
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 83/2024**

Precautionary Measure No. 934-24
Layrton Fernandes da Cruz's family unit regarding Brazil
November 12, 2024
Original: Spanish

I. INTRODUCTION

1. On August 28, 2024, the Inter-American Commission on Human Rights (“the Inter-American Commission”, “the Commission” or “the IACHR”) received a request for precautionary measures filed by the Public Defender’s Office of São Paulo (“the applicant”) urging the Commission to require that the State of Brazil (“the State” or “Brazil”) adopt the necessary measures to protect the rights to life and personal integrity of seven family members of Layrton Fernandes da Cruz (“the proposed beneficiaries”), who died in a police operation on August 1, 2023 (*Operação Escudo*), in Baixada Santista, São Paulo.¹ According to the request, the proposed beneficiaries are at risk due to threats, intimidation, and searches, all of which were reportedly arbitrarily performed by military police at their residences. The applicant believes that these acts are connected to Layrton’s death and the actions taken by the proposed beneficiaries in pursuit of justice.

2. Pursuant to the provisions of Article 25 (5) of its Rules of Procedure, the Commission requested additional information from the applicant, who provided a response on September 16, 2024. On September 18, the Commission requested information from the State. It submitted a response on October 3, 2024, following a request for a timeline extension granted by the Commission on September 29, 2024. The applicant submitted a new communication on October 9, 2024.

3. Upon analyzing the submissions of fact and law furnished by the parties, the Commission considers that the proposed beneficiaries are in a serious and urgent situation, given that their rights to life and personal integrity are at risk of irreparable harm. Therefore, based on Article 25 of its Rules of Procedure, the Commission requires that Brazil: a) adopt the necessary measures to protect the rights to life and integrity of the beneficiaries; b) consult and agree upon the measures to be implemented with the beneficiaries and their representatives; and c) report on the actions taken to investigate the alleged events that led to the adoption of this precautionary measure, so as to prevent such events from reoccurring.

II. SUMMARY OF FACTS AND ARGUMENTS

A. Information provided by the applicant

¹ The request expressly indicated the following as the proposed beneficiaries: (i) A.M.F.C.V. (mother); (ii) F.F.C.O. (sister); (iii) R.G.C.S. (maternal uncle); (iv) adolescent J.F.S. (sister); (v) adolescent M.F.S. (sister); (vi) child A.G.F.O. (niece); and (vii) child M.V.F.S. (niece).

4. The request informs that the proposed beneficiaries are relatives of Layrton Fernandes da Cruz, who died in a police operation on August 1, 2023.² They have been living on a plot of land consisting of three houses on the “Morro do Jabaquara”, in Santos, state of São Paulo, for 40 years.³

5. According to the request, following a police operation that resulted in Layrton’s death, the proposed beneficiaries noticed increased police activity in their area. Fearing reprisals, they installed surveillance cameras in their residences. Since then, alleged irregularities in police conduct have been identified at the family’s residence. Among them, the applicant mentioned the following: entry without judicial authorization; police intervention without just cause; destruction of objects and belongings; and verbal threats.

6. On October 25, 2023, surveillance cameras located in the backyard recorded the first entry of military police without a warrant or authorization. On that occasion, the officials requested the personal identification of the residents and the registration of their personal data (security camera footage was attached). On December 22 and 23, 2023, the cameras captured the presence of police prowling around the relatives’ residence at night. On January 5, 2024, a new attempt was made by the police to enter the residence. They also took photos and videos of the proposed beneficiaries’ residences from different angles. Additionally, concern was raised over police officers documenting and photographing the security cameras’ locations (photos of armed officers with rifles looking toward the cameras were attached to the file).

7. On January 12, 2024, the Public Defender’s Office of São Paulo (the applicant) received the proposed beneficiaries A.M.F.C.V. and R.G.C.S. At that time, A.M.F.C.V. reported that, since the police killed her son, she has not been able to live in peace. They reported that, in 2023, after Layrton’s death, she arrived at her house and found BAEP officers (Police Special Operations Battalion) inside without authorization. They had questioned her other son, [F.], but did not find anything illicit. When questioned about their presence, they responded that they did not need authorization because they lived in a favela [An informal, densely populated neighborhood in Brazilian cities, often with limited infrastructure.]

