

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION 86/2021**

Precautionary Measure No. 869-21  
**Antônio Martins Alves regarding Brazil<sup>1</sup>**  
October 21, 2021  
Original: Spanish

**I. INTRODUCTION**

1. On September 17, 2021, the Inter-American Commission on Human Rights (“the Inter-American Commission,” “the Commission,” or “the IACHR”) received a request for precautionary measures 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 Mr. Antônio Martins Alves (“the proposed beneficiary”). According to the request, the whereabouts or fate of the proposed beneficiary is unknown since July 16, 2021.

2. Under the terms of Article 25(5) of its Rules of Procedure, the IACHR requested information from the State on September 24, 2021, receiving responses on October 4, 2021. For their part, the applicant submitted additional information on October 8, 2021.

3. Upon analyzing the submissions of fact and law furnished by the parties, the Commission considers that the information presented shows *prima facie* that Mr. Antônio Martins Alves is in a serious and urgent situation, given that his rights to life and personal integrity are at risk of irreparable harm. Consequently, it requests that Brazil: a) adopt the necessary measures to determine the situation and whereabouts of Antônio Martins Alves, in order to protect his rights to life and personal integrity; and b) report on the actions taken to investigate the alleged events that led to the adoption of this precautionary measure, so as to prevent them from reoccurring.

**II. SUMMARY OF FACTS AND ARGUMENTS**

**1. Information provided in the request**

4. Mr. Antônio Martins Alves, known as “Bigode,” is a person over 82 years of age, a rural worker in the Canaã Settlement, created from the efforts of landless rural workers and consolidated in 1982. The Settlement is located in the northern part of the Serra da Bodoquena National Park in the state of Mato Grosso do Sul. In the request, particular concern was expressed about the situation of vulnerability of the proposed beneficiary, given his socioeconomic position of historical marginalization, and due to health issues, such as his difficulty in walking.

5. According to the request, Mr. Martins Alves actively participates in the defense of his lands and the environment, which historically has reportedly generated conflicts with people or groups with an interest in road construction, deforestation, tourism exploitation or other efforts with significant environmental impact. The request indicated that the Canaã Settlement region where the proposed beneficiary lives is allegedly facing economic challenges, with an impact on the situation of traditional rural workers. For example, of the 245 initial families living in the Settlement, there are currently 35 remaining, which are purportedly facing lack of public policies to guarantee their rights, lack of police surveillance and public security, and pressure from the tourism industry to exploit the region. In this

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<sup>1</sup> In accordance with Article 17.2.a of the Rules of Procedure of the IACHR, Commissioner Flávia Piovesan, a Brazilian national, did not participate in the debate or deliberation of this matter.

scenario, the proposed beneficiary allegedly has a particular role in favor of the protection of the Settlement and its natural resources.

6. The proposed beneficiary is reportedly missing since July 16, 2021. On July 9, 2021, days before the disappearance, a firearm owned by the proposed beneficiary was purportedly stolen. According to the request, the disappearance of the proposed beneficiary may be connected to socio-economic conflicts in the region, or to disagreements he allegedly has with neighboring owners. In this regard, it was indicated that the lands of the proposed beneficiary are reportedly of interest for economic exploitation by tourism. Close people reported that in December 2020 Mr. Martins Alves and the owner of an area of interest to the tourism industry had an altercation. Furthermore, a person involved in the construction of a tourist site alleged that the proposed beneficiary was making it difficult for the builders to work. This person once indicated that Mr. Martins Alves spread construction material over the bush, compromising its use. Moreover, a copy of a complaint from the proposed beneficiary himself dated September 20, 2020, was provided, in which he alleged theft of his livestock by neighboring properties. On July 14, 2021, before his disappearance, the proposed beneficiary purportedly left “in search of his lost cattle.”

