
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 10/2023**

Precautionary Measure No. 938-22
Members of the Boa Hora III/Marmorana Quilombola Territory, located in the rural area of Alto Alegre do Maranhão, in the State of Maranhão
regarding Brazil
February 27, 2023
Original: Portuguese

I. INTRODUCTION

1. On November 30, 2022, 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 Federation of Rural Workers and Family Farmers of the State of Maranhão (FETAEMA) (“the requesting party”) urging the Commission to request that the State of Brazil (“Brazil” or “the State”) adopt the necessary measures to protect the rights to life and personal integrity of the members of the Boa Hora III/Marmorana Quilombola Territory, due to episodes of violence and threats they are allegedly suffering.
2. In accordance with Article 25.5 of its Rules of Procedure, the Commission requested information from both parties on January 20, 2023, and received information from the requesting party on January 26, 2023. The Brazilian State requested a time extension and submitted information on February 7, 2023.
3. Upon analyzing the submissions of fact and law presented by the parties, the Commission considers that the information presented shows *prima facie* that the members of the Boa Hora III/Marmorana Quilombola Territory are in a serious and urgent situation, given that their rights to life and personal integrity are at risk of irreparable harm. Consequently, in accordance with Article 25 of the IACHR Rules of Procedure, the Commission requests that Brazil: a) adopt the necessary and culturally appropriate measures, with a due ethnic-racial approach, to protect the rights to life and personal integrity of the members of the Boa Hora III/Marmorana Quilombola Territory. Similarly, the State must guarantee that the rights of the beneficiaries are respected in accordance with the standards established by international human rights law, with respect to threatening acts attributable to third parties; b) consult and agree upon the measures to be adopted with the beneficiaries and/or their representatives; and c) report on the actions taken to investigate the facts that gave rise to the adoption of this precautionary measure, so as to prevent such events from reoccurring.

II. SUMMARY OF FACTS AND ARGUMENTS PRESENTED BY THE PARTIES

A. Information submitted by the requesting party

4. The request for precautionary measures was filed on behalf of 136 persons,¹ members of the Quilombola Boa Hora III/Marmorana,² located in the rural area of Alto Alegre do Maranhão,³ in the state of Maranhão. According to the requesting party, the area - traditionally occupied for over 100 years⁴ - is a *quilombola* territory, duly recognized by the Palmares Cultural Foundation since 2007. The process of titling the territory has been underway since 2006 with the National Institute of Colonization and Agrarian Reform (INCRA). The communities are engaged in extractive harvesting, especially in the extraction of babassu coconut, and family agriculture, carried out collectively and by gender division.
5. According to the requesting party, the collective use of the land by the *quilombola* community has been affected by the presence of “landowners (*fazendeiros*) who invade the traditional territory in order to raise cattle.” This situation has allegedly prevented access to areas for hunting, gathering, extraction and planting, which are allegedly “indispensable for the livelihood of traditional families.” According to the requesting party, violence against indigenous leaders, *quilombolas*, invaders, environmentalists, landless people, rural workers and persons affected by dams has been responsible for 130 murders in the last two years. The requesting party indicated that there are reportedly “50 *quilombolas* threatened with death in the State of Maranhão due to agrarian conflicts” and “between 2020 and 2022, eight *quilombolas* were killed in the State, without the instigators and executors having been identified.”
6. The requesting party mentioned that on January 25, 2015, during a workshop conducted by INCRA, for the anthropological report necessary for the *quilombola* titling process, “several houses were set on fire and many workers lost all their household goods,” work tools, among others. The facts have not been investigated by the Judicial Police. In the anthropological report, the INCRA agents mentioned that, while the workshop was taking place, a man arrived at the meeting and reported that a fire was burning in houses in the community. After going to the community, the agents observed the destruction of two houses and evaluated in their report that these events demonstrate the existing tensions in the region.
7. In February 2022, a landowner reportedly invaded part of the territory and began to perform “services” in an area of 60 hectares, until then used by the community for planting rice, corn and cassava. This situation was communicated to the authorities on February 25, 2022. In addition, the people proposed as beneficiaries, represented by the Association of Rural Farmers of the Marmorana and Boa Hora III settlements, have purportedly filed a lawsuit to maintain possession together with a request for a precautionary measure, obtaining a favorable preliminary decision