8. On January 18, 2024, the applicant reported the facts to the following bodies: i. Special Action Group for Public Security and External Control of Police Activity (*Grupo de Actuación Especial de Seguridad Pública y Control Externo de la Actividad Policial*, GAESP) of the Public Prosecutor’s Office of the State of São Paulo; ii. Prosecutors of Santos responsible for the investigations of the facts that led to Layrton’s death. On February 1, 2024, the Public Prosecutor’s Office requested clarification from the São Paulo Military Police Ombudsperson regarding efforts to investigate the events and the existence of judicial authorization to enter the residences. The request was reiterated on February 19, 2024. However, there was no response from this body regarding the allegations of abuse of authority.

9. On March 4, 2024, security footage documented additional instances of military police entering the proposed beneficiaries’ residence. Photos of two police officers pointing rifles through the window into the proposed beneficiaries’ residence were attached. On the same day, the proposed beneficiary R.G.C.S. was approached, allegedly unjustifiably, by three policemen armed with rifles. A photo of the proposed beneficiary against the wall and surrounded by security agents was also attached.

² As context, it was indicated that on September 27, 2023, a police officer was shot and killed while carrying out an operation in the municipality of Guarujá. After the death of the police officer, *Operação Escudo* was launched, which allegedly aimed to apprehend those responsible for the officer’s death. On September 28, 2023, a police raid was carried out that resulted in the death of one person and the arrest of two others. After the arrest of the alleged perpetrators, *Operação Escudo* remained in force, with the aim of combating drug trafficking in the area. During the first phase of the operation, there was an overt presence of armed police in Guarujá and Santos, resulting in the deaths of 28 people in 40 days. On August 1, 2023, Layrton Fernandes died during a police intervention in Baixada Santista, Jabaquara community.

³ According to the information provided, the proposed beneficiary A.M.F.C.V. lives in the first house in front, with her partner and two teenage daughters. Proposed beneficiary F.F.C.O. resides in the second front house, with her children A.G.F.O. and M.V.F.S. Proposed beneficiary R.G.C.S. resides in the back house.

10. On March 11, 2024, R.G.C.S. again reported that BAEP military police entered his home around 2:00 PM without a court order. The security agents reportedly uttered verbal assaults, and threats of future physical assaults. The police officers also forced open the door of the residence, resulting in economic damages. Surveillance cameras recorded the moment they left the family's residence. In the video, crying children can be heard as they were frightened by the ostentatious and armed presence of the public security agents. The events were reported to the Public Prosecutor's Office.

11. Given the lack of a response from the Military Police Headquarters to the letter from the Public Prosecutor's Office, this body filed a precautionary measure linked to the investigation process for Layrton's death. The precautionary measure was filed before the Santos Jury Court in order to ensure the practical outcome of the investigations, considering the witness status of the proposed beneficiaries. On March 24, 2024, the judicial authority assessed the following:

"The lack of response to the letters sent by the Public Prosecutor's Office justifies the intervention through the requested precautionary measure to obtain relevant data and facts for the investigation, which will be carried out not only in the main action but also in the PIC [investigatory process], which has been impartially collecting testimonies and documents for the exercise of its institutional function of external oversight of police activity."

12. In this regard, the Military Police were ordered to justify their entry into the proposed beneficiaries' residences and to communicate, confidentially and in advance, any compliance with a judicial search and house arrest warrant. On April 2, 2024, the Command of the 6th Military Police of the Interior responded to the letters sent by the Public Prosecutor's Office, stating that the entries into the territory were justified by the existence of illegal drug trafficking in Morro do Jabaquara, where the family's residence is located.

13. On May 3, 2024, military police once again entered the residence of Layrton's mother, where three children were also present. On May 7, 2024, the applicant sent an official letter to the Santos Prosecutor's Office and the GAESP, reporting the facts. In response, the Public Prosecutor's Office requested clarification from the Military Police, particularly regarding the existence of a warrant to enter the proposed beneficiaries' residences. In this regard, the Public Prosecutor's Office reports that the Military Police did not respond.