7. After reporting the disappearance to the authorities, on July 17, 2021, firefighters began searches in the Canaã Settlement region, locating residues of a bonfire in the *Córrego Azul*, near a well also called “*córrego azul*” (“blue stream”). On July 18, 2021, firefighters continued the search, involving two detection dogs in the afternoon. On July 19, 2021, neighbors and relatives joined the search. On July 20 and 21, 2021, on-site support was requested from the police. Searches have been allegedly carried out in regions more distant from the room of the proposed beneficiary. On July 22, 2021, fire crews purportedly interrupted the searches. However, residents of the region have reportedly continued to search for the proposed beneficiary.

8. Finally, between July 17 and 22, 2021, firefighting teams acted exhaustively in the search for the proposed beneficiary. On September 1, 2021, at the request of the daughter of the proposed beneficiary, the firefighters purportedly carried out a new search procedure on his behalf, returning to the region to dive in the “*córrego azul*” well, in case of a possible drowning. However, no concrete results were obtained. The request indicated that approximately 90 days have elapsed with no progress in the case of the proposed beneficiary.

## **B. Information provided by the State**

9. The State indicated that the request does not meet the requirements of Article 25 of its Rules of Procedure. The State also argued that domestic remedies have not been exhausted before filing this request for precautionary measures. The State indicated that the disappearance of Mr. Martins Alves was notified to the State on July 19, 2021, when the complaint was formalized with the police, indicating that the whereabouts of the proposed beneficiary were unknown since July 16, 2021. As indicated, the authorities carried out a verification in areas nearby the bush with search and rescue teams. Moreover, the State highlighted that:

“[t]he police intervention was carried out in a planned, coordinated, and effective way, with ‘several search fronts leaving the house of the disappeared person, by different routes.’ The specialized team was divided into ‘4 teams, one of which remained in the vicinity of the house of the missing person, another 3 teams, two of them with the detection dogs Laika and Mali, advanced up the hill in some areas using search advanced techniques.’”

10. The State added that a specific police investigator was appointed to go to the place of the searches at specific times and verify indications of a possible crime or death of the proposed beneficiary. During the search efforts, testimony was taken from potential witnesses or individuals who were able to share relevant information. In that sense, according to what was provided to the authorities, Mr. Martins Alves has health problems in his spine, with mobility difficulties, suffers from diabetes and high blood pressure, and has allegedly fainted during a visit to the city. Before disappearing, he had purportedly commented with neighbors and acquaintances that he was going out in search of his cattle on their lands.

11. The State indicated that, after intensive searches, the proposed beneficiary was not located, and no evidence of a crime or his death had been identified. In this way, the authorities have told the daughter of Mr. Martins Alves to appear before the forensic organ to register her genetic material in the pertinent systems. In addition, public health and safety bodies were officially informed so that, in the event of obtaining relevant information, it is communicated to the responsible police unit. According to the search report provided, the authorities have asked the locals to inform them in case they feel strong odors or see vultures flying overhead, which could mean that the body of the proposed beneficiary is nearby. Considering the procedures set forth, the State argued that this request for precautionary measures is not necessary, since “comprehensive and effective measures are being implemented.”

12. Additionally, the State provided a copy of the search reports made, including summaries of the contributions of the testimonies collected. According to these, although the proposed beneficiary allegedly has difficulty moving around, he was purportedly used to go out alone, despite having been advised by some acquaintances not to do so. In the search procedures, residues of a bonfire were found, such as machete marks in trees on some open roads in the field, where the detection dogs continued until they lost track. Both detection dogs also showed interest in a well, known as a “*córrego azul*,” which the report indicates may be attributable to some residue of the proposed beneficiary that arrived there.

13. Because several acquaintances and witnesses had commented that the case should be well investigated, given that “the victim was a difficult person to deal with” and because a weapon had been stolen two weeks earlier, on-site support was requested from the police. In the reports, moreover, the witnesses have indicated that the proposed beneficiary has a conflict with neighbors as a result of the construction of a highway, although the interpretation of the intensity thereof varies between witnesses. After six days, the searches were reportedly interrupted.

