

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 20/2024**

Precautionary Measure No. 887-19

Families of the Nueva Austria del Sira Community regarding Peru

April 10, 2024

(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 considered that the risk factors observed at the time of granting the precautionary measures remain in force, as well as that a situation of risk continues to exist in terms of the requirements of seriousness, urgency, and irreparable harm. Consequently, in accordance with Article 25 of the IACHR Rules of Procedure, the Commission decided as follows:

- a) to continue to monitor the precautionary measures granted in favor of the families of the Nueva Austria del Sira Community in the terms of Resolution 57/2019;
- b) to request the State to reinforce the protection measures adopted and send the requested information, in the terms of this resolution;
- c) to request the representation to provide updated information on the risk situation of the families of the Nueva Austria del Sira Community in the terms of this resolution;
- d) to require that both parties continue carrying out the relevant concerted actions, in order to reach agreements aimed at mitigating the identified risk factors and the protection of the families of the Nueva Austria del Sira Community;
- e) to continue to promote the appropriate follow-up measures in terms of Article 25.10 and other provisions of its Rules of Procedure.

II. BACKGROUND INFORMATION

2. On November 6, 2019, the IACHR decided to grant precautionary measures in favor of the families of the Nueva Austria del Sira Community, in Peru. The request alleged a situation of risk due to the presence of third parties considered “invaders,” who threaten and assault them, within the framework of a process of recognition and titling of their community. Upon analyzing the submissions of fact and law provided by the parties, the Commission required that the State of Peru:

- a) take the necessary measures to protect the rights to life and personal integrity of the families of the Nueva Austria del Sira Community, and to prevent acts of violence by third parties;
- b) adopt culturally appropriate protective measures to protect the life and personal integrity of the families of the identified community;
- c) consult and agree upon the measures to be adopted with the beneficiaries and their representatives;
- d) report on the actions taken to investigate the alleged events that led to the adoption of this precautionary measure, so as to prevent them from reoccurring¹.

¹ IACHR. [Families of the Nueva Austria del Sira Community regarding Peru \(PM-887-19\)](#). Resolution 57/2019 of November 6, 2019.

3. The representation is exercised by María del Mar Pérez Aguilera, from the “National Coordinator of Human Rights” (CNDDHH).

III. SUMMARY OF INFORMATION PROVIDED BY THE PARTIES

4. During the time the precautionary measures were in force, the Commission has followed-up on this situation by requesting information from both parties. In this regard, the Commission has a record of the following communications:

Year	From the State	From the representation	From the IACHR
2019	December 4	No reports submitted	No post-grant communications
2020	No reports submitted	March 10	January 31, October 14
2021	March 21, December 13	No reports submitted	March 8, July 19, October 1 (“WM” working meeting convened)
2022	No reports submitted	January 19 (requests hearing), August 12 (requests WM)	January 26, February 23 (convenes WM), April 25 (agreements WM), October 18 (convenes WM), November 28 (agreements WM)
2023	February 7, May 12 (extension), September 13	No reports submitted	February 28, March 21 (convenes WM), July 12

5. The Commission held working meetings, both face-to-face and virtual, on October 20, 2021 (181 Period of Sessions “PS”); March 25, 2022; November 23, 2022 (185 PS); and April 19, 2023 (186 PS).

A. Information provided by the State

6. On December 4, 2019, the State indicated that, on November 6, 2019, a resolution was issued by the Supranational Specialized Public Prosecutor’s Office (PPEs) to manage compliance with the precautionary measures. The General Directorate of Agriculture of Huánuco (DGAH) scheduled the recognition of the Nueva Austria del Sira Community, noting that there have been conflicts with the community of the Population Center of Paujil that affect the procedure. It also referred to the fact that the General Directorate of Human Rights (DGDH) of the Ministry of Justice and Human Rights (MJDH) conducted an interview with community leaders on October 21, 2019 to evaluate the relevance of a pronouncement. On November 18, 2019, a meeting was held with the representative, where the CNDDHH highlighted the risk of the leaders of the beneficiary community.

7. By report of March 21, 2021, measures adopted on the occasion of the National Emergency situation for the prevention of the spread of COVID-19 were detailed. The State highlighted again that the Provincial Subprefecture of Puerto Inca issued six resolutions in which it granted personal guarantees in favor of Germán López Ballesteros, Polico Díaz Sambache, Edilberto Pizango Sánchez, Augusto Rancis Anacina, Antonio Ruiz Simón and Damián Sambache Vásquez, all issued on September 23, 2019, except Germán López, issued on February 5, 2021. Likewise, it reported that the DGDH issued Directorial Resolution No. 002-2020-JUS/DGDH of March 6, 2020, activating the “Protocol for the protection of human rights defenders,” which generated an early warning in favor of the Community of Nueva Austria del Sira, with the following actions:

“- Urgent protection action: the timely police protection of the members and leaders of the Nueva Austria community, in accordance with and complementary to those previously granted by other entities.