14. On June 6, 2024, the proposed beneficiary's mother testified at the applicant's office. In her testimony, A.M.F.C.V. indicated that the searches in her residence continued to occur repeatedly. Not only do the officers allegedly enter the backyard or make their presence known in the surroundings, but they also involve a range of other systematic violations, such as personal searches, verbal assaults, invasive home searches, among others. Photos of new police activities that occurred on May 27 and June 4, 2024 at her residence were attached. In those last two searches, her room was allegedly completely ransacked. This act resulted in a broken door, as well as clothes and personal items on the floor, including the toys that belong to the proposed beneficiary's granddaughters, among other alleged violations. On June 6, 2024, the applicant reported the facts to the Public Prosecutor's Office and to the general commander of the São Paulo Military Police.

15. On June 3, 2024, the Public Prosecutor's Office promoted the filing of the criminal investigation related to Layrton's death. The decision to close the case was ratified by the Santos Jury Court on June 28, 2024. It was reported that the applicant did not have access to the file that determined the closure of the investigation and the precautionary measure, despite having formally requested it.

16. On June 6, 2024, the proposed beneficiary A.M.F.C.V. informed the applicant that BAEP helicopters were flying over her residence. In view of the persistence of the events, that same day, the applicant activated the Program for the Protection of Threatened Victims and Witnesses (*Programa de Protección a Víctimas y Testigos Amenazados*, PROVITA/SP), in order to verify the possibility of including the proposed beneficiaries in it. On June 12, 2024, PROVITA/SP denied the request, stating that "it was not possible to identify

the presence of the requirements of Law No. 9.807/99, and that the conduct of the police should be subject to proper investigation, and if the investigation reveals the need for protection, the program is available for assistance.”

17. On July 24, 2024, at around 8:50 p.m., and on July 31, 2024, at 12:29 a.m., the surveillance camera recorded further harassment around the family’s property. The footage identifies the agents wielding their weapons and climbing the access stairs to their daughter’s residence, but did not enter the premises. In the early hours of August 8, 2024, between 1:53 a.m. and 2:16 a.m., the building’s surveillance cameras recorded a new entry. In addition to patrolling the area, the officials entered the house and disconnected the Wi-Fi router. They also searched F.F.C.O.’s property and pointed a revolver in her direction while she held a one-year-old and five-month-old in her arms. According to the accounts, the agents involved were military police from the Tactical Force, who used a BAEP patrol.

18. The proposed beneficiary F.F.C.O. alleged that she and her daughter were intimidated and felt unsafe after the new incidents. It was indicated that the proposed beneficiaries acquired new security cameras. On August 22, 2024, a new incident occurred at the family’s residence, where police officers allegedly shined a flashlight in F.F.C.O.’s face and her neighbor’s while they were carrying sacks of stones. On August 27, 2024, the applicant addressed an official letter to the Attorney General of the Public Prosecutor’s Office of São Paulo, to investigate alleged crimes of abuse of authority by security agents. On September 16, 2024, police officers were seen in the vicinity of the proposed beneficiaries’ residence, which generated fear.

19. The request states that the police incidents were related to the activities of the proposed beneficiaries in their search for memory, truth, and justice following Layrton’s death. They attached links to press releases where they denounce the violence they were subject to and describe their work in defense of human rights. Moreover, the applicant claims that the entries do not usually occur in the neighboring residences but, repeatedly, only in their homes.

20. Lastly, the applicant indicated that it has requested to reopen the investigation into Layrton’s death, pending an assessment by the Attorney General. They pointed out that, at present, the proposed beneficiaries do not have any protection detail. Offices of various procedures were attached.⁴

B. Response from the State

21. The State reported that it adopted internal measures to address the alleged risks, and therefore understands that the procedural requirements have not been met. In this regard, it specified that the protection of the proposed beneficiaries was the subject of a judicial precautionary measure at the domestic level. It was reported that the protection measure was revoked, as the process investigating Layrton’s death was archived. In this regard, it was mentioned that the file of the investigation process was sent to the Office of the Military Police on July 4, 2024. It was added that, despite the foregoing, the applicant sent an official letter to the GAESP.

