
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 63/2022**

Precautionary Measure No. 1014-17
Indigenous girl U. V. O. and family regarding Mexico¹
November 14, 2022
Original: Spanish

I. SUMMARY

1. The Inter-American Commission on Human Rights (IACHR) decides to lift these precautionary measures in favor of the indigenous girl U. V. O. and her family, in Mexico. At the time of making the decision, the Commission assessed the actions taken by the State during the implementation, as well as the lack of updated information from representatives. Upon not identifying compliance with the procedural requirements and considering the State's request to lift the precautionary measures, the IACHR decided to lift them.

II. BACKGROUND INFORMATION

2. On May 5, 2018, the IACHR granted precautionary measures in favor of an indigenous girl U. V. O. and her family. The available information indicated that the indigenous girl U. V. O. was raped by a member of her community, in the Miguel Utrilla Community, "Los Chorros" of the Chenalhó Municipality in the state of Chiapas. Subsequently, she allegedly did not receive the comprehensive care she required as a victim in order to mitigate the impact on her rights, finding herself in a vulnerable situation, as a woman, girl and indigenous person. Furthermore, information was provided on alleged threats, remarks, mocks, stigmatizing and offensive comments about her situation, which severely affected the girl's emotional state given the constant re-victimization allegedly causing her to drop out of school; besides an alleged polarization among the community members, where some people opposed to the girl's family or linked to the alleged aggressor's family had recently resorted to death threats and firearms towards members of the girl's family.²

3. The Commission requested that the State of Mexico:

- a) adopt the necessary measures to protect the life, personal integrity and health of the indigenous girl, in accordance with applicable international standards and oriented to her best interests, also including the duly identified members of her family;
- b) adopt culturally appropriate measures with a gender-based perspective and considering her best interests to ensure that she continues to have and has access to the necessary medical and psychological health care;
- c) adopt culturally appropriate measures with a gender-based perspective and considering her best interests to ensure her right to education and to be able to study in a safe environment;
- d) adopt the necessary measures at community level, and with a gender-based and cultural perspective, so as to allow her and her family to live safely in the community;

¹ In accordance with Article 17(2)(a) of the IACHR Rules of Procedure, Commissioner Joel Hernández García, a Mexican national, did not participate in the debate and deliberation of this matter.

² IACHR. [Indigenous girl U. V. O. and family regarding Mexico. PM-1014-17](#). Resolution 27/2018. May 5, 2018.

- e) agree on the measures to be adopted with the beneficiaries and their representatives, taking into account the opinion of the girl and her best interests; and
- f) report on the actions taken to investigate the alleged facts that led to the adoption of this precautionary measure, so as to prevent such events from reoccurring.³

4. The beneficiary's representation is exercised by Martha Guadalupe Figueroa Mier, of the Free Women Association COLEM A.C. (*Asociación Libres Mujeres COLEM A.C.*) and, until February 19, 2019, it was also exercised by Mayra Nathalia Sánchez Baquero.

III. INFORMATION PROVIDED DURING THE TIME THE MEASURES WERE IN FORCE

a. Regarding the procedure throughout the time the measures were in force

5. During the time the precautionary measures were in force, the Commission followed-up on the subject matter of these precautionary measures by requesting information from the parties. According to the records in the case file, the State provided its first report on May 30, 2018. The report was forwarded to the representatives on January 18, 2019, who provided their observations on February 19, 2019. The observations were forwarded to the State on April 17, 2019, and its report was received on July 16, 2019. The said report was forwarded to the representatives on August 16, 2019, without response. On April 29, 2022, the request for information was reiterated, also without response. The State submitted an additional report on July 7, 2022, which was transferred to the representatives on August 18, 2022. To date, no reply has been received from the beneficiary.

b. Information provided by the State

6. In its report of May 30, 2018, the State reported that on May 24, 2018, a meeting was held between various authorities⁴ and the beneficiaries (the parents of the U. V. O.) in San Cristóbal de las Casas, Chiapas, to identify urgent needs and establish courses of action. With regard to health issues, the beneficiaries reported that the girl received prophylactic care, but that they were not clear about the exhaustion of the applicable medical protocol; they also indicated that they were assigned afternoon health care shifts, which they could not attend. On this matter, it was agreed that the girl's medical care will be resumed, preferably at the Women's Hospital and in the morning hours; it was indicated that it will be guaranteed that she obtains the attention in accordance with the Mexican Official Standard referred to "Family, sexual and violence against women."