-Protection action: legal assistance to accompany the investigations initiated regarding the attacks against members of the community that occurred during 2019;

-Protection action: public visits to Puerto Inca to raise awareness among local authorities about the role of environmental human rights defenders and indigenous peoples' rights, articulating efforts with other sectors."

8. Regarding the urgent police protection action, the State indicated that, despite the limitations due to the state of emergency, the lack of access to the area and the scarce police presence, they have achieved a rapprochement with the community through the implementation of neighborhood boards and training to prevent acts of violence, as well as that a risk assessment of the area was being carried out by the Intelligence Division of the Police Front of Puerto Inca (FPPI). On January 28, 2021, a meeting was held with the representation, where it was agreed to coordinate a meeting with the Ministry of Interior to report on the measures taken to provide police protection to the community.

9. Regarding legal assistance, meetings were reported with officials of the General Directorate of Public Defense and Access to Justice (DGDPJA), in order to know the status of investigations and judicial processes. The public defenders exposed the legal strategy to provide support to the Public Ministry and avoid the filing of cases. Regarding the public visit to Puerto Inca to raise awareness among local authorities about the role of human rights defenders, the State claimed it could not be carried out due to the pandemic.

10. By communication of December 13, 2021, the State reiterated previously reported actions and indicated that, on July 9, 2021, the Ministry of the Interior reported that it maintains constant communication with the beneficiaries, as well as with the responsible authorities. It was pointed out that within the framework of the now called "Intersectoral Mechanism for the Protection of Human Rights Defenders" (Intersectoral Mechanism), the MJDH has coordinated with the Public Ministry the creation of a commission to propose strategies for the protection of defenders. It also indicated that a meeting was held with authorities in Ucayali and Huánuco on May 14, 2021, to seek the protection of defenders in the region. In that opportunity, they established a focal point of the MJDH to have an immediate response with indigenous organizations and as a facilitator of the Intersectoral Mechanism.

11. It was indicated that on July 9, 2021, the extension of the six personal guarantees issued at the regional level for the 14 families of the community was managed. They reported that the Subprefect of Huánuco personally went to the community to coordinate the extension, who responded that when they considered it necessary they will require guarantees on the families, but requesting possessory guarantees of their lands and recognition of their lands. Coordination actions were made with the Regional Directorates of Agriculture and the Directorate of Native Communities for these issues, but they also coordinated with a Colonel, Head of the FPPI for surveillance and protection of the community.

12. In the report of February 7, 2023, it was informed that on March 18, 2022, a conciliation meeting was held within the framework of the Intersectoral Mechanism, where the following agreements were reached: i) to carry out a monthly patrol, in an unexpected way; ii) to establish an emergency contact, being the Commander L.A.C.B.; iii) to prepare a report on the illicit activities that take place in communal territory. The Public Defender undertook to send a quarterly report on the status of the proceedings and to send a copy of the relevant procedural pieces. Finally, it was agreed to hold quarterly coordination meetings.

13. According to that State's communication, on August 18, 2022 and September 14, 2022, the authorities held follow-up meetings, where issues on supervision of the notarial function and granting of possessory guarantees were discussed. In this regard, the State alleged that "the supervision of the notarial function or the granting of possessory guarantees are not obligations derived from this precautionary measure, but actions that can be addressed within the framework of the aforementioned intersectoral mechanism." For its part, the PPES held an additional consultation meeting with the representation on May 30, 2022 to learn about the situation of the beneficiaries.

14. Regarding police interventions, it was reported that on August 12, 2022, a Lieutenant of the Peruvian National Police (PNP) was constituted, with 10 non-commissioned officers, before the president of

the community to collect information on illegal activities in the community and to verify damage to the territory. On October 7, 2022, a PNP General with 4 officers and 7 non-commissioned officers aboard a helicopter went to the community and held a meeting with leaders, urging them to approach the PNP Puerto Inca Police Station when their rights are violated and the availability of personnel for patrols was reported. On October 29, 2022, a preventive patrol flight was carried out in the area.

15. The State recalled Directorial Resolution No. 002-2020-JUS/DGDH that declared the alert appropriate for the risk situations faced by the Nueva Austria del Sira Community. Consequently, the Head of the FPPI issued “Operation Order No. 002-2022 Protection of Families of Cc.Nn. Nueva Austria Del Sira” (order of operations) by means of which security and protection measures are provided with days and hours to be defined, as well as including the work plan of monthly visits and patrols, its execution being subject to personnel, logistics, weather and others.

16. On the other hand, the State listed some requirements made by the representation: annulment of titles through review of degree files by the Office of the Comptroller of the Republic; access to satellite internet with solar panel; monitoring of forests and filing of environmental legal actions; adequate investigation of attacks against beneficiaries; participation of the community in proceedings for environmental crime; expansion of investigation for corruption of officials; and, individual certification audit. In this regard, the State required that the IACHR determine the relevance of the said requests, referring to cases of inadmissibility of precautionary measures within the framework of Resolution 3/2018 issued by the IACHR.² In any case, it was reported that the requests were transferred to competent authorities and that their relevance is evaluated by the Prosecutor’s Office. For its part, the Institutional Control Body of the Government of Huánuco indicated that it has no operational capacity for an audit of individual degrees carried out and recommended channeling the order through the Sub-Management of Control of the Agriculture and Environment Sector of the Management of Control of Basic Public Services of the Comptroller General of the Republic or through the Ministry of Agricultural Development and Irrigation.