14. Finally, it was reported that at the request of the daughter of the proposed beneficiary, the firefighters returned to the region of the alleged disappearance on a later occasion, in which specialized diving teams searched the “*córrego azul*” well in the event of drowning. This has allegedly not been successful to date. Similarly, it was indicated that no hypothesis about the disappearance has been ruled out, including the possibility that a crime has been committed. In this regard, the State also indicated that a detailed investigation was carried out with the help of detection dogs in the rooms of the neighbors who allegedly had a conflict with Mr. Martins Alves. No evidence of crime has been reportedly found.

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

15. The precautionary measures mechanism is part of the Commission’s function of overseeing compliance with the human rights obligations set forth in Article 106 of the Charter of the Organization of American States. These general oversight functions are established in Article 18(b) of the Statute of the IACHR, while the precautionary measures mechanism is described in Article 25 of the Rules of Procedure of the Commission. In accordance with that Article, the Commission grants precautionary measures in serious and urgent situations in which these measures are necessary to avoid an irreparable harm.

16. The Inter-American Commission and the Inter-American Court of Human Rights (“the Inter-American Court” or “I/A Court H.R.”) have repeatedly established that precautionary and provisional measures have a dual nature, both protective and precautionary.<sup>2</sup> Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.<sup>3</sup> To do this, it is

<sup>2</sup> See in this regard: I/A Court H.R. [Matter of the Yare I and Yare II Capital Region Penitentiary Center](#). Request for Provisional Measures submitted by the IACHR regarding the Bolivarian Republic of Venezuela. Order of the Inter-American Court of Human Rights of March 30, 2006, considerandum 5; I/A Court H.R. [Case of Carpio Nicolle et al. v. Guatemala](#). Provisional Measures. Order of July 6, 2009, considerandum 16.

<sup>3</sup> See in this regard: I/A Court H.R. [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#). Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, considerandum 8; I/A Court H.R. [Case of Bámaca Velásquez](#). Provisional Measures regarding Guatemala. Order of the Court of January 27, 2009, considerandum 45; I/A Court H.R. [Matter of Fernández Ortega et al.](#) Provisional Measures regarding Mexico. Order of the Court of April 30, 2009, considerandum 5; I/A Court

necessary to assess the problem raised, the effectiveness of state actions to address the situation described, and how vulnerable the persons proposed as beneficiaries would be left in case the measures are not adopted.<sup>4</sup> Regarding their precautionary nature, these measures have the purpose of preserving legal situations while under the consideration of the IACHR. The object and purpose of precautionary measures is to preserve the rights at risk until the petition pending before the inter-American system is resolved. They also seek 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.<sup>5</sup> In the process of reaching a decision, and according to Article 25(2) of the Rules of Procedure, the Commission considers that:

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

17. In analyzing those requirements, the Commission reiterates that the facts supporting a request for precautionary measures need not be proven beyond doubt. The information provided should be assessed from a *prima facie* standard of review to determine whether a serious and urgent situation exists.<sup>6</sup> The IACHR recalls that it is not appropriate, in this proceeding, to rule on violations of rights enshrined in the American Convention or other applicable instruments.<sup>7</sup> The analysis performed herein relates exclusively to the requirements set forth in Article 25 of the Rules of Procedure, which can be resolved without making any determinations on the merits.<sup>8</sup>

18. Similarly, in relation to the statements made by the State regarding the alleged failure to exhaust domestic remedies, the Commission recalls that this is a requirement to assess the admissibility of a petition, with the aim to analyze the possible international responsibility of a State. In the case of

H.R. [Matter of Milagro Sala](#). Request for Provisional Measures regarding Argentina. Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5 [only in Spanish].

<sup>4</sup> See in this regard: I/A Court H.R. [Matter of Milagro Sala](#). Request for Provisional Measures regarding Argentina. Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5 [only in Spanish]; I/A Court H.R. [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#). Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, considerandum 9; I/A Court H.R. [Matter of the Criminal Institute of Plácido de Sá Carvalho](#). Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of February 13, 2017, considerandum 6 [only in Spanish].