7. With regard to mental health, it was reported that the representatives expressed their preference to continue working with the psychologist with whom they had worked at the beginning, because they had built up a trust relationship with her, or in her absence with another professional woman in the health sector who had the same professional characteristics as her. On this matter, a work plan and budget requested from the psychologist was agreed and that the State will look for ways to obtain the resources.

8. With regard to education, the parents expressed their intention to transfer the beneficiary to a school closer to their community, since most of them are from the Tzotzil community. Consequently, it was agreed that the girl would be enrolled for the next school term and to explore the possibility of having a female teacher in her grade. On the other hand, the State stated that considering the existing conflicts,

³ Ibid.

⁴ Officials of the Ministry of the Interior (SEGOB), staff of the Secretariat of Government of the State of Chiapas, and the Procurator for Children, Adolescents and the Family in the state of Chiapas.

the beneficiaries did not consider that conditions for intervention in the community existed. Finally, the State indicated that they consider it pertinent to train academic personnel, different community schools students and personnel from the Indigenous Prosecutor's Office on human rights issues.

9. The State's report of July 15, 2019, indicates that the Unit for the Defense of Human Rights (*Unidad para la Defensa de los Derechos Humanos, UDDH*) of the Secretariat of the Interior (*Secretaría de Gobernación, SEGOB*) had meetings with the beneficiary family, where they were explained the type of measures for the protection of their life and integrity. In this regard, it was pointed out that the measures should be in accordance with the particularities of the region; for example, that infrastructure measures in their homes might not be appropriate because they could attract the attention of potential aggressors. Considering that the information received indicated that the uncle of girl U. V. O. is the one who has been the main target of risk incidents, and considering that he resides in San Cristóbal de las Casas, he was granted an assistance button on November 15, 2018, which continues to be active and has not reported incidents.

10. The uncle of girl U. V. O. indicated that he feared being criminalized for his accompaniment to his niece, so the UDDH informed the Prosecutor's Office of the State of Chiapas (*Fiscalía General del Estado de Chiapas, FGEC*) on October 2, 2018, that he was a beneficiary of precautionary measures and asked them to let the UDDH know of the existence of some investigation or file related to the beneficiaries, as well as to concentrate it in the Human Rights Prosecutor's Office. In this regard, the FGEC reported an attention's record and ordered the implementation of protective orders in favor of the beneficiaries through the Secretariat of Security and Citizen Protection (*Secretaría de Seguridad y Protección Ciudadana*) by patrolling and preventive rounds at their residence.

11. The State reported that medical care had been provided to girl U. V. O., her immediate family and her maternal grandmother in *Ciudad Mujer*, San Cristóbal de las Casas, Chiapas. In this regard, the Ministry of Health has managed their transfer accompanied by a nurse who speaks their native language. It was highlighted that girl U. V. O. had a vaginal infection, which was treated and cured.

12. In relation to psychological care, it was indicated that the attention is provided by Dr. R. S. V., a therapist with various certifications and experience in treating indigenous people and victims of sexual violence. The report notes that, although she is not part of the Health Sector covered by the State, the UDDH was able to have her fees and expenses covered by the Trust for the Fulfillment of Human Rights Obligations (*Fideicomiso para el Cumplimiento de Obligaciones en Materia de Derechos Humanos*). This would cover a total of 18 sessions lasting one and a half hours, as the first phase of care for the beneficiaries. After consultations with the representatives and the therapist, the State took into account the need to continue with the therapy, which was submitted to the Trust Technical Committee for approval.