⁴ It referred to the following: (i) January 18, 2024: letter addressed to the GAESP prosecutors, reporting the events of December 22 and 29, 2023, and January 12 and 5, 2024; (ii) March 12, 2024: letter addressed to the GAESP prosecutors, informing about the police entry on March 11, 2024; (iii) May 7, 2024: letter addressed to the São Paulo Prosecutor’s Office, reporting the events of May 3, 2024, after the granting of the internal judicial protection measure; (iv) June 6, 2024: letter addressed to GAESP, reporting the events of May 27 and June 4, 2024; (v) June 6, 2024: letter addressed to PROVITA, requesting inclusion in the Victim and Witness Protection Program; (vi) July 10, 2024: petition addressed to the Attorney General of the São Paulo Public Prosecutor’s Office, requesting the reopening of the investigation into the death of Layrton; and (vii) August 5, 2024: letter addressed to GAESP, indicating the events of July 24 and 31, 2024.

22. Regarding the new events that placed the proposed beneficiaries at risk after the revocation of the precautionary measure, the State indicated that the Santos Jury Court forwarded the information to the Military Justice on July 28, 2024. The alleged threats have also been reported to the group of the Public Prosecutor's Office responsible for the external control of police activity.

23. The State recalled that on August 27, 2024, the Public Defender's Office of São Paulo filed a complaint for abuse of authority by military police officers, which is pending before the corresponding body. It was emphasized that measures are being taken and that it must wait for action from the internal bodies.

24. The State mentioned that on December 12, 2023, Law No. 14,751/2023, which establishes the National Organic Law of the Military Police and Fire Brigades, was enacted. This law amends Article 4 of Law No. 13,675 of 2018, stating that one of the principles of the National Public Security Policy is the moderate and proportional use of force, in line with international human rights agreements. It also emphasized the enforcement of Ordinance No. 648/2024, which requires the use of cameras in operations, prominent actions, and during contact with detainees, with the goal of enhancing transparency, protecting security professionals and the public, and preventing excessive use of force. It was argued that these mechanisms are important tools for the proper attribution of responsibility to security agents.

25. In this regard, the State understands that it is implementing initiatives and developing projects to align public security institutions with international standards on the use of force.

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

26. The precautionary measures mechanism is part of the Commission's function of overseeing compliance with the human rights obligations set forth in Article 106 of the Charter of the Organization of American States. These general oversight functions are 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. The mechanism of precautionary measures is set forth in Article 25 of the Commission's Rules of Procedure. In accordance with that Article, the Commission grants precautionary measures in serious and urgent situations in which these measures are necessary to avoid irreparable harm to persons.

27. The Inter-American Commission and the Inter-American Court of Human Rights (hereinafter "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.⁵ Regarding the protective nature, these measures seek to avoid irreparable harm and to 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, and how vulnerable the proposed beneficiaries would be left in case the measures are not adopted.⁷ As for their precautionary nature, these measures have the purpose of preserving legal situations while under the study of the IACHR. Their precautionary nature aims at safeguarding the rights at risk until the petition pending before the inter-American system is resolved. Their objective 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

⁵ I/A Court H.R., [Matter of the Yare I and Yare II Capital Region Penitentiary Center](#), Provisional Measures regarding the Bolivarian Republic of Venezuela, Order of March 30, 2006, considerandum 5; Case of Carpio Nicolle et al. v. Guatemala, Provisional Measures, Order of July 6, 2009, considerandum 16 (Available only in Spanish).

⁶ I/A Court H.R., [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#), Provisional Measures regarding Venezuela, Order of February 8, 2008, considerandum 8; [Case of Bámaca Velásquez](#), Provisional measures regarding Guatemala, Order of January 27, 2009, considerandum 45; [Matter of Fernández Ortega et al.](#), Provisional measures regarding Mexico, Order of April 30, 2009, considerandum 5; [Matter of Milagro Sala](#), Provisional measures regarding Argentina, Order of November 23, 2017, considerandum 5. (Available only in Spanish)

⁷ I/A Court H.R., [Matter of Milagro Sala](#), Provisional Measures regarding Argentina, Order of November 23, 2017, considerandum 5 (Available only in Spanish); [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#), Provisional Measures regarding Venezuela, Order of February 8, 2008, considerandum 9; [Matter of the Criminal Institute of Plácido de Sá Carvalho](#), Provisional Measures regarding Brazil, Order of February 13, 2017, considerandum 6 (Available only in Spanish).

may render moot or disprove the *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.⁸ 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.