17. Similarly, the State reported that during the third quarter of 2022, the Headquarters of the El Sira Communal Reserve carried out 36 routine patrols, 20 special patrols, 13 patrols with communal surveillance, 2 patrols for intervention purposes and 2 overflights. In addition, it was indicated that at that time there was no illegal mining activity in the El Sira Communal Reserve, having been recovered 78 hectares that had been affected. The State requested the IACHR to determine the relevance or otherwise of the requests.

18. The State submitted a report on September 13, 2023. It was specified that, as a precedent to Directorial Resolution No. 02-2020-JUS/DGDH, the Directorate of Human Rights Policies and Management (DPGDH), the MJDH issued a report on March 6, 2020 with a risk analysis where it identified as risk factors “illegal mining, illegal logging, the presence of settlers in the communal territory and previous attacks against community leaders,” resulting in a high level of risk. It was indicated that the commitments assumed at the March 2022 conciliation meeting constitute the “Nueva Austria del Sira Plan.” Likewise, with regard to a plan to mitigate risks, it was reported that an action plan as such has not been foreseen, but that the issues are addressed in it, through which the authorities assume commitments in order to mitigate sources of risk. The State stated that it considers it relevant to determine the current level of risk of the families of the native community in order to reinforce or improve the measures. However, it also referred to a request for the representation of a new risk analysis at the conciliation meeting of April 17, 2023, on which the DPGDH determined on August 7, 2023 that “from the analysis of the context and the particular situation of the members of the community, a new risk analysis is not required”, since a permanent monitoring of risk situations is carried out, through which the DPGDH becomes aware of possible risk situations and can coordinate with the competent entities or bodies.

² The State referred to the following: “i) alleged lack of due process and judicial protection within the framework of criminal or civil proceedings [...] vi) requests for resources or economic support; and vii) purely administrative procedures.”

19. In relation to the monthly patrol, it was reported that “the social and political context that the country has been experiencing since the end of 2022,” together with climate changes and heavy rains in the region, have demanded the attention of the PNP, which limited the continuity of the scheduled patrols. It was reported that on July 25 and 26, 2023, the Public Ministry visited the community with various prosecutors’ offices, along with the Navy and the National Service of Protected Areas with a commission of 14 people. During the visit, they met with Apu Polico Díaz and his wife, who indicated that threats to the leaders continue to be made by people who carry out illegal mining, illegal logging and land trafficking activities. The Prosecutor in charge of the diligence carried out a tour on a 2-hectare plot where “apparently natural resources were extracted with the use of industrial machinery.” Finally, the community leader was asked to file his formal complaint about the threats. In turn, the FPPI made arrangements to request an aircraft and expressed willingness to carry out ground patrols.

20. It was reported that on August 17, 2023, a delegation of 14 officials from the Public Ministry and the PNP were again constituted in the beneficiary community, where they carried out a police patrol and an interview with the leader Polico Díaz, who reported that the lands of the community have been taken by unknown people, which has caused that 20 community members, men, women and children, have had to leave their lands. From the above, a tax certificate was drawn up and the community members were made aware of their rights and the support of the PNP.

21. On the other hand, it was noted that the Intersectoral Mechanism held three regional roundtables for the protection of human rights defenders in 2022: in Ucayali, San Martín and Madre de Dios. It was indicated that, according to the competent jurisdiction, native communities can submit applications and expose the situation of their territories and threats or risks they present.

22. Lastly, the State updated, in its various communications, on the investigations for acts against the community, two are on file, corresponding to attempted homicide and kidnapping. In fiscal folder 2019-270, the investigation is at an intermediate stage and an accusatory request has been filed against C.K.P.C. for environmental crime. Regarding the investigation 66-2019 on organized crime against 221 people for “money laundering, organized crime and others,” it was reported that the competent Prosecutor’s Office determined that on “the property titles improperly granted, [...] the said properties are not within the urban radius of the city and are not related to any territory of any populated center and/or native community.” Likewise, it was reported that on an investigation by folder 27-2020 against officials and public servants of the Directorate of Agriculture for having granted family and third parties properties and, subsequently, selling them generating an increase in assets. It was noted that it is not clear whether the properties are in the beneficiary community or in nearby areas. The State reported that the Attorney General has promoted that, in the proceedings before the inter-American system, the State’s obligation to investigate with due diligence and include an intercultural approach be reinforced.