¹ The requesting party indicated that the community is made up of 51 adult men and women, excluding the elderly and children, and identified the following persons: 1. Raissa Frazão Ramos 2. José Antonio Cota Da Silva 3. Cleonice dos Santos das Neves 4. Antonio Francisco Sales 5. Maria Raimunda Costa da Silva 6. José Pereira da Silva 7. José de Ribamar Costa da Silva 8. Raimunda Nonata Costa da Silva 9. José Orlando Costa Da Silva 10. Maria Frazão Assunção 11. Rildeane Felix da Silva 12. Ariston da Conceição Frazão 13. Maria Domingas Frazão Ramos 14. Francisca Carvalho Santos 15. Manoel Mendes de Oliveira 16. Geuma Sousa Pontes 17. Raimunda Nonata da Silva Sousa 18. Maria Raimunda Sousa da Silva 19. José Antonio Santos da Silva 20. Maria da Silva 21. Jéssica dos Reis Martins 22. Jardiel da Silva 23. Ana Clara Cruz Martins 24. Jarnilson da Silva 25. Edna Lúcia dos Santos 26. Girlene Santos da Silva 27. Girlane Santos da Silva 28. Rafaela Ramos Paiva 29. Luzia Carvalho Santos 30. Raimundo José de Aguiar 31. Kelle Cristina da Silva 32. Dioleno Costa da Silva 33. Luís Paulo Costa da Silva 34. Marilene da Silva 35. Edilsin da Silva e Silva 36. Erica Patrícia da Silva 37. Rildeane Félix da Silva 38. Darlan Pereira Frazão 39. Edivam Frazão Ramos 40. Cezar Romero Moraes 41. James Pontes da Silva 42. Virgínia Sousa da Silva 43. Junismar Sousa da Silva 44. Maria da Piedade Assunção 45. Marcos Assunção de Sousa 46. Ronaldo Costa Da Silva 47. Matheus Costa da Silva 48. Gardênia Sousa 49. Paulo Sérgio Conceição 50. Cássio da Silva 51. Márcio da Silva.

² In Brazil, traditional Afro-descendant or tribal of African descent peoples who continue to share a common identity, origin, history and traditions are known as *quilombolas*. See: IACHR. Situation of Human Rights in Brazil. February 12, 2021, para. 36.

³ The applicants stated that the territory has a total area of 2,700 hectares.

⁴ According to the applicants, the founders of the Boa Hora III/Marmorana community are descendants of black slaves from the Cocais and Itapecuru region who settled in the territory at the end of the 19th century because they considered it a safe place to live.

issued by the Agrarian Court of the District of São Luís-MA on April 29, 2022. The process has allegedly been referred to the Federal Court of Bacabal-MA, due to INCRA's expression of interest, with no new decision being made until the date of filing of the request for precautionary measures.

8. On May 18, 2022, another landowner, A.M.S.O., reportedly went to the Union of Rural Workers (STTR) and told its president that “the next day he would enter the *quilombola* territory with tractors in order to deforest and fence off the area.” According to the requesting party, on May 19, 2022, the landowner (accompanied by other unknown persons) invaded the plantation area and the houses of the families, tore down the villagers’ fences, surrounded the community’s plantation areas, and hired several gunmen, “under the allegation that he had bought the area where the *quilombolas* have lived for several generations.” Also on May 19, 2022, the Federation of Rural Workers and Family Farmers of the State of Maranhão (FETAEMA) reported the alleged invasion to the Federal Public Prosecutor’s Office (MPF). Subsequently, the effects of the aforementioned precautionary measure were extended to the landowner. However, this decision had allegedly no effect - the requesting party stated that the proposed beneficiaries were threatened and they “are deprived of the use of the land,” due to the alleged fence, deforestation and fires, as well as the destruction of the villagers’ water sources.
9. According to the requesting party, the National Human Rights Council (CNDH)⁵ conducted an *in situ* mission in the territory on June 20, 2022, producing a report that purportedly noted “the construction of fences, the closing of the natural water source, the expulsion of an elderly person from his home, as well as the destruction of a soccer field.” In its report, the CNDH recorded that A.M.S.O. is allegedly using armed men to intimidate the villagers, which is generating great “psychological pressure” on the proposed beneficiaries, especially the elderly.⁶ Additionally, on June 22, 2022, the CNDH reportedly held a public hearing with the participation of several rural communities affected by agrarian conflicts, including Boa Hora III/ Marmorana. Moreover, the applicants reported that on July 22, 2022, the Federal Public Prosecutor’s Office had filed a public civil action against the Federal Government and INCRA, highlighting the “historical violence suffered over time [...] which persists to date” and requesting, *inter alia*, the adoption of the necessary measures for the “identification, recognition, delimitation, demarcation, removal, titling and registration of the territories occupied by the remaining *quilombola* community Boa Hora III/Marmorana”.
10. The proposed beneficiaries reportedly filed complaints with the Maranhão State Government, the Federal Public Prosecutor’s Office, the Civil Police Station of Alto Alegre do Maranhão and the State Commission to Prevent and Combat Violence in the Countryside and in the City (COECV), as well as requesting the inclusion of Raimunda Nonata Costa da Silva, president of the Association of Rural Farmers of the Marmorana and Boa Hora III settlements and member of the Boa Hora III/Marmorana Quilombola Territory, in the State Program for the Protection of Human Rights Defenders (PPDDH). On September 26, 2022, a proposed beneficiary filed a complaint at the Civil Police Station of Alto Alegre do Maranhão, reporting that A.M.S.O. ordered the closure of the community’s water well and that “all the inhabitants [of] the region are threatened,” because men carrying firearms, which were allegedly rented by the landowner, are allegedly approaching the villagers. On October 12, 2022, the FETAEMA reportedly communicated the situation to the

