

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION 7/2013**

Matter of Lorenzo Santos Torres and his family regarding México  
PRECAUTIONARY MEASURE No. 338-13  
November 8, 2013

**I. INTRODUCTION**

1. On October 7, 2013, the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission", "the Commission" or "IACHR") received a request for precautionary measures submitted by the "Human Rights and Indigenous Peoples Advisory Center A.C." (hereinafter "the petitioners"), requiring that the State of Mexico (hereinafter "Mexico" or "the State") protect the life and physical integrity of Lorenzo Santos Torres, who is an indigenous Mixtec leader in the Community of Santiago Amoltepec, State of Oaxaca, and his family (hereinafter "the proposed beneficiaries"). According to the request, the life and physical integrity of Lorenzo Santos Torres and his family are at risk, in the context of a social and agrarian conflict in Santiago Amoltepec. On October 24, 2013, the Commission requested information from the State, which submitted its report on October 29, 2013. The petitioners provided additional information on October 29 and 31, 2013.

2. After analyzing the factual and legal arguments presented by both parties, the Commission considers that the information presented shows *prima facie* that Lorenzo Santos Torres and his family are in a serious and urgent situation, as their lives and physical integrity are threatened and at severe risk. Consequently, in accordance with Article 25 of its Rules of Procedure, the Commission requests that the State of Mexico: a) adopt the necessary measures to guarantee the life and physical integrity of Lorenzo Santos Torres and his family; b) agree on the measures to be adopted with the beneficiaries and their representatives; and c) report on the actions taken to investigate the facts that gave rise to the precautionary measures, in order to prevent future incidents.

**II. SUMMARY ALLEGATIONS PROVIDED BY THE APPLICANTS**

3. According to the precautionary measures request and subsequent communications, Lorenzo Santos Torres is a Mixtec Indian, who held various positions in his community, Yucunama Santiago Amoltepec, Sola de Vega, Oaxaca. According to the petitioners, the proposed beneficiary was Mayor of Santiago Amoltepec, and is owner of a grocery store in the center of Santiago Amoltepec. The petitioner has made the following allegations:

a) In 2012, the Mayor of Santiago Amoltepec, Luis Jimenez Mata, was allegedly assassinated. According to the petitioners, the aforementioned situation -an alleged agrarian problem and conflict relating to the designation of the person to replace the Mayor of Santiago Amoltepec- increased polarized positions in the community. In this context, there were several clashes between rival groups, acts of violence and various accusations, including the killing of Luis Jimenez Mata. It is alleged that the proposed beneficiary received death threats because of his position on the conflict.

b) Regarding his risk situation, they indicate that: i) on September 10, 2013, the son of the proposed beneficiary, Jonatán Eruviel Santos Girón, was allegedly killed. According to the petitioners, the child died due to a bullet impact in his head, while he was on the roof of his home. The petitioners allege that a paramilitary group and individuals from the Municipal Police of Santiago Amoltepec were involved in this event; ii) on October 3, 2013, the proposed beneficiary was intercepted by two strangers, near his home. They threatened him with a firearm and shouted: "son of a bitch, we know you went to Oaxaca and Tlaxiaco with human rights and you are fucked"; iii) on October 15, 2013, two people approached the proposed beneficiary saying: "be careful because we know he wants to kill you and [...] hire[d] two gunmen to kill you and your family and that there are government people who agree with him"; iv) on October 31, 2013, Mr. Lorenzo Santos Torres was attacked by unknown persons, who allegedly fired several shots at him, and is now currently in hospital.

c) The petitioners claim that, despite having sought protection from various authorities, "so far there has been no response." In this regard, it is stated that the relevant authorities ordered the provision of information on "self-defense techniques" and a phone number in case of emergency, but allegedly these have not been implemented.

### **III. SUMMARY OF ALLEGATIONS BY THE STATE**

4. The State submitted a report on October 19, 2013, which indicated that:

a) As a matter of context i) "in August 2012, several people, including Lorenzo Santos Torres" held personnel and officers from the Secretariat of Public Security of Oaxaca hostage, supposedly in order to pressure the State authorities to resolve the conflict arising from the appointment of the new Mayor. According to the State, as a result of this situation, the proposed beneficiary faced criminal proceedings for which he was convicted and is serving a probationary sentence; ii) that in the file 19/2011 of the Fifth Criminal Court of the Judicial District, an arrest warrant was presumably issued against Lorenzo Santos Torres, "for possible involvement in the murder of Luis Jimenez Mata" and; iii) action has been taken to build a rural reconciliation process in the area.

b) "On the day of the minor Jonatán Eruviel Santos Girón's murder, the Office of the Human Rights Ombudsman of the People of Oaxaca" requested precautionary measures to protect the life and physical integrity of the proposed beneficiary and his family. In this regard, it alleges that the Office of the Attorney General and the Secretariat of Public Security of the State of Oaxaca are present where the events took place. In particular, patrols are being carried out in the area. Additionally, the State Investigation Agency has been instructed to establish "contact with the proposed beneficiary, for the purpose of providing information on self-protection techniques, an emergency phone number and patrols around the area."