B. Information provided by the representation

23. The representation submitted a report on March 10, 2020, recognizing a positive intermediation of the SSPP between the beneficiaries and local authorities, as well as Directorial Resolution 20-2020-JUS/DGDH, within the framework of the Protocol for the Protection of Defenders, which recognizes the risk situation in which the families of the Nueva Austria del Sira Community find themselves, and a series of protection measures are provided. Regarding the investigation of the cases of Mr. Juan López Shamiguiri, Germán López and the events that occurred on September 9, 2019 (kidnapping of Polico Díaz), they reported that there is no progress in the clarification of the facts or in the identification of those responsible. They added that attacks against the community members have continued.

24. It was indicated that an articulation with the Second Provincial Corporate Prosecutor’s Office Specialized in Environmental Matters of Ucayali allowed to organize the participation of two witnesses in an investigation that was carried out within the framework of an investigation for the logging of six hectares of communal territory, but this investigation is insufficient in the face of the magnitude of deforestation that

already affects the community. Regarding deforestation, it was indicated that, when dealing with the devastation of forests, Community leaders most exposed their integrity and requested joint intervention from the authorities to resolve the situation. They point out the need for the intervention of the authorities.

25. In addition, they claim that the Regional Directorate of Agriculture of Huánuco (DRAH) has continued to give public support to the people who have invaded and are deforesting communal territories, including the development of illegal crops. In this regard, they stated that the DRAH has met twice with the settlers in the area and that the Regional Government demands that the community reach an agreement with the people who are devastating their territory as a condition to continue with the procedures for the recognition of the community. This conditioning is highlighted by the relationship between the defense of communal territory and the attacks suffered by indigenous leaders. In the case of community leaders who have resolutions granting personal guarantees, the representatives report that there has been no action for their effective implementation and that attacks against the community members have continued.

26. The representation filed a brief on February 3, 2022, indicating that they sent a communication to the PPEs with the proposed protection measures, but received no response. At the same time, concern was expressed about the change of regime of the Protection Protocol for a Multisectoral Mechanism for the Protection of Defenders, where the applicable regime to requests already granted was not clear.

27. In a communication dated August 12, 2022, they stated the following: the conciliation meeting agreed for June 2022 with the Intersectoral Mechanism has not been held; the monthly police patrols and the preparation of the report on illicit activities have not been complied with; there is no progress in the investigation of the facts that gave rise to the precautionary measure, including the aggressions against community members, the dispossession, depredation of the territory and alleged corruption of officials that allowed the situation; and the entry and positioning of external people into the communal territory that destroy the forest and affect the traditional path continues, which means that the beneficiary population must travel on a reduced path.

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

28. 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 functions are provided for in Article 41(b) of the American Convention on Human Rights, as well as in Article 18(b) of the Statute of the IACHR. Moreover, the precautionary measures mechanism is enshrined in Article 25 of the Rules of Procedure. In accordance with this Article, the IACHR grants precautionary measures in urgent and serious situations in which these measures are necessary to avoid irreparable harm to persons or to the subject matter of a petition or case before the organs of the inter-American system.

29. 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.³ Regarding the protective nature, these measures seek to avoid irreparable harm and preserve the exercise of human rights.⁴ To do this, the IACHR shall assess the

³ See in this regard: I/A Court H.R. [Matter of the Yare I and Yare II Capital Region Penitentiary Center](#). Request for Provisional Measures submitted by the IACHR regarding the Bolivarian Republic of Venezuela, Order of the Inter-American Court of Human Rights of March 30, 2006, considerandum 5; I/A Court H.R. [Case of Carpio Nicolle et al. v. Guatemala](#). Provisional Measures, Order of July 6, 2009, considerandum 16.

⁴ 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.

problem raised, the effectiveness of state actions to address the situation described, and the vulnerability to which the persons proposed as beneficiaries would be exposed if the measures are not adopted.⁵ Regarding their precautionary nature, these measures have the purpose of preserving a legal situation while under consideration by the organs of the inter-American system. They aim to safeguard the rights at risk until the petition pending before the inter-American system is resolved. Their object and purpose are to ensure the integrity and effectiveness of an eventual decision on the merits and, thus, avoid any further infringement of the rights at issue, a situation that may adversely affect the useful effect (*effet utile*) of the final decision. In this regard, precautionary or provisional measures enable the State concerned to comply with the final decision and, if necessary, to implement the ordered reparations. In the process of reaching a decision, according to Article 25(2) of its Rules of Procedure, the Commission considers that:

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

30. In this regard, in analyzing those requirements, the Commission recalls that the facts supporting a request for precautionary measures need not be proven beyond doubt; rather, the purpose of the assessment of the information provided should be to determine *prima facie* if a serious and urgent situation exists. Likewise, in this procedure it is not appropriate to determine whether violations of due process and judicial guarantees have taken place within the framework of the cases pursued at the initiative of the beneficiaries or against them, or whether violations of human rights contained in the applicable international instruments were presented, which is a matter of the Petition and Case System, should the applicable procedural requirements be present. The Commission establishes that it will only analyze compliance with the requirements of Article 25 of its Rules of Procedure.