⁵ The National Human Rights Council (CNDH) is a collegiate body of equal composition that aims to promote and defend human rights in Brazil through preventive, protective, restorative and punitive actions and situations of threat or violation of these rights, provided for in the Federal Constitution and international treaties and acts ratified by Brazil. See: <https://www.gov.br/mdh/pt-br/aceso-a-informacao/participacao-social/conselho-nacional-de-direitos-humanos-cndh/conselho-nacional-de-direitos-humanos-cndh>

⁶ <https://www.gov.br/participamaisbrasil/relatorio-missao-contra-violencia-no-campo-no-estado-do-maranhao-de-20-a-22-de-junho-de-2022>

Maranhão State government. On October 13, 2022, at a meeting promoted by the governor of the State of Maranhão, the requesting party reportedly denounced the destruction of an area intended for babassu extraction. In addition to the requesting party, the meeting was attended by two representatives of the community, the Secretariat of Public Security, the Secretariat of Human Rights and Popular Participation, the Secretariat of Environment and Natural Resources (SEMA) and the State Attorney General's Office.

11. On October 18, 2022, the Civil Police and Military Police of Maranhão, with the support of SEMA, reportedly identified illegal deforestation, allegedly carried out by A.M.S.O., who has purportedly been arrested in flagrante delicto for environmental crimes and fined for administrative infractions. Subsequently, A.M.S.O. allegedly paid the bail and was released. The requesting party stated that, after the aforementioned events, the threats against the *quilombolas* perpetrated by A.M.S.O. became untenable.
12. On October 29, 2022, a “farmhouse” was allegedly “criminally burned down,” which was reported to the authorities on October 31, 2022. On November 8, 2022, “gunmen”, allegedly hired by A.M.S.O., shot at the back of a house. On the same day, Raimunda Nonata Costa da Silva was allegedly “coerced” by A.M.S.O. On November 23, 2022, the police authorities were reportedly informed of the burning of two houses of residents of the Marmorana Community, allegedly on November 18, 2022. According to the applicants, on that occasion a seven-month pregnant woman was in the residence and “fell ill” due to smoke inhalation. The requesting party attributes the authorship of all the aforementioned facts to A.M.S.O. However, the Judicial Police did not initiate any of the investigations.
13. Additionally, the requesting party stated that there are reports of “surveillance actions of the *quilombolas*’ routine by drones and armed men.” Furthermore, such a situation of insecurity is reportedly generating a psychological impact on the proposed beneficiaries - “due to the climate of terror created,” the applicants indicated that women and children “cannot sleep.”
14. According to the requesting party, on December 1, 2022, three persons from the community (Raimunda Nonata Costa da Silva, Maria da Silva and Antônio Maria de Oliveira) were included in the Program for the Protection of Human Rights Defenders of the State of Maranhão. However, this measure is allegedly “insufficient to protect the life and physical integrity of the inhabitants of the Boa Hora III/Marmorana Quilombola Territory, as it is limited to only three of its members.”
15. On December 31, 2022, Maria da Silva allegedly suffered threats and intimidation by an unknown employee of A.M.S.O., who prevented her from entering a community area used for planting cassava, beans and corn. The requesting party reiterated that “the presence of armed persons, who carry out surveillance of the *quilombolas*, using a drone, is permanent” and that “the threats and intimidations against the *quilombolas* have not ceased.” In this sense, the situation is purportedly causing mental illnesses among the members of the territory, and it is allegedly preventing the development of activities in defense of human rights and social, economic, and cultural activities.
16. On the other hand, the requesting party indicated that it does not have updated information on the status of the investigations and stated that in the city of Alto Alegre do Maranhão “there is no career police officer and only one civilian police officer is in charge of the investigations for the entire municipality.” In this regard, the requesting party alleged that there were not even any expert examinations or hearings of the alleged victims regarding the fires in the fields and houses of the inhabitants of the *quilombola* territory.

17. Finally, the requesting party asserted that on February 17, 2023, A.M.S.O. and several “henchmen” destroyed cassava plantation areas. The alleged act was reported to the Civil Police Station of Alto Alegre de Maranhão on the same day. Such a situation, according to the requesting party, “will cause intense food and nutritional insecurity for all members of the *quilombola* territory, given that cassava is one of the main components of the diet” of the proposed beneficiaries. In addition, the requesting party indicated that the babassu coconut trees, used for extractive purposes by the community, were being marked and destroyed by A.M.S.O.