13. Regarding measures to guarantee the right to education in a safe environment, the report states that the girl's parents indicated that she had not received formal school instruction in more than 6 months and that the school where she went has a greater Tzetzal community, with affinity to the aggressor. For this reason, they requested that she be transferred to a school in a Tzotzil community, because she had more affinity with her relatives. Through negotiations with the Chiapas General Secretariat of Government, the beneficiary girl was enrolled in the requested school. Likewise, the State indicated that although they have not been able to listen directly to the girl, this is because her parents have preferred not to bring her to the work meetings. In this regard, the girl's uncle, who acts as translator, reportedly sought to express the girl's opinion and it was indicated that he has acted accordingly.

14. In addition, it was reported that, during four days of October 2018, personnel of the National Council for the Prevention of Discrimination (*Consejo Nacional para Prevenir la Discriminación, CONAPRED*) held human rights workshops, on the right to equality and non-discrimination under a gender-based and intercultural approach, aimed at local government health and education personnel. However, due to violence in the area, training had to be suspended.

15. Regarding the investigation, it was pointed out that the FGEC issued an arrest warrant against the aggressor of girl U. V. O. for the crime of aggravated assault, committed against her. The order was granted by the Supervisory Judge (*Juez de Control*) on April 10, 2016, and executed the following day. The sentence was appealed and, subsequently, a post-conviction relief was granted in favor of the offender; however, it was indicated that he remains in prison.

16. In the last report, dated July 7, 2022, the State updated that the Preventive State Police (*Policía Estatal Preventiva, PEP*) implemented patrol measures in the vicinity of the Miguel Utrilla community, Los Chorros, Chenalhó, Chiapas, in favor of the girl and her family. When interviewing the girl's uncle, he reportedly indicated that the situation was completely calm; the commander of the Pantelhó Sector of the PEP also gave the beneficiary his personal number for a rapid response in case of a threatening situation. On February 14, 2020, the Indigenous Justice Prosecutor's Office also requested the adoption of protection measures in favor of the girl and her family to the Neighborhood Municipal Agent where the family has its residence, considering the appropriate community level. In addition, it was pointed out that the girl's uncle still keeps the assistance button granted on November 15, 2018.

17. The State indicated that in 2018, the "Rights Restitution Plan" was created including various authorities to address the instant matter, observing the best interests of girl U. V. O. and favoring a differentiated approach. In addition, it was indicated that incidents with the community authorities have occurred, which are constitutionally governed by customs, so they have sought dialogue with the help of the Civil Association "The Bees" ("*Las Abejas*"), the Women's Collective Encounter (the representatives) and the Fray Bartolomé de las Casas Human Rights Center.

18. The State provided details on the reasons that led to requiring the services of Dr. R. S. V. and the procedures and grounds for the use of the Trust through which the services were financed. The therapist reportedly provided care to the parents of girl U. V. O., specifically about grieving the loss of a daughter; as well as to the girl's uncle. Regarding girl U. V. O., the therapist reported the following:

"Seven-year-old female patient, victim of rape, tsotsil speaker [...] and having been able to establish all the phases of the "the bear Eloísa" identity technique three years after the events, we can assure that U. V. O. has made progress in overcoming the trauma, although pain persists in the face of memory, we believe that it is no longer about intrusive pathognomonic thoughts of post-traumatic stress syndrome. Despite the multiple shortcomings of the family in almost all areas (economic, cultural, social, illiteracy, attachment to a religious dogma that hopes to be: "the holy spirit to enlighten the hearts and accept the girl" instead of promoting non-discrimination among the faithful to modify this behavior) the support of all family members (parents, grandparents, uncles, cousins) has been of great help in this recovery at first. However, it is limited to the domestic sphere."

19. With regard to access to education, the report indicates that the child is enrolled in elementary school and that a scholarship had been awarded to her, as well as a uniform, school supplies and textbooks. The State provided further information on the trainings provided by CONAPRED: on October 23 and 24, 2018 to sanitary area II health personnel, with attendance of 13 women and 9 men, mostly

general directors; on October 25 and 26, 2018 to education personnel, with attendance of 9 women and 6 men.