31. 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. Furthermore, it shall consider whether there are new situations that may comply with the requirements outlined in Article 25 of its Rules of Procedure. Similarly, Article 25.10 of the Rules of Procedure 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. Through Resolution 2/2020 of April 15, 2020, the IACHR ruled on the possibility of issuing Follow-up Resolutions.

32. On this occasion, and after holding several working meetings, the Commission decides to issue a follow-up resolution, considering the State’s request for pronouncement on divergent issues and the challenges observed in implementation. In the first section, the Commission will refer to the implementation of these precautionary measures and the continuity of the risk. Subsequently, it will address the issues raised by the State regarding the scope of these precautionary measures.

⁵ 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; 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 concerning Brazil, Order of the Inter-American Court of Human Rights of February 13, 2017, considerandum 6.

- **Implementation of precautionary measures and the continuity of the risk**

33. The Commission positively values the immediate action of the State to comply with the precautionary measures by means of the PPES Resolution of November 6, 2019. In this sense, personal guarantees were adopted in favor of Germán López Ballesteros, Polico Díaz Sambache, Edilberto Pizango Sánchez, Augusto Rancis Anacina, Antonio Ruiz Simón and Damián Sambache Vásquez. Likewise, subsequently, Directorial Resolution No. 002/2020-JUS/DGDH of March 6, 2020 within the framework of the Protocol for the Protection of Human Rights Defenders, which activated a Community Early Warning.

34. Likewise, at the meeting of March 18, 2022, agreements were reached under the “Nueva Austria del Sira Plan.” The agreements consisted of the following points: i) Monthly, unannounced patrol; ii) emergency contact; iii) prepare a report on the illicit activities that take place in communal territory; iv) the Public Defense will send a quarterly report on the status of the processes and copy of the relevant procedural pieces; and iv) quarterly coordination meetings. In light of the information available, the Commission understands the following:

- Regarding the *monthly patrols*, it is noted that these are intended to provide security to the community and are essential to protect the beneficiaries from third parties in the territory, as well as to address possible illegal activities in the area. State reports show that there was police presence in the territory on August 2, October 7 and 29, 2022; July 25 and 26, August 17, 2023. Similarly, although the “operations order” of the Head of the FPPI reportedly includes security and protection measures with days and hours to be defined, as well as the work plan for monthly visits and patrols, there is no specific information on its content or on the level of compliance with it.

The Commission acknowledges state efforts and takes note of reported challenges. It also calls on the State to include in its next reports the dates of each month in which patrols have been carried out in the community, including the personnel and secondment unit that participates, the activities carried out and the results obtained, as well as the events recorded. The Commission considers it important to include the work plan for the following months, including dates, personnel, activities to be carried out and objectives to be met. In addition to the above, the Commission appreciates that the State can inform how the patrols relate to the personal guarantees granted to specific people in the community. These elements will allow the Commission to assess, in their entirety, the security measures implemented to date and in the future.

- In relation to the *emergency contact*, the Commission acknowledges that it has already been informed and requests both parties to report on the validity of the said focal point.
- On the *reports on illicit activities and the status of the processes*, the Commission does not have elements to assess whether such reports were actually prepared and shared with the representation and beneficiaries in the terms agreed internally. The Commission considers that this information can be included in the framework of this procedure for the corresponding assessments. Notwithstanding this, the available information reveals that the State has reported on the filing of two investigations for attempted homicide and kidnapping, and the continuation of an investigation into environmental crimes. It also highlighted the existence of an investigation into organized crime due to improperly granted property titles, and another investigation against public officials who allegedly granted titles to third parties and family members.
- On the subject of the *investigations*, the Commission notes that the State adopted a series of measures regarding which it would be relevant to have more information. Among these measures, the following stand out: the creation of a Commission with the Public Prosecutor’s Office to propose strategies for the protection of defenders within the framework of the Intersectoral

Mechanism; the action of the Public Defender's Office in this matter and around the alleged risk events; and the impulses of the Attorney General's Office to reinforce the obligation to investigate with due diligence and an intercultural approach in those matters before the inter-American system. In particular, the Commission considers it important to know how such measures are impacting security in the area. The foregoing, given that, according to the information available, the beneficiaries have continued to inform about their situation of risk before groups of State officials, including the Public Prosecutor's Office, on visits on July 25 and 26 and August 17, 2023. Without prejudice to the actions taken by the Public Prosecutor's Office upon becoming aware of the reported risk situations, the Commission recalls that it is important that the beneficiaries continue to file the relevant complaints with the competent authorities.

- Regarding the *spaces for consultation and coordination*, the Commission notes that meetings have taken place between the representatives and beneficiaries and authorities on November 18, 2019; January 28, 2021; March 18 and 22, May 30, and September 14, 2022; as well as on April 17, 2023. It is also identified that there are spaces for inter-institutional coordination.