B. Response from the State

18. On February 7, 2023, the State submitted information on the request for precautionary measures, arguing that the procedural requirements were not met. According to the State report, the measures adopted “are efficient in addressing the problem, making unequivocal the absence of urgent conduct.” Furthermore, the requirements of seriousness and irreparability are allegedly not present either, since “in its duty to prevent and investigate unlawful acts, the State has constitutional, legislative, administrative and judicial mechanisms that reasonably allow it to prevent the occurrence of the wrongs denounced.”
19. It indicated that it has been processing, together with INCRA, the titling process of the Boa Hora III/Marmorana Quilombola Territory since 2006. According to the State, the Technical Report on Identification and Delimitation (RTID), a technical study that recognizes the extension of the territory and attests to the *quilombola* ethnic origin, has already been prepared and instructs the process. It also indicated that a public civil action was filed by the Federal Public Prosecutor’s Office “in order to force the completion of the RTID and the procedures for the titling of the territory. Until January 2023, the judicial proceedings were ongoing.”
20. According to information provided by the State, “due to conflicts over possession of the territory,” the community registered an incident at the Civil Police Station of Alto Alegre do Maranhão and filed a recovery action before the Agrarian Court of the Court of Justice of the State of Maranhão. On April 29, 2022, the community reportedly obtained an injunction favorable to *quilombola* possession. However, the defendant reportedly filed an interlocutory appeal, resulting in a second-degree injunction in his favor to grant a request for suspensive effect and the “immediate collection of the writ of possession issued in favor of the community.”
21. Regarding the alleged events of risk, the State clarified that, in May 2022, FETAEMA reportedly sent a petition to the State Secretariat for Human Rights and Popular Participation of the State of Maranhão (SEDIHPOP/COECV), claiming that the community had been invaded and deforested by A.M.S.O. and his workers. In this regard, the State reported the following steps allegedly taken by the State Commission for the Prevention of Violence in the Countryside and in the City (COECV), linked to the State Human Rights Secretariat: i. COECV sent an official letter to the Secretariat of Public Security (SSP) and the Agrarian General Attorney’s Office informing them of the conflict in the territory; ii. COECV sent an official letter to the SSP informing them that there was a judicial decision of reintegration in favor of the community; iii. COECV sent a letter from the SSP to the Secretariat of State for the Environment (SEMA) to suspend/cancel any environmental license issued in the community area; iv. COECV sent a letter to SEMA, informing about the existence of a traditional *quilombola* community in an area affected by an environmental license process (no details); v. COECV manifestation in the court file of judicial proceedings, requesting mediation measures and scheduling with the participation of COECV.
22. The State indicated that on October 11, 2022, “due to reports of deforestation in the area and threats to the villagers,” COECV mobilized the Military Police to “attend the site and investigate the

facts.” On October 14, 2022, the governor of the State of Maranhão and the government team reportedly received representatives of the Quilombola Boa Hora III/Marmorana Community and leaders of FETAEMA. Subsequently, on October 18, 2022, a team from the State government reportedly made a new visit to the community. During this visit, residents reported threats and gunshots. In addition, the illegal deforestation of approximately 73 hectares of native forest, including protected species, was verified, for which SEMA reportedly issued an infraction report and imposed a fine of R\$371,000.00. Following the action, A.M.S.O. was charged with illegal deforestation and taken to the police station, where he posted bail in the amount of R\$30,000.00.

23. Additionally, the Brazilian State indicated that, in November 2022, the State Program for the Protection of Human Rights Defenders of Maranhão (PEPDDH/MA) intervened by recognizing the existence of a risk for the community, its leaders and the inhabitants of the lands claimed by Mr. A.M.S.O. Thus, on November 21, 2022, the inclusion of Maria da Silva, Raimunda Nonata Costa da Silva and Antônio Maria de Oliveira in the PEPDDH/MA was requested. On November 29, 2022, the Program’s Deliberative Council ratified the decision.
24. On the other hand, the State indicated that it is allegedly guaranteeing the right to Free, Prior and Informed Consultation. On this issue, it stated that the team of the Deputy Secretariat of Traditional Peoples and Communities (SAPCT) had issued a technical opinion in the context of an application process for a Single Agrosilvopastoral License (LUA), filed by Mr. A.M.S.O., indicating the need for an “*in loco*” visit prior to the authorization of the LUA License by the technical team of SEMA and SEDIHPOP to listen to the *quilombola* community.” According to the State, at the time of the presentation of the State report “there was no news of a new issuance of an environmental license in the community’s territory.”

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

25. The precautionary measures mechanism is part of the Commission’s function of overseeing 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 18(b) of the IACHR Statute, while the precautionary measures mechanism is described in Article 25 of the Commission’s Rules of Procedure. According to this article, the Commission grants precautionary measures in situations that are serious and urgent and in which such measures are necessary to prevent irreparable harm.
26. The Inter-American Commission and the Inter-American Court of Human Rights (“Inter-American Court” or “I/A Court H.R.”) have repeatedly established that precautionary and provisional measures have a double character, one protective and the other precautionary.⁷ Regarding the protective character, the measures seek to avoid irreparable harm and preserve the exercise of human rights.⁸ To this end, an assessment must be made of the problem raised, the effectiveness of the State’s actions in the situation described and the degree of lack of protection in which the

⁷ See: I/A Court H.R., Inter-American Court of Human Rights. Case of the Yare I and Yare II Capital Region Penitentiary Center (Yare Prison). Request for Provisional Measures presented to the I/A Court H.R. regarding the Bolivarian Republic of Venezuela. Resolution of the Inter-American Court of Human Rights of March 30, 2006, Considerandum 5; I/A Court H.R., Case of Carpio Nicolle and others. Case of Carpio Nicolle et al. v. Guatemala. Provisional Measures. Judgment of July 6, 2009, Considerandum 16.