20. In relation to the investigations, the State reiterated the information on the process for which the aggressor is in prison. Furthermore, it was reported that there is also an attention report following a threat offense, which generated precautionary measures, but the investigation remains pending. The State Human Rights Commission also issued a recommendation on the matter at hand, which is why the beneficiaries were registered with the Executive Committee for Victims (*Comisión Ejecutiva de Atención a Víctimas, CEAV*), in order to make the corresponding comprehensive reparation. Additionally, administrative investigation proceedings were opened against possible responsible authorities related to the events. Lastly, a course entitled “Respect for human rights in the care of child and adolescent victims” was given to prosecutors, agreements secretaries and prosecutors attached to the High District Prosecutor’s Office and the Indigenous Justice Prosecutor’s Office through the Research and Professionalization Institute of the Prosecutor’s Office.

21. In relation to the CEAV, it was indicated that medical evaluations were carried out on March 23, 2021. On March 29, the beneficiaries were presented a proposal for comprehensive reparation, with which they expressed their satisfaction in writing on the same day; on the following day, the compensation payments for the damages reparation allegedly were made.

22. Finally, the State indicated that since 2018, no risk incidents have occurred, so the procedural requirements were no longer updated. Thus, it was recalled that although an irreparable harm materialized against girl U. V. O., the perpetrator is deprived of liberty and convicted, guaranteeing the justice component. It was added that the authorities of the different levels of government carried out affirmative actions, giving priority to the best interests of girl U. V. O., providing comprehensive care with an intercultural perspective, considering her physical, mental and educational development and the right to a healthy environment. In addition, training was provided to education, health and justice authorities. Finally, it was noted that the beneficiary family expressed their satisfaction with the comprehensive reparations provided by the Government of Chiapas. Consequently, the State requested that the lifting of the precautionary measures be considered.

c. Information provided by the representatives

23. In their observations of February 19, 2019, the representatives highlighted the area contextual complexities, in the midst of territorial conflicts in Chenalhó and municipal, state and federal elections that impacted the situation. Likewise, it was indicated that they had not held a meeting with the SEGOB authorities since September 2018, the representatives considered that this might be caused by the change of the federal government in December 2018.

24. It was indicated in the report that, at a meeting with authorities on May 24, 2018, the different agencies were informed of the shortcomings in the areas of health, education and community conflict. It was reported that the girl’s uncle has not been given a cell phone and that other family members have received threats (without providing details), about which they have filed complaints. It was also indicated that, although the uncle was given a panic button because of the threats received, since there is no internet and telecommunications in the area, it is not effective.

25. With regard to the courses on discrimination given by the National Council for the Prevention of Discrimination, it was alleged that they did not comply with the agreed methodology and guidelines. Regarding the prosecution of the case, it was noted that there were challenges because of the lack of a

gender-based and indigenous perspective of the judges. In this regard, they informed that the convicted person's sentence had been reduced from 21 to 8 years. This issue was pending before the federal courts.

26. Regarding the emotional and therapeutic care, it was stated that it is being provided under Dr. R. S. V. care. It was pointed out that it has included a process of emotional, collective and community support. However, the representatives consider that adequate reparation has not been made by the internal authorities and that the risk remains.

27. Since 2019, and despite the State's request to lift the measures and the requests for information of August 16, 2019, April 29, and August 18, 2022, the representatives have not provided any subsequent information.

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

28. The precautionary measures mechanism is part of the Commission's function of overseeing Member States' compliance with the human rights obligations established 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 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 have established repeatedly that precautionary and provisional measures have a dual nature, both protective and precautionary.⁵ Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.⁶ To do this, the IACHR shall assess the 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.⁷ 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. 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:

⁵ See in this regard: I/A Court H.R. 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. Available at https://www.corteidh.or.cr/docs/medidas/ngobe_se_01.pdf

⁶ 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. [Case of Fernández Ortega et al.](#) Provisional Measures regarding Mexico, Order of the Court of April 30, 2009, considerandum 5; I/A Court H.R. [Matter of Milagro Sala](#). Request for Provisional Measures regarding Argentina, Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5.