The IACHR positively values the spaces for direct dialogue between the parties and recalls the importance of continuing with the "dialogue to favor a real coordination of the implementation of the measures, in order to reasonably overcome the inconveniences that arise, and thus make effective the State's obligations of protection."⁶

35. Although the actions taken in the framework of the implementation of these precautionary measures are taken into account, the Commission understands that the situation of risk, analyzed in the terms of Article 25 of the Rules of Procedure, remains in force. To reach this determination, the Commission finds that the State itself has informed on the continuity of reports of events of particular concern that occurred recently. In that sense, in 2020, the State assessed that "illegal mining, illegal logging, the presence of settlers in the communal territory and previous attacks against community leaders" are risk factors; in a July 2023 visit of an inter-institutional delegation to the community, including the Public Ministry, beneficiaries informed them about the continuity of threats by people who carry out illegal mining, illegal logging and land trafficking; and in another delegation in August 2023, with officials of the Public Ministry and the National Police of Peru, beneficiaries continued to point out the presence of unknown persons who seized community land, which caused 20 beneficiaries to leave their lands. In the same sense, the representation has alerted about the continuity of the risk situation.

36. The Commission recalls what the Inter-American Court indicated regarding the adequacy of the protection measures, which must be in accordance with the functions of the people, the level of risk is subject to an evaluation in order to adopt and monitor the measures that are in force and must be able to be modified according to the variation of the intensity of risk.⁷ In this regard, the risk assessment is the means by which the State may identify the most suitable and effective measures or "the most appropriate mechanisms to comply with the measures dictated by the organs of the inter-American system,"⁸ which corresponds to the State through its national mechanisms for the protection of persons at risk.⁹ In this regard, considering the temporary and provisional nature of the protection measures, it is important to update the risk assessments, which may result in a more moderate level than the initial one, resulting in the adjustment of the components of the security plan.¹⁰ In addition, when a risk assessment contradicts the perception of the beneficiaries, the

⁶ *Inter alia*, I/A Court H.R. [Matter of Castro Rodríguez regarding Mexico. Provisional Measures. Order of the Inter-American Court of Human Rights of November 18, 2020.](#)

⁷ I/A Court H.R. [Case of Human Rights Defender et al. v. Guatemala](#). Preliminary Objections, Merits, Reparations, and Costs. Judgment of August 28, 2014. Series C No. 283, Considerandum 157; See, also: IACHR. [Northern Central America Environmental defenders](#). December 16, 2022. OEA/Ser.L/V/II. Doc400/22, para. 217

⁸ IACHR. [Towards Effective Integral Protection Policies for Human Rights Defenders](#). 333; IACHR. [Second report on the situation of human rights defenders in the Americas](#), paras. 456-460.

⁹ IACHR. [Towards Effective Integral Protection Policies for Human Rights Defenders](#). December 29, 2017, OEA/Ser.L/V/II. Doc. 207/17, paras. 263, 264, 281, 299 et al.

¹⁰ IACHR. [Towards Effective Integral Protection Policies for Human Rights Defenders](#), paras. 321-234.

authorities must receive information from the beneficiaries and their representatives on the reasons why they consider there is a risk.¹¹ Thus, considering that “if the conditions of risk to life and integrity do not subsist, neither do the reasons to keep them in force,” it is necessary for the States to carry out a risk assessment to decide on the permanence of the protection measures.¹²

37. The Commission requests the State of Peru, and all its competent national institutions, to adopt all necessary measures as a matter of urgency to protect the rights of the families of the Nueva Austria del Sira Community. In addition to continuing to implement the previously agreed measures, the Commission believes that having an updated risk analysis of the risk factors will allow the State to organize and define in a coordinated manner the measures that are necessary for the protection of people, either by maintaining some or reinforcing others. The State has been acting in this regard throughout the duration of the precautionary measures. For example, the State reported that there was a risk analysis from March 2020 that determined a high risk. Subsequently, in 2021, the State indicated that it was carrying out a risk assessment of the area by the Intelligence Division of the Police Front of Puerto Inca (FPPI). However, the outcome of this was not reported to the Commission. More recently, in response to a request from the community on April 17, 2023 to carry out a new risk analysis, the DGPDH determined on August 7, 2023 that “from the analysis of the context and the particular situation of the members of the community, a new risk analysis is not required,” having referred in turn to the resolution of March 6, 2020 of the DGPDH as a risk analysis. With this regard, the Commission observes that the State is reportedly adopting actions based on a 2020 risk analysis, approximately 4 years old.

38. Adding to the time elapsed and the continuity of third parties in the territory of the community, together with allegations of risk of beneficiaries, and at the express request of the beneficiaries, the Commission assesses that the risk analysis must be updated to guarantee effective and appropriate protection to the current situation. In preparing the updated risk analysis, the Commission deems it important that the State include, at least, the following information: (i) the pending report on illicit activities in the territory; (ii) a census of the current population of the community and displaced persons; (iii) the impact on the beneficiaries of the community resulting from the illicit activities that are detected; (iv) risk facts that have taken place against the beneficiaries of the community and their impact on the community; (v) current status of investigations for acts of violence against the community; and (vi) current status of progress in the processes of recognition and titling of the community, while the risk facts have been linked to the continuity of the same.