⁸ See: I/A Court H.R. Case of the Internado Judicial Capital El Rodeo I and El Rodeo II. Provisional Measures regarding Venezuela. Judgment of the Court of February 8, 2008, Considerandum 8; I/A Court H.R., Case of Bámaca Velásquez. Bámaca Velásquez Case. 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. Case of Fernández Ortega et al. Provisional measures with respect to Mexico. Judgment of the Court of April 30, 2009, Considerandum 5; I/A Court H.R., Case of Milagro Sala. Milagro Sala Case. Request for Provisional Measures with respect to Argentina. Resolution of the Inter-American Court of Human Rights of November 23, 2017, recital 5.

persons for whom measures are requested would be left if they are not adopted.⁹ Regarding their precautionary nature, these measures have the purpose of preserving a legal situation while under consideration by the organs of the inter-American system. They aim to safeguard the rights at risk until the petition pending before the inter-American system is resolved. Their object and purpose are to ensure the integrity and effectiveness of an eventual decision on the merits and, thus, avoid any further infringement of the rights at issue, a situation that may adversely affect the useful effect (*effet utile*) of the final decision. In this regard, precautionary or provisional measures enable the State concerned to comply with the final decision and, if necessary, to implement the ordered reparations.¹⁰ 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.
27. In analyzing those requirements, the Commission reiterates that it is not necessary for the facts that motivate a request for precautionary measures to be fully proven. The information provided to identify a serious and urgent situation must be evaluated from a *prima facie* perspective.¹¹ Furthermore, the Commission clarifies that, in accordance with Article 25(8) of its Rules of Procedure, through the precautionary measures mechanism, it is not appropriate to determine whether the State of Brazil is internationally responsible in relation to the alleged facts, nor to determine individual responsibilities.
28. The Commission also considers it pertinent to clarify that it is not for the Commission to pronounce, through the mechanism of precautionary measures, on the compatibility of the proceedings being processed at the domestic level considering the American Convention and international standards. In this sense, it is not for the Commission to determine in the present proceeding who are the owners of the lands in dispute, nor whether the proceedings initiated in this regard comply with the guarantees of the American Convention. Such claims, by their very nature, require determinations on the merits that should be analyzed in a petition or case. In analyzing the requirements set forth in Article 25 of the Rules of Procedure, the Commission is only called upon to determine whether there is a situation of gravity and urgency of irreparable harm to the human rights of the proposed beneficiary community.

⁹ See: I/A Court H.R. Milagro Sala Case. Request for Provisional Measures with respect to Argentina. Resolution of the Inter-American Court of Human Rights, November 23, 2017, Considerandum 5; I/A Court H.R. Case of El Rodeo I and El Rodeo II Capital Judicial Internment. Provisional Measures regarding Venezuela. Judgment of the Court of February 8, 2008, Considerandum 9; I/A Court H.R., Judgment of the Court of February 8, 2008, Considerandum 9; I/A Court H.R. Matter of the Plácido de Sá Carvalho Penal Institute. Provisional Measures with respect to Brazil. Resolution of the Inter-American Court of Human Rights of February 13, 2017, recital 6.

¹⁰ See: I/A Court H.R. Case of the Internado Judicial Capital El Rodeo I and El Rodeo II. Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, Considerandum 7; I/A Court H.R., Case of the newspapers “El Nacional” and “Así es Noticia.” Provisional Measures regarding Venezuela. Judgment of the Court of November 25, 2008, Considerandum 23; I/A Court H.R., Case of Luis Uzcátegui. Provisional Measures regarding Venezuela. Judgment of the Court of January 27, 2009, Considerandum 19.

¹¹ See: I/A Court H.R. Case of the Internado Judicial Capital El Rodeo I and El Rodeo II. Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, Considerandum 7; I/A Court H.R., Case of the newspapers “El Nacional” and “Así es Noticia.” Provisional Measures regarding Venezuela. Judgment of the Court of November 25, 2008, Considerandum 23; I/A Court H.R., Case of Luis Uzcátegui. Provisional Measures regarding Venezuela. Judgment of the Court of January 27, 2009, Considerandum 19.

