. On February 10, 2024, the community’s boats were allegedly stolen, thereby depriving them of their means of transportation.

15. In the Humanitarian Mission’s report, prepared on February 12, 2024, it was recorded that on January 25, 2024, the National Navy seized some of the weapons that members of the armed group threw into the sea. It was also stated that these perpetrators are still present in the village of Mangaña and other nearby areas near the Naval Base, which are used by the community for traditional activities. According to information received by the Ombudsperson’s Office, “the illegal armed actors were reportedly strengthened in the days following the seizure. They increased the capacity of the engines of the boats in which they sail, and carry out recruitment actions of adults and children and adolescents from the village of Mangaña.” In addition, regarding the events that occurred after the humanitarian mission, the document stated the following:

The illegal armed group’s actions constitute a direct threat to the lives, safety, integrity, and freedom of the community leaders; it is also a sign of the illegal group’s intention to take control of the territory over the state authorities and the security forces. Thus, it can be concluded that there was an immediate effect on the risk that the communities face after the Mission. On February 10, 2024, two boats belonging to members of the community, which were located in the tourist pier of Buenaventura, were also stolen. The Humanitarian Mission is deeply concerned about these events, as they constitute a direct threat to the life and personal integrity of community leaders. It also increases their vulnerability, affects their mobility, and hinders activities from which the community derives its livelihood.

16. The Humanitarian Mission added that “the Colombian State institutions know that there is interest from illegal armed groups” in the region and that “the protection of this Community Council is an urgent action to prevent illegal armed groups from establishing total control of the Pacific Bonaverense mobility corridor.” In this regard, the institutional participants of the Humanitarian Mission stated that “they will present [the] report to the highest levels of the national government with a view to the agreement and implementation of effective measures for the protection of the territory, life, and culture of the ancestral communities”. Lastly, a series of recommendations were made to guarantee the collective protection of the community, legal clarification, and the enjoyment of territorial rights, to protect and strengthen the organizational structure of the La Plata Bahía Málaga Community Council and to guarantee peace and safety.

B. Response from the State

17. On February 28, 2024, the State reported that, according to the information provided by the Presidential Advisory Office for Human Rights and International Humanitarian Law, a Humanitarian Mission was carried out to the La Plata Community Council in Bahía Málaga between February 5 and 6, 2024. Various entities of the National Government participated in this mission: Delegate of the Vice-Presidency of the Republic, the High Commissioner for Peace, the respective Directorates of Human Rights and Black, Raizal and Palanquero communities of the Ministry of the Interior, the Ministry of National Defense, the Unit for Attention and Reparation for Victims (*Unidad de atención y Reparación para las Víctimas, la Unidad Nacional de Protección*), the National Protection Unit and the Presidential Advisory Office for Human Rights and International Humanitarian Law. Moreover, under the leadership of the Vice-Presidency of the Republic, the convening of an inter-institutional follow-up committee is pending.

18. Lastly, the State affirmed that it would continue to send the Commission the information provided by the competent entities, but no additional information has been sent to date.

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

19. The precautionary measures mechanism 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.

20. The Inter-American Commission and the Inter-American Court of Human Rights ("the Inter-American Court" or "I/A Court H.R.") have established repeatedly that precautionary and provisional measures have a dual nature, both protective and precautionary.¹⁰ Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.¹¹ 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.¹² Regarding their precautionary nature, these measures have the purpose of preserving legal situations while under the consideration of the IACHR. These measures 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.¹³ In the process of reaching a decision, and 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

¹⁰ See in this regard: I/A Court H.R. Matter of the Yare I and Yare II Capital Region Penitentiary Center (Yare Prison). 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.

¹¹ 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. Case of Bámaca Velásquez. Provisional Measures regarding Guatemala. Order of the Court of January 27, 2009, considerandum 45; I/A Court H.R. Matter 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].

¹² 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 [in Spanish].

¹³ 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.

susceptible to reparation, restoration or adequate compensation.

21. 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.¹⁴ 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 violations of rights enshrined in the American Convention or other applicable instruments.¹⁵ This is better suited to be specifically addressed by the Petition and Case system. The following analysis relates only to the requirements set forth in Article 25 of the Rules of Procedure, which can be resolved without making any determinations on the merits.¹⁶

22. The Commission recalls that it is not called upon to pronounce, through this mechanism, on the compatibility of the collective titling procedure in light of the American Convention. In addition, it is not the Commission's role in this proceeding to determine the extent or scope of the property rights of the La Plata Bahía Málaga Community Council or to resolve territorial disputes regarding the issuance of its collective title. These claims, by their nature, require determinations on the merits that would be appropriate to analyzed in a petition or case.