28. In analyzing those requirements, the Commission reiterates that the facts supporting a request for precautionary measures need not be proven beyond doubt; rather, the information provided should be assessed from a *prima facie* standard.⁹ Similarly, the Commission recalls that, by its own mandate, it is not called upon to determine any individual liabilities for the facts alleged. Moreover, in this proceeding, it is not appropriate to rule on violations of rights enshrined in the American Convention or other applicable instruments.¹⁰ This is better suited to be addressed by the Petition and Case system. The following analysis refers exclusively to the requirements of Article 25 of its Rules of Procedure, which can be resolved without making any determination on the merits.¹¹

29. In accordance with the terms of Article 25 (6) of its Rules of Procedure, the Commission emphasizes that it has been monitoring the situation of public security in Brazil. In its 2023 Annual Report, the Commission noted that security operations throughout the year had led to violent deaths of individuals at the hands of public agents. Specifically, it mentioned *Operação Escudo* in the Baixada Santista region of São Paulo, where at least 28 people were killed as a result of security raids in response to organized crime in the area killing a police officer.¹² In the press release of August 8, 2023, the Commission highlighted the increase in police violence in São Paulo. According to official data from that federal state, the number of deaths caused by military police officers on duty increased by 26% in the first half of 2023, from 123 deaths recorded during the first six months of 2022, to 155 in the same period of the following year. The increase reverses the 57% decline that had been observed after the introduction of body cameras between 2019 and 2022, according to a study published by the Getúlio Vargas Foundation in São Paulo.¹³ These actions reportedly show a pattern of

⁸ I/A Court H.R., [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#), Provisional Measures regarding Venezuela, Order of February 8, 2008, considerandum 7; [Matter of “El Nacional” and “Así es la Noticia” newspapers](#), Provisional Measures regarding Venezuela, Order of November 25, 2008, considerandum 23; [Matter of Luis Uzcátegui](#), Provisional Measures regarding Venezuela, Order of January 27, 2009, considerandum 19 (Available only in Spanish).

⁹ I/A Court H.R., [Matter of Members of the Miskitu Indigenous Peoples of the North Caribbean Coast regarding Nicaragua](#), Extension of Provisional Measures, Order of August 23, 2018, considerandum 13 (Available only in Spanish); [Matter of children and adolescents deprived of liberty in the “Complexo do Tatuapé” of the Fundação CASA](#), Provisional Measures regarding Brazil, Order of July 4, 2006, considerandum 23.

¹⁰ IACHR, [Resolution 2/2015](#), Precautionary Measure No. 455-13, Matter of Nestora Salgado regarding Mexico, January 28, 2015, para. 14; [Resolution 37/2021](#), Precautionary Measure No. 96-21, Gustavo Adolfo Mendoza Beteta and family regarding Nicaragua, April 30, 2021, para. 33.

¹¹ In this regard, the Court has stated that “[it] cannot, in a provisional measure, consider the merits of any arguments pertaining to issues other than those which relate strictly to the extreme gravity and urgency and the necessity to avoid irreparable damage to persons.” I/A Court H.R., [Matter of James et al. regarding Trinidad and Tobago](#), Provisional Measures, Order of August 29, 1998, considerandum 6 (Available only in Spanish); [Case of the Barrios Family v. Venezuela](#), Provisional Measures, Order of April 22, 2021, considerandum 2 (Available only in Spanish).

¹² IACHR, [2023 Annual Report, Chapter IV.a. Brazil](#), approved on December 31, 2023, para. 156.

¹³ IACHR, [Press Release 177/23](#), “IACHR Condemns the Violent Deaths of at Least 16 People in Police Operations in Brazil,” August 8, 2023.

extrajudicial murders by the security forces, which have taken multiple lives in Brazil over the past few months.¹⁴ In this context, the Commission recalled that, as indicated in its report on Brazil, police violence in the country responds to a context of systemic racial discrimination, in which security forces carry out operations in areas exposed to socioeconomic vulnerability and with a high concentration of Afro-descendants and young people, without observing international human rights standards.¹⁵

30. These contextual elements are significant as they provide seriousness and consistency to the allegations made regarding the proposed beneficiaries, especially since they occurred within the scope of *Operação Escudo*.