29. When analyzing the request at hand in relation to the proposed beneficiaries, the Commission considers the context in which the alleged facts are set. First, the Commission recalls that, in the Merits Report in the case of the *quilombola* Communities of Alcântara, it highlighted the 2016 statement of the United Nations Special Rapporteur on Minority Issues, which stated that traditional communities in general and *the quilombolas* in particular were part of the segment that suffered most from social and economic exclusion in Brazil.¹² According to the Rapporteur, these communities are affected by “serious problems of racism, structural discrimination and violence.” The Rapporteur noted that, despite significant legal and even constitutional recognition of the rights of these communities to ownership of their lands, demarcation processes are weak, insufficient and often slow. The Commission added that “at the current rate, it is estimated that it would take 250 years to demarcate all officially recognized *quilombola* lands.”¹³
30. In its report on the human rights situation in Brazil in 2021, the IACHR noted that while the Palmares Cultural Foundation certified 3,051 *quilombola* communities, only 116 property titles were issued by the National Institute of Colonization and Agrarian Reform (INCRA).¹⁴ The IACHR highlighted that the process of struggle for the recognition of their ancestral territories exposes the *quilombola* communities to situations of physical and psychological violence, rooted “in the historical denial of the *quilombola* identity”, which “also has the same roots as structural racial discrimination.”¹⁵ In this sense, the IACHR warned about conflicts that occurred “due to private or public interests in *quilombola* territories without any action by the State aimed at protecting its inhabitants. In addition, on many occasions, these threats, coercion struggle to recognize their ancestral territories exposes the *quilombola* communities to situations of physical and psychological violence, rooted “in the historical denial of the *quilombola* identity” and acts of violence go unpunished by their material and intellectual authors.¹⁶
31. In January 2022, the IACHR and UN Human Rights condemned the killings of environmental activists and *quilombolas* in Brazil, mostly linked to land conflict¹⁷. Recently, the UN Committee on the Elimination of Racial Discrimination adopted its final considerations on Brazil in December 2022, highlighting its concern over the repeated and increasing invasion of *quilombola* lands.¹⁸ In addition to the environmental devastation and violence that often occurs in the context of the defense of the territory.¹⁹
32. With respect to the *seriousness* requirement, the Commission notes that, according to the applicants, the proposed beneficiaries are *quilombola* people from the *Boa Hora III/Marmorana Quilombola Territory*, located in Alto Alegre do Maranhão, State of Maranhão (see *supra* para. 4). The IACHR notes that, according to the applicants, the territory is recognized as *quilombola* by the Palmares Cultural Foundation and that its titling process has been underway with the National Institute of Colonization and Agrarian Reform (INCRA) since 2006 (see *supra* para. 4). According to the State, the Technical Report on Identification and Delimitation (RTID), a technical study that recognizes the extension of the territory and attests to the *quilombola* ethnic origin, has already been prepared and is instructing the process (see *supra* para. 19).

¹² IACHR. Report No. 189/20, Case 12.569. Merits. Quilombola Communities of Alcântara. Brazil. June 14, 2020. UN. Report of the Special Rapporteur on minority issues concerning its mission to Brazil. A/HRC/31/56/Add.1, 9 February 2016, paras. 61-107.

¹³ IACHR. Report No. 189/20, Case 12.569. Merits. Quilombola Communities of Alcântara. Brazil. June 14, 2020.

¹⁴ IACHR. Situation of human rights in Brazil. OEA/Ser.L/V/II. Doc. 9, February 12, 2021, para. 40.

¹⁵ IACHR. Situation of human rights in Brazil. OEA/Ser.L/V/II. Doc. 9, February 12, 2021, para. 53.

¹⁶ IACHR. Situation of human rights in Brazil. OEA/Ser.L/V/II. Doc. 9, February 12, 2021, para. 43.

¹⁷ IACHR. [IACHR and UN Human Rights condemn murders of environmental activists and quilombolas in Brazil](#). January 24, 2022.

¹⁸ UN. Committee on the Elimination of Racial Discrimination. CERD/C/BRA/CO/18-20. December 19, 2022, para. 47.

¹⁹ UN. Committee on the Elimination of Racial Discrimination. CERD/C/BRA/CO/18-20. December 19, 2022, para. 49.