⁷ 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 regarding Brazil, Order of the Inter-American Court of Human Rights of February 13, 2017, considerandum 6.

- 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. With regard to the foregoing, Article 25(7) of the Commission’s Rules of Procedure establishes that decisions “granting, extending, modifying or lifting precautionary measures shall be adopted through reasoned resolutions.” Article 25(9) sets forth 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 shall assess whether the serious and urgent situation and the risk of irreparable harm that caused the adoption of the precautionary measures persist. Moreover, the Commission shall consider if new situations have arisen that might meet the requirements set forth in Article 25 of the Rules of Procedure.

31. Similarly, while the assessment of the procedural requirements when adopting precautionary measures is carried out from a *prima facie* standard, keeping such measures in force requires a more rigorous evaluation.⁸ In this sense, when no imminent risk is identified, the burden of proof and argument increases over time.⁹ The Inter-American Court has indicated that a reasonable time without any threats or intimidation, in addition to the lack of imminent risk, may lead to the international protection measures being lifted.¹⁰

32. The Commission notes that the State requested the lifting of these precautionary measures on July 7, 2022, and therefore it is appropriate to analyze the situation for which these precautionary measures were granted in 2018 and verify if risk factors persist. Under the terms of Article 25(9) of the Rules of Procedure, on August 18, 2022, the request to have the measures lifted was forwarded to the representatives for their observations thereon. In the same way, updated information was requested from the representatives, who have not responded to these proceedings to date. The last time the representatives submitted information was on February 19, 2019. Since then, more than three years have elapsed without information from them, despite the repeated requests for information. The foregoing is relevant given that the State has requested to review whether these precautionary measures should remain in force, upon submitting a request to have the measures lifted under the terms of Article 25 of the Rules of Procedure.

33. In analyzing whether this matter should remain in force, the Commission recalls that at the time of granting the measures, it made various considerations on the intersectional risk observed and considered the need for comprehensive attention to the situation of the girl and her family, considering the seriousness of the events that took place and her status of as a woman, victim of sexual violence, girl, and indigenous. In this regard, these considerations were shown in its recommendations when granting the precautionary measures by means of its resolution of May 5, 2018, so they will serve as a basis when assessing the actions carried out by the State. Considering the above, the Commission will analyze if the risk persists in accordance with the following items: i. Access to physical and mental health care; ii. Measures taken to enable girl U. V. O. to study in a safe environment; iii. The safety of girl U. V. O. and her

⁸ I/A. Court H. R. [Case of Fernández Ortega et al. Provisional measures regarding Mexico. Decision of 7 February 2017](#), Considerandums 16 and 17.

⁹ *Ibid.*

¹⁰ *Ibid.*

family in their community; iv. The investigation of the facts and their contribution to risk mitigation; e. Regarding the persistence of the situation posing a risk.

34. The analysis of the foregoing will be carried out taking into consideration the application of a gender-based perspective, the assessment of the best interests of girl U. V. O. and the importance of culturally appropriate measures, in accordance with the assessments and recommendations made in the granting of these precautionary measures.

i. Access to medical care for girl U. V. O.

35. When assessing the existence of risk, the Commission stressed that “the girl has not received comprehensive care as a victim, and therefore the said impact has reportedly not been mitigated.”¹¹ In this regard, the Commission notes that this issue has a component of both physical and mental health and will therefore comment on both issues.

36. Thus, in terms of the **physical health of girl U. V. O.**, at the meeting of May 24, 2018, the family indicated that they were not clear about the exhaustion of the applicable medical protocol and that they had no facility to attend the assigned medical shifts. Therefore, it was agreed that care would be provided at the Women’s Hospital in the morning, following the Official Mexican Standard on “Family, sexual and violence against women” (see *supra* para. 6). Likewise, transfers were managed with a nurse who speaks her mother tongue, and a vaginal infection was detected that was treated and cured (see *supra* para. 11).