<sup>5</sup> See in this regard: I/A Court H.R. [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#). Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, considerandum 7; I/A Court H.R. [Matter of “El Nacional” and “Así es la Noticia” newspapers](#). Provisional Measures regarding Venezuela. Order of the Court of November 25, 2008, considerandum 23; I/A Court H.R. [Matter of Luis Uzcátegui](#). Provisional Measures regarding Venezuela. Order of the Court of January 27, 2009, considerandum 19.

<sup>6</sup> See in this regard: I/A Court H.R. [Matter of Members of the Miskitu Indigenous Peoples of the North Caribbean Coast regarding Nicaragua](#). Extension of Provisional Measures. Order of the Inter-American Court of Human Rights of August 23, 2018, considerandum 13 [only in Spanish]; I/A Court H.R. [Matter of Children Deprived of Liberty in the “Complexo do Tatuapé” of the Fundação CASA](#). Request for extension of provisional measures. Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of July 4, 2006, considerandum 23.

<sup>7</sup> IACHR. [Resolution 2/2015](#). Precautionary Measure No. 455-13. Matter of Nestora Salgado regarding Mexico. January 28, 2015, para. 14; IACHR. [Resolution 37/2021](#). Precautionary Measure No. 96-21. Gustavo Adolfo Mendoza Beteta and family regarding Nicaragua. April 30, 2021, para. 33 [only in Spanish].

<sup>8</sup> In this regard, the Court has indicated that “[it] cannot, in a provisional measure, consider the merits of any arguments pertinent to issues other than those which relate strictly to the extreme gravity, urgency, and the necessity to avoid irreparable damage to persons.” See in this regard: I/A Court H.R. [Matter of James et al. regarding Trinidad and Tobago](#). Provisional Measures. Order of the Inter-American Court of Human Rights of August 29, 1998, considerandum 6; I/A Court H.R. [Case of Barrios Family v. Venezuela](#). Provisional Measures. Order of the Inter-American Court of Human Rights of April 22, 2021, considerandum 2 [only in Spanish].

precautionary measures, the Commission recalls that the international responsibility of the State is not analyzed nor are violations determined. This mechanism is governed exclusively by Article 25 of its Rules of Procedure. In this regard, subsection (6)(a) only establishes that “in considering the request the Commission shall take into account its context and the following elements: a. whether the situation has been brought to the attention of the pertinent authorities or the reasons why it would not have been possible to do so [...]”<sup>9</sup> Thus, the exhaustion of domestic remedies is not required in the processing of a request for precautionary measures. As these are situations posing an imminent risk of irreparable harm, the requirement of exhaustion of domestic resources would potentially deprive the mechanism of precautionary measures of its useful effect.

19. Before proceeding with the analysis of the procedural requirements, the Commission emphasizes that, by its own mandate, it is not called upon to determine the nature of the alleged disappearance. For instance, stating whether it can be attributed to criminal or accidental events. As indicated above, the assessment carried out below concerns exclusively the requirements established in Article 25 of the Rules of Procedure, which can be resolved without making any determinations on the merits. Having made such clarification, the Commission shall analyze the procedural requirements.

20. Regarding the analysis of the requirement of seriousness, in this matter, the IACHR observes that the proposed beneficiary has been missing since July 16, 2021, when he allegedly went out in search of his livestock and did not return. In this regard, the Commission notes that the request indicated that the proposed beneficiary resided in a Settlement where conflicts arise and where there is interest from the tourism industry. In this context, it was alleged that the proposed beneficiary has a leadership role in the defense of his lands and the environment. According to both parties, after receiving a report of the disappearance, a team of firefighters appeared on July 17, 2021, in the vicinity of the place of the alleged disappearance, carrying out various procedures during the following days, even with four search teams and with detection dogs (see *supra* para. 9). Similarly, the State indicated that no evidence of crimes or death of the proposed beneficiary was found (see *supra* paras. 10 and 14). An investigation was even carried out in the rooms of neighbors who allegedly have conflicts with the proposed beneficiary (see *supra* para. 14).