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33. The Commission notes that the titling process before INCRA has been underway for 17 years, which explains why the Federal Public Prosecutor's Office filed a lawsuit against the Union and INCRA, seeking to force the conclusion of the land titling process, considering the State's delay (see above, paras. 9 and 19). In this regard, although the Commission will not go into the analysis of the titling process of the community, it is necessary to emphasize that the time that has elapsed during the process has led to the existence of a controversy, which is still in effect today, over the ownership of the lands claimed by the community.
34. According to the applicants, the territory was allegedly invaded in February 2022 by a landowner and in May 2022 by another landowner "under the allegation that he had bought the area where the *quilombolas* have lived for several generations" (see *supra*, para. 8). The proposed beneficiaries filed judicial remedies to ensure the maintenance of possession of the *quilombola* territory, obtaining a favorable preliminary decision, which allegedly had no effect because of the presence of the landowner A.M.S.O. and his employees in the area (see *supra*, para. 8). According to the State, A.M.S.O. filed an appeal for review, resulting in a second-degree precautionary measure in his favor, which granted the request with suspensive effect and the "immediate withdrawal of the possession order issued in favor of the community." (see *supra* para. 20)
35. In the framework of the alleged invasions, events of violence against the proposed beneficiaries reportedly occurred. For example, according to the applicant, in 2015 several houses in the community were set on fire (see *supra*, para. 6). According to the information submitted, more recently, on May 19, 2022, a landowner and his employees invaded houses and the planting area, carried out deforestation and burning (including species protected by environmental legislation), tore down fences and fenced off planting areas and a natural water source, preventing access by the proposed beneficiaries (see *supra* paras. 8 and 9). In addition, the landowner allegedly hired several "gunmen" (see *supra* para. 8), who were in possession of firearms and approached the community residents (see *supra* para. 10). Simultaneously, the proposed beneficiaries were being monitored by drones and armed men, which was causing "mental illness among the members of the territory and preventing the development of activities in defense of human rights and social, economic and cultural activities." (see *supra* para. 15)
36. Also, the applicants reported the following most recent facts:
- On September 26, 2022, a proposed beneficiary informed the police authorities about the closure of the community's water well and threats by armed men present in the community (see *supra* para. 10);
 - On October 13, 2022, the applicants reportedly denounced the destruction of an area intended for the extraction of babassu (a species protected by law) (see *supra* para. 10);
 - On October 29, 2022, a "farm" was allegedly set on fire for criminal purposes (see *supra* para. 12);
 - On November 8, 2022, "armed men" allegedly carried out a shooting at the back of a house. On the same day, Raimunda Nonata Costa da Silva, one of the community leaders, was allegedly "coerced" (see *supra*, para. 12);
 - On November 18, 2022, two homes of residents of the community reportedly caught fire, affecting the health of a pregnant woman due to smoke inhalation (see *supra* para. 12);

- On December 31, 2022, Maria da Silva, another community leader, reportedly faced threats and intimidation by an unknown employee and was prevented from entering an area of the community intended for planting (see *supra*, para. 15);

37. The Commission notes that between May and December 2022, fires were set in plantation areas and in the homes of community members, which led to health complications for a pregnant woman on November 18, 2022. The IACHR also notes the alleged presence of armed men in the community and actions of intimidation against the proposed beneficiaries: from May 2022 to date, armed men have allegedly been approaching the proposed beneficiaries and monitoring the community with drones; on November 8, 2022, “armed men” allegedly carried out a shooting and on November 8 and December 31, 2022, community leaders were allegedly threatened. These events reflect the permanence over time of armed actors within the community.
38. Furthermore, the Commission notes that this has prevented the members of the community from entering certain areas of the territory where they carry out their subsistence activities. It has also resulted in the loss of water sources. In this regard, the Commission recalls that the lack of access to traditional territory and its natural resources can lead to precarious conditions that can result in situations of extreme vulnerability.²⁰ In addition, the restriction on the use and enjoyment of the territory and its natural resources compromises their ability to preserve, protect, and guarantee the special relationship they have with their territory so that they can continue to live their way of life, based on their cultural identity, social structure, economic system, customs, beliefs, and traditions.²¹
39. In response to the request for information made to the State, in accordance with Article 25 of the Rules of Procedure, notes that the State has not disputed in its response the facts of risk alleged by the applicant, given that in its response it also referred to the complaints of threats and shots fired by State entities (see *supra* para. 22). Moreover, the Commission notes that the situation placing the proposed beneficiaries at risk alleged by the community was recorded by different State bodies over time: on January 25, 2015, by INCRA agents (see *supra* para. 6); on June 20, 2022, by the CNDH (see *supra* para. 9); on July 22, 2022, by the MPF (see *supra* para. 9); on October 11, 2022, by COECV (see *supra* paras. 21 and 22); on October 18, 2022, by a Maranhão government team (see *supra* para. 22); and in November 2022, by the PEPDDH/MA (see *supra* para. 23). In particular, the Commission notes that domestic entities have referred to the nature of the facts alleged by the applicants. For example, the National Human Rights Council recorded in 2022 that armed men were intimidating the proposed beneficiaries (see *supra* para. 9), and the Federal Public Prosecutor’s Office filed, in July 2022, a public civil action considering the situation of violence in the community over time (see *supra* para. 9).
40. Similarly, the Commission notes that the State reported on the following measures implemented in response to the alleged situation: i. COECV reportedly sent files to various State agencies, such as the Secretariat of Public Security, State Secretariat of the Environment and Agrarian Prosecutor’s Offices (see *supra* para. 21); ii. on October 11, 2022, COECV mobilized the Military Police “to report to the site and investigate the facts” (see *supra* para. 21); iii. on October 14, 2022, the Governor of the State of Maranhão and the government team reportedly received community representatives and FETAEMA leaders (see *supra* para. 21); iv. on October 18, 2022, a state government team visited the community again and charged A.M.S.O. for illegal logging (see *supra* para. 22); v. in November 2022, Maria da Silva, Raimunda Nonata Costa da Silva and Antônio Maria de Oliveira, members of

²⁰ IACHR. Rights of indigenous and tribal peoples over their ancestral lands and natural resources. OEA/Ser.L/V/II. Doc. 56/09, December 30, 2009, para. 57.