37. In this regard, the Commission considers it essential that a prevailing risk by means of a vaginal infection was identified, which was not previously detected. This is identified as a particular risk as a woman, girl, and victim of sexual violence. The possible risk that this could create was mitigated by the medical care provided that was not within their reach. It was highlighted that it was provided in the Women’s Hospital —specialized in the care of women— and in accessible conditions according to the needs of the girl’s family; that is, providing them with transfers, in schedules that are facilitated and considering her mother tongue.

38. On the other hand, regarding **mental health**, the Commission recalls the short- and long-term impact of sexual abuse, the consequences of which are likely to persist and extend into adulthood.¹² For the Commission, this impact is potentiated as it is a girl who is in a stage of growth that requires ensuring her integral personal development.¹³

39. The information provided by the parties indicates that the representatives requested to continue with the psychologist with whom they initially worked, for having generated bonds of trust with her. Therefore, the State sought ways to cover their services because they were not covered by the public sector. This was through a specific trust, as the physician mentioned above had certifications and experience in treatment with indigenous people and victims of sexual violence (see *supra* paras. 7 and 12). Thus, it was indicated that the therapist was able to cover 18 sessions lasting an hour and a half as the first phase, as well as its continuation, who attended to the family. On girl U. V. O., it was reported that “progress is observed in terms of overcoming trauma, although pain persists in the face of memory, we believe that it is no longer about intrusive thoughts of post-traumatic stress syndrome” (see *supra* paras. 12 and 18). In addition, the representatives confirmed that such emotional and therapeutic containment

¹¹ Girl U. V. O. and family regarding Mexico. PM-1014-17, para. 26.

¹² *Ibid.*

¹³ *Ibid.*, para. 25, citing: IACHR. [Towards the effective guarantee of the rights of children and adolescents: National Protection Systems](#), November 30, 2017, para. 44.

care is being carried out and that it has included a process of emotional, as well as collective and community containment (see *supra* para. 26).

40. On this point, the Commission considers that the action of the State to guarantee access to a professional in the field of psychology with specific experience in indigenous people and victims of sexual violence has been fundamental for the specific attention of the beneficiaries, which allows to adopt a gender-based approach and with an expert who understands their worldview as indigenous people. The IACHR notes as a positive result what the therapist reported in the sense that girl U. V. O. no longer presents thoughts that reflect post-traumatic stress syndrome, with advances towards overcoming trauma. This reflects due attention in the prevention of effects on mental health that may negatively impact on the life of the girl, considering her special situation as a girl in the growth stage that requires guaranteeing her integral personal development. In addition, it should be noted that compliance with agreements on this issue with individual and collective advances was recognized by the representatives.

ii. Measures taken to enable girl U. V. O. to study in a safe environment

41. The IACHR notes that, in matters of education, the father and mother of girl U. V. O. explained the challenges represented by the school of the beneficiary girl, since she is in a mostly Tzetzal community and more related to her aggressor. In this regard, after six months without attending school, they requested the transfer to a school closer to their community, since they are mostly Tzotzil, because they have more affinity with their family (see *supra* paras. 8 and 13).

42. In view of the foregoing, the State reported that it had taken the necessary steps through the General Secretariat of Government of Chiapas to register the girl in the requested school, as well as that a scholarship, uniform, school supplies and textbooks were given to her (see *supra* para. 13). In addition, the information provided indicates that CONAPRED held workshops on the right to equality and non-discrimination with an intercultural approach, which on October 25 and 26, 2018 were aimed at education personnel (see *supra* paras. 14 and 19).

43. The Commission notes that the incorporation of girl U. V. O. into a school more in tune with her community and not with that of her aggressor is an effective measure to ensure her return to school in a safe environment. It is crucial for the above to consider the distinction of communities with possible conflicts, mainly polarized by the facts, which reflects that the State considered the cultural implications of the different indigenous peoples in the area informed by the family, with visions and traditions that can negatively impact the daily life of a girl victim of sexual rape. In addition to the above, the provision of specific courses on equality and non-discrimination to community education personnel is positive, which contributes to the creation of a safe and non-repetitive environment.

iii. The safety of girl U. V. O. and her family in their community

44. Regarding the issues of risk to life and integrity, the Commission warned of the existence of a threatening situation against the beneficiary family in a context of polarization in the community, where people close to the aggressor reportedly resort to death threats and the use of firearms against them, even with the risk of involvement of paramilitary groups, against which the family would not have protection measures.¹⁴

¹⁴ *Ibid.*, para. 27.