21. In this regard, the IACHR takes note and assesses the measures implemented by the State after learning of the alleged disappearance of the proposed beneficiary, recalling the importance of launching investigations and actions to determine the whereabouts of disappeared persons in a timely manner.<sup>10</sup> However, from the information available, it is not a controversial aspect that the whereabouts of the proposed beneficiary remain unknown to date. In this sense, the Commission does not have sufficient information as to indicate that there are substantial advances to clarify what happened or to find the whereabouts of the proposed beneficiary, which potentially requires new search and investigation procedures, for example.

22. In this scenario, the Commission notes that the alleged situation takes on special relevance, considering that the parties have indicated that the proposed beneficiary is particularly vulnerable due to his socioeconomic context of historical marginalization and his condition as an elderly person with significant health problems (see *supra* paras. 4 and 10). In this regard, it is worth recalling the special

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<sup>9</sup> Article 46 of the American Convention, cited by the State, refers to “petition or communication presented pursuant to Articles 44 or 45 [...]” which refer exclusively to the petition and case system. It is noted that Articles 44 and 45 of the American Convention refer to “denunciations or complaints of violation” of the Convention. The function of the precautionary measures mechanism is not to establish the existence or not of one or more violations (see Article 25(8) of the Rules of Procedure of the Commission), and the consequent international responsibility of the State; rather, as stated in Article 25 of the Rules of Procedure of the Commission, precautionary measures “[...] shall concern serious and urgent situations presenting a risk of irreparable harm to persons or to the subject matter of a pending petition or case before the organs of the Inter-American system.”

<sup>10</sup> See, for instance: I/A Court H.R., [Caso Velásquez Paiz et al. v. Guatemala](#). Judgement of November 19, 2015, Preliminary Objections, Merits, Reparations and Costs, para. 122.



protection duties of the State towards people in situations of vulnerability, pursuant to the Inter-American Court:

(...) in addition to the general obligations to respect and guarantee rights, pursuant to Article 1(1) of the Convention, special obligations are derived from these, which are determined according to the particular needs for protection of the subject of law, either owing to his personal situation or to the specific situation in which he finds himself.

23. In these circumstances, taking into account that the whereabouts or fate of the proposed beneficiary remains unknown, his particular situation of vulnerability, and the lack of information on new search and investigation procedures by the State, the Commission considers that, from an applicable *prima facie* standard, the rights to life and personal integrity of Antônio Martins Alves are at serious risk.

24. Regarding the requirement of urgency, the Commission deems that it is also met, insofar as the proposed beneficiary is likely to suffer greater impacts on his rights to life and personal integrity as time goes by and his whereabouts are not established. In this regard, the Commission also notes that approximately three months have elapsed without knowing the whereabouts of the proposed beneficiary.

25. Regarding the requirement of irreparable harm, the Commission considers that it has been met, insofar as the potential impact on the rights to life and personal integrity, by their very nature, constitutes the maximum situation of irreparability.

#### **V. BENEFICIARY**

26. The Commission declares as beneficiary Mr. Antônio Martins Alves, who is duly identified in this proceeding.

#### **VI. DECISION**

27. The Inter-American Commission 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, it requests that Brazil:

- a) adopt the necessary measures to determine the situation and whereabouts of Antônio Martins Alves, in order to protect his rights to life and personal integrity; and
- b) report on the actions taken to investigate the alleged events that led to the adoption of this precautionary measure, so as to prevent them from reoccurring.

28. The Commission requests that the State of Brazil report, within 15 days from the day following notification of this resolution, on the adoption of the required precautionary measures and to update that information periodically.

29. The Commission emphasizes that, in accordance with Article 25(8) of its Rules of Procedure, the granting of this precautionary measure and its adoption by the State do not constitute a prejudgment on any violation of the rights protected under the applicable instruments.

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

31. Approved on October 21, 2021, by: Antonia Urrejola Noguera, President; Julissa Mantilla Falcón, First Vice-President; Margarette May Macaulay; Esmeralda Arosemena de Troitiño; Joel Hernández García; Edgar Stuardo Ralón Orellana.

Tania Reneaum Panszi

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Executive Secretary