c) The State asserts that "after the complaint [...] dated September 10, 2013 [...], regarding the murder of Jonatán Eruviel Santos Girón, the Office of the Attorney General, through the State Investigation Agency" undertook a series of investigative procedures at the scene of the events.

d) Mexico states that "it is addressing the situation of Mr. Lorenzo Santos Torres and his family", through the investigation of the claims and the "adoption of measures aiming at safeguarding the life and physical integrity of the proposed beneficiaries." According to the State, "the current request for precautionary measures lacks justification as a mechanism for preventing an imminent violation of human rights". In this regard, the State alleges that due to the "complementary nature of the Inter-American Human Rights System, the Commission should decline this request for precautionary measures."

### **III. ANALYSIS OF THE ELEMENTS OF GRAVITY, URGENCY AND IRREPARABILITY**

5. The mechanism of precautionary measures is a part of the Commission's function of overseeing Member State 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 set forth in Article 41 (b) of the American Convention on Human Rights, and Article 18 of the Commission's Statute. The mechanism of precautionary measures is set out in Article 25 of the Commission's Rules of Procedure. According to this Article, the Commission issues precautionary measures in situations that are serious and urgent, and where such measures are necessary to prevent irreparable harm to persons.

6. The Inter-American Commission and the Inter-American Court of Human Rights have repeatedly established that precautionary and provisional measures have a dual nature, precautionary and protective. Regarding their protective nature, the measures seek to avoid irreparable harm and preserve the exercise of human rights. Regarding their precautionary nature, the measures have the purpose of preserving a legal situation being considered by the IACHR. Their precautionary nature aims to preserve those rights at risk until the petition in the Inter-American system is resolved. Its object and purpose are to ensure the integrity and effectiveness of the decision on the merits and, thus, avoid infringement of the rights at issue, a situation that may adversely affect the

useful purpose (*effet utile*) of the final decision. In this regard, precautionary measures or provisional measures thus enable the State concerned to fulfill the final decision and, if necessary, to comply with the reparations ordered. As such, for the purposes of making a decision, and in accordance with 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.

7. In the current situation, the Commission considers that the requirement of gravity is met, in view of the allegations of threats and continued acts of violence against Lorenzo Santos Torres and his family. Specifically, the information provided suggests that the events are taking place in the context of a social and agrarian conflict in Santiago Amoltepec. In this regard, taking into account the above-mentioned information and characteristics of the present situation, the Commission considers that *prima facie* it is established that the rights to life and physical integrity Lorenzo Santos Torres and his family are at risk.

8. The Commission believes that the requirement of urgency it is satisfied, as the alleged acts of violence have increased with the passage of time and are affecting the rights of Lorenzo Santos Torres and his family. In this regard, the Commission takes note of the protection mechanisms identified by the State, involving the implementation of self-protection measures, the provision of an emergency telephone number and the implementation of patrols near to the proposed beneficiaries’ residence. However, the Commission observes that such measures might be ineffective, in light of the continuing acts of violence against Santos Lorenzo Torres and his family. Particularly, in light of the those committed against Lorenzo Santos Torres on October 31, 2013, after the request for information made by the IACHR on October 24, 2013.

9. The Commission considers that the requirement of irreparable harm is fulfilled, to the extent that the risk to life and physical integrity presents the highest irreparable situation.

#### **IV. BENEFICIARIES**

10. The request was submitted on behalf of Lorenzo Santos Torres and his family, who are fully identified in the documents submitted by the petitioners.

#### **V. DECISION**

11. In view of the above-mentioned information, the Commission considers that this matter *prima facie* meets the requirements of gravity, urgency and irreparable harm contained in Article 25 of its Rules of Procedure. Consequently, the Commission requests that the Government of Mexico:

- a) adopt the necessary measures to guarantee the life and physical integrity of Lorenzo Santos Torres and his family;
- b) agree on the measures to be adopted with the beneficiaries and their representatives; and
- c) report on the actions taken to investigate the facts that gave rise to the precautionary measures, in order to prevent future incidents.

12. The Commission also requests the Government of México to inform the IACHR, within 7 days from the date of this resolution, on the adoption of the precautionary measures requested and update such information regularly.

13. The Commission emphasizes that, according to Article 25 (8) of its Rules of Procedure, the granting of this precautionary measure and its adoption by the State shall not constitute a prejudgment on any possible violation of the rights protected in the American Convention of Human Rights or other applicable instruments. The Commission considers that these precautionary measures are aimed at protecting the life and personal integrity and not to determine potential liabilities regarding the alleged events described by both parties.

14. The Commission orders the Executive Secretariat of the Inter-American Commission on Human Rights to notify the Government of México and the applicants of this resolution.

15. Approved on the 8 days of November, 2013 by: Tracy Robinson, First Vice President; Rosa Maria Ortiz, Second Vice President; Commissioners Felipe González, Dinah Shelton, Rodrigo Escobar Gil and Rose-Marie Belle Antoine.