31. In this sense, when evaluating the *seriousness* requirement, the Commission finds that, between August 2023 and September 2024, the proposed beneficiaries have been subjected to constant police raids in their residences. These raids reportedly intensified after the death of Layrton, the proposed beneficiaries' family member, on August 1, 2023, in a police operation carried out in Baixada Santista.

32. Although the police intervention was justified as a measure to combat crime in the area, the Commission notes that none of the parties have provided information suggesting that the proposed beneficiaries are under investigation or that any criminal proceedings have been initiated against them. Moreover, there were no judicial decisions ordering the proposed beneficiaries' residences to be searched. Notwithstanding this, the Commission notes with concern the manner in which the police raids have developed. In this matter, in particular, the following has been alleged:

- i. The entry of the police officers into the houses was recorded by security cameras installed in the proposed beneficiaries' residences, and the applicant attached photos to this file. These documents depict heavily armed military police pointing rifles at the window and gate of the proposed beneficiaries' residence, taking pictures and, on one occasion, surrounding a proposed beneficiary.
- ii. According to the applicant, police officers allegedly entered their premises on at least 14 occasions and at different times, including in the early morning, and in the presence of children.
- iii. In addition to entering the homes of the proposed beneficiaries, security agents allegedly made threats, verbal assaults, conducted house searches, caused property damage, disrupted the *Wi-Fi* network, and committed other acts.

33. In the Commission's opinion, these events were having an intimidating effect on Layrton's family members, who said they felt intimidated and that their mental health was affected. In this sense, since it is not for the Commission to determine the perpetrators of the risks or if they are attributable to State actors, when assessing this request, it does consider the seriousness of the possible participation of State actors according to the allegations and allegedly place the proposed beneficiaries in a situation of vulnerability.

34. The attached documentation is sufficient to identify that the applicant has been continuously reporting the situation to various state bodies. In this context, the Commission notes the dispatch of official letters to the following organizations: i. Special Action Group for Public Security and External Control of Police Activity (GAESP) of the Public Prosecutor's Office of the State of São Paulo; ii. Prosecutor's Office of Santos; iii. Program for the Protection of Threatened Victims and Witnesses (PROVITA); iv. Office of the Inspector General of Justice. It was also indicated that the Public Prosecutor's Office of São Paulo sent an official letter to the Office of the Military Police requesting a precautionary measure in the context of the investigation into the death of the proposed beneficiaries' relative. The Santos Jury Court granted the request on the grounds of ensuring the

¹⁴ IACHR, Press Release 177/23, previously cited.

¹⁵ IACHR, Press Release 177/23, previously cited.

impartiality of the investigations and securing external police oversight by the Public Prosecutor's Office. In this regard, the Commission recalls that the actions of the Public Prosecutor's Office and the Judiciary lend consistency to the allegation that the raids on their residences could be related to the investigation into Layrton's death. The Commission also takes note of the information provided by both parties regarding the closure of the investigations and the related precautionary measure on June 28, 2024.

35. In recent months, the Commission identifies that new facts against the family members were reported. In particular, on July 24 and 31, August 8 and 22, and September 16, 2024. The Commission understands that these events reflect that the acts denounced are sustained over time and that the threats and intimidations could seek to limit their work in denouncing and seeking justice. In this context, the Commission understands that, even though state actors are allegedly involved, the State has not deployed protection measures in favor of the persons proposed as beneficiaries. There is also no information on whether risk analysis assessments have been carried out to evaluate their current situation, or whether the actions of state agents in the raids have been reviewed, thus contradicting the allegations submitted by the applicant.

36. Having requested information from the State under Article 25 of its Rules of Procedure, the Commission took note of the domestic actions taken in favor of the proposed beneficiaries. In this regard, it was alleged that the complaints were sent by the trial of the Jury Court to the Military Justice, for the corresponding investigations. It was also added that GAESP was informed of the reported threats and that the Public Defender's Office of São Paulo filed a complaint with the Attorney General regarding the alleged crime of abuse of authority. However, despite the activation of various internal bodies, there is no information on concrete actions and progress made by the state authorities to mitigate the risk that the proposed beneficiaries face.