²¹ IACHR. Situation of human rights in Brazil. OEA/Ser.L/V/II. Doc. 9, February 12, 2021, para. 45.

the community, were included in the Maranhão State Human Rights Defenders Protection Program (see *supra* para. 23).

41. Regarding the measures adopted by the State, the Commission doesn't identify the existence of concrete and effective security measures in favor of the proposed beneficiaries. Nor is it identified that the situation placing the proposed beneficiaries at risk has been mitigated as a result of these measures, considering the continued presence of armed third parties in the community's territory. In this regard, the State indicated that different state authorities have been aware of the facts reported by the applicant at least since April 2022, without detailing how the situation might have been mitigated. The IACHR notes with concern, on the one hand, the absence of state information on the status of ongoing investigations and, on the other, the alleged lack of initial investigative measures on the facts that gave rise to the present request for precautionary measures (see *supra* para. 16).
42. Additionally, the IACHR takes note of the inclusion of three proposed beneficiaries in the State Program for the Protection of Human Rights Defenders in the State of Maranhão. In this regard, the protection measures currently implemented do not cover all members of the community. In this regard, the Commission notes that, according to the State, the Protection Program intervened upon recognizing the existence of a risk to the community, its leaders and inhabitants of the lands claimed by A.M.S.O. (see *supra*, para. 23). In view of this, although the State has indicated that all members of the community are aware of a collective risk, the Commission does not have additional elements of assessment that indicate the existence of collective protection measures. On the other hand, the IACHR does not have information on what individual protection measures are being implemented for the three people mentioned, nor how they are being implemented.
43. In summary, considering the alleged background and context, assessed as a whole, the Commission finds that the requirement of *seriousness* is met and that *prima facie* the right to life and personal integrity of the members of the *Quilombola* community of Boa Hora III/ Marmorana is at serious risk. In making this consideration, the Commission takes into account: i) the context in which the alleged situation exists; ii) information indicating that risk factors are present and are currently materializing, with recent episodes of violence having been reported; and iii) the absence of effective protection measures to address the situation of collective risk identified, not restricted to only some of the community members.
44. With respect to the requirement of *urgency*, the Commission considers that this requirement has been met, in view of the permanence of the "gunmen" in the community and the continuity of the acts of violence, which suggest that the members of the *Quilombola* community of Boa Hora III/ Marmorana could be exposed to events of risk, including those with deadly consequences, at any time. In this regard, the Commission considers that the facts presented indicate the need to take urgent steps to adopt and strengthen through immediate measures both individual and collective protection plans, as well as adopting the corresponding consensual measures, with the respective ethno-racial focus.
45. As for the requirement of *irreparable harm*, the Commission considers that it has been met, since the possible violation of the right to life and personal integrity, by its very nature, constitutes the maximum situation of irreparability.

V. BENEFICIARIES

46. The Commission declares that the beneficiaries of this precautionary measure are the members of the *Boa Hora III/Marmorana Quilombola Territory*, identifiable in accordance with Article 25.6.b of the IACHR Rules of Procedure.

VI. DECISION

47. The Inter-American Commission considers that the present case meets *prima facie* the requirements of seriousness, urgency and irreparability contained in Article 25 of its Rules of Procedure. Consequently, Brazil is requested to:
- a) adopt the necessary and culturally appropriate measures, with a due ethnic-racial approach, to protect the rights to life and personal integrity of the members of the *Boa Hora III/Marmorana Quilombola Territory*. Similarly, the State must guarantee that the rights of the beneficiaries are respected in accordance with the standards established by international human rights law, with respect to threatening acts attributable to third parties;
 - b) consult and agree upon the measures to be adopted with the beneficiaries and/or their representatives; and
 - c) report on the actions taken to investigate the facts that gave rise to the adoption of this precautionary measure, so as to prevent such events from reoccurring.
48. The Commission requests the State of Brazil to report, within 15 days from the day following notification of this resolution, on the adoption of the precautionary measures requested and to update this information periodically.
49. 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 does not constitute a prejudgment on the violation of the rights protected in the applicable instruments.
50. The Commission instructs its Executive Secretariat to notify the State of Brazil and the applicants of this resolution.
51. Approved on February 27, 2023, by Julissa Mantilla Falcón, President; Edgar Stuardo Ralón Orellana, First Vice-President; Esmeralda Arosemena de Troitiño; Joel Hernández García; Roberta Clarke; and Carlos Bernal Pulido, members of the IACHR.

Tania Reneaum Panszi
Executive Secretary