39. Finally, the Commission calls on the parties to continue implementing the precautionary measures in the terms of the granting resolution and this resolution. The continued participation of the representation and the beneficiaries is essential to achieve their effective protection. In this regard, both parties must continue to inform the Commission in detail, keeping it updated on the corresponding progress.

- **Scope of these precautionary measures**

40. As a background, the Commission recalls the requests made by the Commission at the time of granting the precautionary measures. At the time, it was provided: a) the protection of the rights to life and personal integrity of the families of the Nueva Austria del Sira Community, and to avoid acts of violence by third parties; b) that the measures be culturally appropriate to protect the life and personal integrity of the families of the identified community; c) the agreement of the measures to be adopted with the beneficiaries and their

¹¹ IACHR. [Towards Effective Integral Protection Policies for Human Rights Defenders](#), para. 325.

¹² IACHR. [Eduardo Valencia Castellanos \(PM-519-17\)](#). Lifting resolution 9/24 of March 6, 2024, para. [Second Report on the Situation of Human Rights Defenders in the Americas](#), December 31, 2011. OEA/Ser.L/V/II. Doc. 66, paras. 529 and 531. For its part, the Inter-American Court has ordered the carrying out of risk assessments at the domestic level on different occasions. [Matter of Castro Rodríguez regarding Mexico. Provisional Measures. Order of the Inter-American Court of Human Rights of November 18, 2020](#), considerandum 14; I/A Court H.R Matter of Castro Rodríguez regarding Mexico. Provisional Measures. [Order of the Inter-American Court of Human Rights of June 23, 2015](#), considerandum 18; [Order of the Inter-American Court of Human Rights of November 14, 2017](#), considerandum 10; [Order of the Inter-American Court of Human Rights of November 18, 2020](#), considerandum 14.

representatives; and d) report on the actions implemented to investigate the events that led to the adoption of this precautionary measure, so as to prevent them from reoccurring.

41. In arriving at such requests, the Commission took into account various risk factors. Among them, the Commission identified as a potentially vulnerable situation the lack of legal certainty around the ownership of their land and related issues, which purportedly led to the presence of third parties since at least 2006, who were said to directly affect the rights to life and personal integrity of the beneficiaries, at the same time advancing judicial actions through which they achieved in 2016 the annulment of the legal personality of the community.¹³ As a consequence, it was observed that up to 60% of the territory claimed by the community would be in the hands of third parties, which would generate an environment of conflict.¹⁴ In this context, threats, harassment and attacks against the community were highlighted, which led to displacements that reduced the community to 14 families. For that time, the Commission considered the level of violence recorded in July and September 2019.¹⁵ Regarding “the actions carried out by the community to achieve its recognition and the titling of its territory,” the Commission estimated that “while there are pending proceedings to be carried out to date, new risk events are likely to occur.”¹⁶

42. Having established the foregoing, the IACHR notes that, in the instant matter, the State requested a pronouncement on various issues based on the proposals made by the representation and beneficiaries. Among these topics, the Commission identifies the following:

- *Group 1. Issues on the legal certainty of the territory:* the supervision of the notarial function or the granting of possessory guarantees; the annulment of titles by means of a review of degree files by the Comptroller of the Republic; and an audit on an individual basis.
- *Group 2. Investigation issues:* forest monitoring and environmental legal action; proper investigation of attacks against beneficiaries; expanded investigation for corruption of officials; and community involvement in environmental crime proceedings.
- *Group 3. Other issues:* access to satellite internet with solar panel.

43. Regarding *Group 1* issues, the Commission considers that they are aimed at obtaining legal certainty regarding land ownership. Therefore, they reflect the validity of the community’s claim regarding the process of recognition as a community and the eventual titling of its territory. In this regard, the Commission recalls, again, that it valued such issues as part of the context generating the atmosphere of conflict and stressed that while there are pending proceedings to be carried out, the risk situation is likely to continue. The Commission notes that the State has indicated that it has carried out inter-institutional coordination. However, there is no greater detail of the effects of these coordination actions, in addition to the fact that some of the institutions have indicated that they do not have the capacity to address the issue. The Commission requests the State to report on the result of such coordination.

44. The Commission again indicates that, in this proceeding, it is not responsible for making a determination on the ownership of the land, nor for reviewing the processes that are initiated for this reason. Nor is it appropriate to carry out an analysis of compatibility between those acted upon internally in light of the American Convention and the applicable standards. In the matter at hand, the Commission understands that the process of recognition of the community continues to be pending a decision at the internal level before the competent authorities of the State. It is within the framework of this process, and before its progress and setbacks, that the Commission has understood that the facts of risk have been presented, including an attempt to murder, kidnappings, assaults, and threats of disappearance, among others. Therefore, for the Commission, the claims of the representation must be channeled internally, according to Peruvian institutionality and its

¹³ IACHR. [Families of the Nueva Austria del Sira Community regarding Peru \(PM-887-19\)](#), para. 29.