23. Having made these clarifications, the Commission shall assess compliance with the procedural requirements.

24. When analyzing the matter at hand, the Commission considers it relevant to understand the alleged facts in the context in which they occur. Regarding this issue, the Commission recently expressed its concern "about the high levels of violence in the Pacific region of Colombia and its impact on the rights of indigenous peoples and Afro-descendant and farming communities".¹⁷ According to information collected by the IACHR, the armed groups have set up camps in areas neighboring indigenous and tribal communities, or cohabit in them. This has led to a strong increase in the daily control of these territories and their inhabitants which has caused serious social impacts and has affected self-determined freedom and security.¹⁸ This influence is exercised through threats, harassment and assassinations of people in leadership positions, but also through acts of corruption and financing of activities and basic needs of the communities that have no institutional means of being resolved.¹⁹

25. Given this situation, which is the subject of international monitoring, the Commission observes that the proposed beneficiaries are thirteen Afro-descendant social leaders, whose situation is

¹⁴ 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.

¹⁵ 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.

¹⁶ 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. 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 [in Spanish].

¹⁷ IACHR. Colombia: IACHR Expresses Concern over Violence in the Pacific Region and the Impact on Indigenous Peoples, Afro-descendant and farming Communities. September 1, 2023.

¹⁸ Ibidem

¹⁹ Ibidem

allegedly related to their work in defense of the communities and their territories in the region. Their activities therefore place them in greater exposure of facing risks.²⁰ The above is in line with Early Alert 039, issued by the Colombian Ombudsperson's Office on December 4, 2023. In it, it was stated that armed actors "are implementing actions such as the banishment from the territories of the most representative leaders in the defense and promotion of collective claims and rights, which, incidentally, undermines the social fabric and its capacity for resistance to the forms of violence undertaken".²¹

26. When analyzing the requirement of *seriousness*, the Commission considers that it has been met. In reaching this determination, the Commission notes the existence of multiple factors that, studied as a whole, contribute to evaluating the situation of the persons proposed as beneficiaries. In this regard, according to the information available, the Commission finds that the proposed beneficiaries are continuously exposed to the following: death threats; being declared military targets; invasions by members of armed groups into their territory; being followed by armed groups; forced displacement; being summoned by armed groups under intimidation and threats of death; kidnapping attempts; and being exposed to possible material damage to their property for their livelihood. Based on the information available, the IACHR notes the seriousness of the situation of the collective, which has been described as one of "terror" and confinement due to the presence of illegal armed actors in their territory.

27. Upon requesting information from the State, the Commission takes note of the information provided. In particular, it notes that the State confirmed that the above-mentioned Humanitarian Mission to the Community Council, in which various entities of the National Government participated, was carried out. In particular, the State indicated that the convening of an inter-institutional follow-up committee is pending.

28. Upon analyzing the available information, including the information presented by the applicants, the Commission identifies that various State entities are aware of the situation that the proposed beneficiaries are facing. The documentary support presented by the applicant shows that: i. In March 2023, a dialogue table was installed with regional, national, and international authorities, then an agreement was signed between the representatives of the Community Councils, the National Government, and the District Government; ii. In April 2023, territorial authorities of Buenaventura met with the High Commissioner for Peace; iii. Between July 2023 and February 2024, complaints were filed about the situation of violence in the territory; iv. In December 2023, the Ombudsperson's Office of Colombia issued Early Alert 089, in which the context of violence of the Community Council is recognized; v. In February 2024, several authorities verified the situation that the Community Council is facing *in situ*. However, the actions taken did not result in the mitigation of risk factors or in the implementation of protection detail in favor of the proposed beneficiaries. On the contrary, the available information reveals that the violence in the area has intensified. Particularly in view of the recent armed incursion and the displacement of proposed beneficiaries for safety reasons.