37. The Committee observes that the request for the family to be included in PROVITA/SP was rejected, and the State has not provided information on the completion of an updated risk assessment. In this regard, the Commission recalls that the Inter-American Court has indicated the following:

"[...]state authorities have a responsibility to be aware of a situation of special risk, to identify or determine whether the person being threatened or harassed requires protection measures or to refer the matter to the competent authority for that purpose and to offer the person at risk pertinent information on the measures available." Regarding human rights defenders, this Court has stated that the suitability of protection measures requires that they fulfill the following characteristics: a) appropriate to the functions performed by the defenders; b) subject to an assessment based on the level of risk, in order to adopt and monitor the effective measures; and c) adaptable according to changes in the intensity of the risk.¹⁶ In this regard, the Commission recalls that the protection measures must be suitable and effective, in the sense that they should enable the defender to face the risk and mitigate such risk, focusing special relevance on the principle of consultation.¹⁷

38. The Commission emphasizes that the facts alleged by the applicant were not disproved by the State. In this regard, the Commission recalls the special reinforced protection that must be adopted for children.¹⁸ In addition, the lack of progress in the investigations, which could mitigate the reported factors that place them at risk, is concerning. This creates a situation of impunity that allows these issues to persist and recur over time, as can be inferred from the information available in the file.

39. Based on the information received from the parties, the persistence of the situation over time, the lack of investigation into the mentioned circumstances, and the absence of protective measures, in light of

¹⁶ I/A Court H.R., [Case of Yarce et al. v. Colombia](#), Preliminary Objection, Merits, Reparations and Costs, Judgment of November 22, 2016, para. 193 (Available only in Spanish).

¹⁷ IACHR, [Report on the Situation of Human Rights Defenders in the Americas](#), OEA/Ser.L/V/II. Doc. 66, December 31, 2011, paras. 521-524.

¹⁸ IACHR, [Violence and Discrimination against Women and Girls: Best Practices and Challenges in Latin America and the Caribbean](#), OEA/Ser.L/V/II, November 14, 2019, para. 77.

the country's context, the Commission concludes that the proposed beneficiaries' rights to life and integrity are *prima facie* in a serious situation.

40. Regarding the requirement of *urgency*, the Commission notes that it has been complied with, given that, according to the information provided, the proposed beneficiaries have been subject to various incidents on a sustained basis, and the situation that places them at risk has not been assessed, nor have protection measures been implemented in their favor. In view of these issues, the Commission is particularly concerned that, to date, no risk assessment has been conducted to assess the measures to be adopted or to coordinate them with the proposed beneficiaries.

41. Regarding the requirement of *irreparable harm*, the Commission maintains that it has been met since the potential impact on the rights to life and personal integrity constitutes the maximum situation of irreparability.

IV. BENEFICIARIES

42. The Commission declares as the beneficiaries of the precautionary measures the seven relatives of Layrton Fernandes da Cruz, who are duly identified in this proceeding.

V. DECISION

43. In view of the aforementioned background, the IACHR considers that this matter meets *prima facie* the requirements of seriousness, urgency and irreparable harm set forth in Article 25 of its Rules of Procedure. Consequently, the IACHR requests that Brazil:

- a) adopt the necessary measures to protect the rights to life and integrity of the beneficiaries;
- b) consult and agree upon the measures to be implemented with the beneficiaries and their representatives; and
- c) report on the actions taken to investigate the alleged events that led to the adoption of this precautionary measure, so as to prevent such events from reoccurring.

44. The Commission requests that Brazil provide details, within 15 days from the date of notification of this resolution, on the adoption of the requested precautionary measures and to update such information on a regular basis.

45. The Commission emphasizes that, pursuant to Article 25(8) of the Commission's Rules of Procedure, the granting of precautionary measures and their adoption by the State do not constitute a prejudgment regarding the possible violation of the rights protected in the American Convention and other applicable instruments.

46. The Commission instructs its Executive Secretariat to notify this resolution to the State of Brazil and the applicant.

47. Approved on November 12, 2024, by Roberta Clarke, President; Carlos Bernal Pulido, First Vice-President; José Luis Caballero Ochoa, Second Vice-President; Edgar Stuardo Ralón Orellana; and Andrea Pochak, members of the IACHR.

Tania Reneaum Panszi
Executive Secretary