¹⁴ IACHR. [Families of the Nueva Austria del Sira Community regarding Peru \(PM-887-19\)](#), para. 29.

¹⁵ IACHR. [Families of the Nueva Austria del Sira Community regarding Peru \(PM-887-19\)](#), para. 30.

¹⁶ IACHR. [Families of the Nueva Austria del Sira Community regarding Peru \(PM-887-19\)](#), para. 33.

applicable internal regulations, with a view to the State being able to give due response to them. The Commission understands that some of them will require administrative and judicial review, as they would impact the rights of third parties. If the impulse of the representation and the beneficiaries with the presentation of domestic remedies is necessary, the Commission understands that it may be a point to be addressed in the open spaces for consultation between the parties, or within the framework of the Intersectoral Mechanism, as the State indicated.

45. Consequently, the topics that make up *Group 1* are central to this matter. The Commission understands that its attention is important to mitigate the origin of the risk and calls on the State to ensure that the competent authorities in the matter carry out the actions and procedures that are relevant within the scope of their competences, considering the existence of the risk and the purpose of avoiding its continuity and repetition within the framework of the existing community recognition process.

46. Regarding *Group 2* issues, the Commission recalls the State's obligation to promote the necessary investigations to clarify the facts and, where appropriate, sanction those responsible. In this regard, although it is not appropriate in the scope of precautionary measures to carry out a compatibility analysis in light of the American Convention and applicable standards, the Commission emphasizes that the investigations, in relation to harassment, threats and other acts of violence against the beneficiaries, are aimed at mitigating the risk.¹⁷ Consequently, the Commission calls on the State to take the necessary legal actions to avoid impunity and the repetition of the events by promoting the corresponding investigations. Regarding the issue of participation of the beneficiaries, the Commission is aware that the Directorial Resolution of March 6, 2020 provides for the Public Defense to provide "legal assistance" to accompany the investigations initiated. In this sense, it calls for the continuation of its support to the beneficiaries within the framework of the ongoing processes or others to be initiated. In that continuity, the Commission considers it essential that the Public Defense keep the beneficiaries informed about the actions it takes in their favor.

47. Finally, in relation to the topics of *Group 3*, the Commission is unclear about the purpose and objective of the proposal. Although it can be understood that it could be related to seeking better communication platforms to eventually warn of risk situations, the Commission has no elements for its consideration, insofar as no concrete facts have been reported with telephone communication problems. Given this situation, the Commission considers that this proposal could be addressed within the framework of the following risk analysis or in the consultation spaces currently open to evaluate whether they add to the safety and protection of the beneficiaries of the Nueva Austria del Sira Community.

48. As previously indicated, the Commission recognizes the concerted efforts between the parties and calls on them to continue these. The spaces for internal dialogue can be useful to know the needs of the beneficiary community, as well as to define the institutional channels conducive and, where appropriate, coordinate the relevant attention with the competent authorities. At the same time, the Commission reiterates the importance that the measures implemented be culturally appropriate for the protection of the rights of the beneficiaries of the identified community.

V. DECISION

49. The Inter-American Commission on Human Rights considers that a situation of risk remains in force in this matter, as the requirements of seriousness, urgency and irreparable harm contained in Article 25 of its Rules of Procedure are *prima facie* present in relation to the families of the Nueva Austria del Sira Community, in the terms indicated throughout this resolution. Accordingly, it decides as follows:

- a) to continue to monitor the precautionary measures granted in favor of the families of the Nueva Austria del Sira Community in the terms of Resolution 57/2019;

¹⁷ I/A Court H.R., [Matter of Salas Arenas et al. regarding Peru](#). Adoption of Provisional Measures. Order of the Inter-American Court of Human Rights of September 4, 2023, para. 67.

- b) to request the State to reinforce the protection measures adopted and send the requested information, in the terms of this resolution;
- c) to request the representation to provide updated information on the risk situation of the families of the Nueva Austria del Sira Community in the terms of this resolution;
- d) to require that both parties continue carrying out the relevant concerted actions, in order to reach agreements aimed at mitigating the identified risk factors and the protection of the families of the Nueva Austria del Sira Community;
- e) to continue to promote the appropriate follow-up measures in terms of Article 25.10 and other provisions of its Rules of Procedure.

50. The Commission requests the State of Peru and the representatives to provide within 90 days of this resolution the information that has been required in section IV of this resolution, as well as to send periodic information on the situation of risk and the state of implementation of the precautionary measures.

51. The Commission instructs its Executive Secretariat to notify this resolution to the State of Peru and the representatives.

52. Approved on April 10, 2024, by Roberta Clarke, President; Carlos Bernal Pulido, First Vice-President; José Luis Caballero Ochoa, Second Vice-President; Edgar Stuardo Ralón Orellana; Arif Bulkan; and Andrea Pochak, members of the IACHR.

Tania Reneaum Panszi
Executive Secretary