29. In addition to the above, the Commission observes that, in October 2023, the Council of State ordered the National Protection Unit to evaluate the situation of the members of the community council of the Black Community of La Plata Bahía Málaga and to adopt the security measures deemed pertinent. However, to date, allegedly none of the members of the Community Council have individual or collective protection measures in their favor. This is especially concerning, considering that several authorities have recognized that "the protection of this Community Council is an urgent action to prevent illegal armed groups from establishing total control of the Pacific Bonaverense mobility corridor", according to the report prepared by the various authorities present at the humanitarian mission in February 2024. In light of the above, the State's response does not provide information on the possible adoption of specific

²⁰ IACHR. Report on the Situation of Human Rights Defenders and Social Leaders in Colombia. 2019, paras. 42 and 43.

²¹ Ombudsperson's Office of Colombia Early Alert 039. December 4, 2023, p. 49.

measures to protect the proposed beneficiaries. Although internal orders were given to carry out protection measures, the information available indicates that these have not been implemented.

30. With regard to investigations, the Commission observes that the proposed beneficiaries' situation has been communicated to various state entities over time. However, the State has not submitted information in this regard, and the Commission therefore does not have information on the possible identification of those responsible for the threats, harassment, and forced displacements against the proposed beneficiaries. This information is crucial to assess the safety conditions surrounding their situation. This is a relevant aspect at the time of establishing the risk that the proposed beneficiaries allegedly face and the possibilities of repetition, especially when considering that armed groups reportedly continue to operate in the territory of the Community Council. In this regard, it should be noted that, according to available information, a Humanitarian Mission of February 2024 which included an intergovernmental delegation considered that the presence of the illegal armed group constitutes a direct threat to people who exercise community leadership in the area.

31. In sum, taking into account the alleged background and the aforementioned context, assessed as a whole, the Commission considers that the requirement of seriousness is met and that *prima facie* the rights to life and personal integrity of the thirteen proposed beneficiaries are at risk.

32. Regarding the requirement of *urgency*, the Commission notes that it is also met given the imminent materialization of the possible impact on the life and integrity of the thirteen people identified as members of the Community Council of La Plata Bahía Málaga, after the incursion of an illegal armed group into its territory in January 2024 and the continuity of the threats that led to the displacement of social leaders. The IACHR observes that the situation has worsened over time given that the members of the Community Council were recently summoned for a meeting in the illegal armed group. Immediate measures are required in order to prevent new risk events from materializing, even with deadly consequences, and to ensure that the proposed beneficiaries can live in the community in safety.

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

V. BENEFICIARIES

34. The Commission declares that the beneficiaries of this precautionary measure are the following thirteen members of the Community Council of La Plata Bahía Málaga: (1) Saúl Valencia González (legal representative of the Community Council); (2) Isnel Díaz Arboleda (coordinating councilor of the Community Council); (3) Argenis García Valencia (administrative councilor of the Community Council); (4) Rut Valencia Manyoma (secretary councilor of the Community Council); (5) José Simón Gamboa (planning councilor of the Community Council); (6) Mireya Díaz Mosquera (alternate secretary of the Community Council); (7) Neida Molano Díaz (alternate treasurer of the Community Council); (8) Albeiro Palma Moreno (principal observer of the Community Council); (9) Edier Rebolledo Salazar (alternate observer of the Community Council); (10) Hoover Carabalí Playonero (Council of Elders of the Territory); (11) Santiago Valencia González (Council of Elders of the Territory); (12) Ferney Valencia Belalcázar (without specified occupation); and (13) Carlos Andrés Hinojosa Victoria (Council of Elders of the Territory).

VI. DECISION

35. The Inter-American Commission on Human Rights considers that the matter at hand 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 Colombia:

- a) adopt the necessary and culturally appropriate measures to safeguard the life and personal integrity of the beneficiaries. Among other things, it is requested to take the relevant measures to guarantee that they can safely return to their community;
- b) adopt the necessary protection measures so that the beneficiaries can continue carrying out their activities in defense of human rights without being subjected to threats, intimidation, harassment or acts of violence;
- c) consult and agree upon the measures to be adopted with the beneficiaries and/or their representatives; and
- d) report on the actions taken to investigate the alleged facts that gave rise to these precautionary measures, so as to prevent such events from reoccurring.

36. The Commission requests that the State of Colombia inform, within a period of 15 days from the date of this resolution, on the adoption of the precautionary measures requested and to update such information periodically.

37. 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 prejudgment of any violation of the rights protected in the applicable instruments.

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

39. Approved April 8, 2024, Roberta Clarke, President; José Luis Caballero Ochoa, Second Vice-President; Arif Bulkan; and Andrea Pochak; members of the IACHR.

Tania Reneaum Panszi
Executive Secretary