45. In this regard, the State assessed that the infrastructure measures are not consistent in the region, so they could attract the attention of aggressors. In turn, the State identified that the girl's uncle was the main object of the risk incidents, and he resides mainly in San Cristóbal de las Casas, so he was granted an assistance button on November 15, 2018, which is said to remain active and has not reported any risk events. In addition, the FGEC ordered the protection of the family by means of patrols and preventive tours in their residence and the PEP commander of Pantelhó reportedly gave his direct number to the girl's uncle for a rapid reaction in case of a situation placing him at risk; meanwhile, protection measures were requested from the Municipal Agent of the neighborhood where the family lives, to provide protection at the corresponding community level (see *supra* paras. 8, 9 and 16). According to the State's last report, there is reportedly no incidents since 2018 (see *supra* para. 22). For their part, the representatives alleged the ineffectiveness of the risk button due to lack of signal and the existence of threats to other family members (see *supra* para. 24).

46. Based on these actions, the Commission appreciates that the measures adopted have considered the contextual particularities of the region when deciding on the protection required and appropriate to the specific case. In this sense, it is noted that, although they were extended to the family, the girl's uncle had a different impact, so he was granted the assistance button and direct contact with the commander of Pantelhó, while protection measures were also ordered in the family residence and through the Municipal Agent. Although the representatives indicated that the lack of an internet signal in the community made it difficult to use the assistance button, the Commission notes that the girl's uncle resides in San Cristóbal de las Casas, where the above reportedly does not apply, as well as that in the community the contacts with the Municipal Agent and the PEP commander in Pantelhó could provide a more effective response to an eventual risk. The Commission appreciates that, in view of the measures adopted, no threatening events have occurred since 2018.

iv. Investigation of the facts and their contribution to risk mitigation

47. In relation to the investigation of the facts, the Commission notes that the FGEC requested an arrest warrant against the aggressor of girl U. V. O. for the crime of aggravated equivalent rape, which was granted on April 10, 2016, by the Control Judge and executed the next day. The State reported that the sentence was appealed and, subsequently, an *amparo* was granted in favor of the defendant; however, he remains in prison (see *supra* para. 15). In this regard, the representatives indicated challenges in the judicialization of the case since the sentence was reduced from 21 to 8 years and is still pending review before federal courts (see *supra* para. 25). In addition, after the opening of an attention record for the crime of threats, the Prosecutor's Office ordered precautionary measures.

48. In this regard, the IACHR observes that the State's actions in the investigation of the facts have made it possible to determine the perpetrator in the case of girl U. V. O. He reportedly remains in prison, which mitigates the risk of repetition of the facts or reprisals on his part. Although the representatives allege that the sentence was diminished, the Commission observes, in principle, that the determination would not be final and, on the other hand, that it is not for the IACHR to replace the internal authorities in the exercise of its powers. Finally, although there have been reports of threats and harassment by family members of the aggressor against the family of girl U. V. O., the Commission does not identify specific facts in the last years that these precautionary measures have been in force. Similarly, the Commission takes note of the opening of a record for threats, which resulted in the adoption of some of the protection measures indicated in the previous section. Thus, although there is no clarity on the punishment of the aggressor of girl U. V. O., it is certain that he is in prison, thus the risk of the repetition of the facts are mitigated at present.

v. Regarding the persistence of the situation posing a risk

49. Considering the above issues, the Commission does not find the existence of sufficient facts to identify a situation presenting a risk under the terms of Article 25 of the IACHR Rules of Procedure. First, the Commission identifies that the State provided medical care to the girl, which was effective in curing vaginal infection that had not been properly treated; in turn, the family was provided with specialized and reliable psychological care, which was effective in advancing to overcome the trauma of the beneficiary girl. Secondly, the measures implemented by the various authorities have enabled the girl to return to study safely and with State support. Third, the Commission notes that the security measures provided have been effective for the protection of the beneficiary family, especially the girl's uncle, without presenting new risk events since 2018. Finally, the actions implemented in the justice field resulted in the arrest and sentencing of the aggressor of the girl.

50. In this regard, the Commission welcomes the actions implemented by the State in the implementation of the "Rights Restitution Plan" that was adopted in 2018, highlighting the importance of the consultation meetings where the opinion of the beneficiary family, on behalf of girl U. V. O., have reportedly been actively listened to address the challenges posed by its members. In this regard, the Commission notes that this plan gave rise to gradual actions by the authorities, which had a positive effect when carried out with a gender-based perspective, seeking the best interests of girl U. V. O., and considering the cultural and community particularities that impact the lives of the beneficiaries. Thus, it is emphasized on the part of the Commission that implementing care plans with differentiated approaches in this case represented effective and comprehensive results.

51. In relation to the foregoing, the Commission notes that there have been no updates or considerations from the representatives since their report of February 19, 2019, despite the fact that the Commission has requested information from them on three occasions, on August 16, 2019, reiterated on April 29, 2022, and reiterated again, upon forwarding a State report, on August 18, 2022. In other words, the representatives have not submitted information for more than three years. In this sense, the Commission does not have any assessment elements that allow to identify, at present, a situation presenting a risk in the terms of Article 25 of the Rules of Procedure.

52. The Commission recalls that when a State requests the lifting of a precautionary measure, it must present sufficient evidence and arguments to support its request.¹⁵ By the same token, the representatives of the beneficiaries that want the measures to continue must present evidence of any reasons why.¹⁶ Similarly, Article 25(11) of the Rules of Procedure sets forth that the Commission may lift or review a precautionary measure when the beneficiaries or their representatives unjustifiably fail to provide the Commission with a satisfactory response to the requests made by the State for its implementation.

53. Finally, in relation to the issue of reparation, the Commission notes that the representatives indicated that it is not fulfilled, while the State indicated, apart from the different actions that have been informed, also having made compensation through the CEAV, with which the beneficiaries purportedly agree. In this regard, while the Commission appreciates the efforts of the State to advance the comprehensive care of the beneficiary family, the establishment of reparations for possible human rights violations and compliance with them is a merits issue and its analysis corresponds to the petition and case system.

¹⁵ *Ibid.*

¹⁶ *Ibid.*

54. In this sense, and considering the analysis previously carried out, and in response to the request made by the State to have the measures lifted, the Commission considers that it is not possible to identify any situation that supports compliance with the requirements of Article 25 of the Rules of Procedure at present. In view of the above and considering the exceptional and temporary nature of precautionary measures,¹⁷ the Commission deems it appropriate to lift these measures.

55. Lastly, the Commission emphasizes that regardless of the lifting of these measures, in accordance with Article 1(1) of the American Convention, it is the obligation of the State to respect and guarantee the rights recognized therein, including the life and personal integrity of the persons identified in the matter at hand.

V. DECISION

56. The Commission decides to lift the precautionary measures granted in favor of the indigenous girl U. V. O. and her family, in Mexico.

57. The Commission recalls that the lifting of these measures does not prevent the representatives from filing a new request for precautionary measures should they consider that there is a situation that meets the requirements established in Article 25 of the Rules of Procedure.

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

59. Approved on November 14, 2022, by Julissa Mantilla Falcón, President; Margarette May Macaulay, Second Vice-President; Esmeralda Arosemena de Troitiño; Roberta Clarke; and Carlos Bernal Pulido, members of the IACHR.

Jorge Meza Flores
Assistant Executive Secretary

¹⁷ I/A Court H.R., Matter of Adrián Meléndez Quijano et al. Provisional Measures regarding El Salvador. Order of the Court of August 21, 2013, para. 22, and Matter of Galdámez Álvarez et al. Provisional Measures regarding Honduras. Order of the Inter-American Court of Human Rights of November 23, 2016, para. 24