

Leite de Souza et al. v. Brazil

ABSTRACT¹

This case is about the abduction and mass-murder of a dozen people by one of Brazil's infamous death squads. Brazil accepted partial responsibility, and eventually the Court found it in violation of several articles of the American Convention and the Inter-American Convention on Forced Disappearance of Persons.

I. FACTS

A. Chronology of Events

July 21, 1990: Wallace Souza do Nascimento goes to spend the weekend with his uncle and nine friends (Viviane Rocha da Silva, Cristiane Leite de Souza, Hoodson Silva de Oliveira, Antônio Carlos da Silva, Luiz Henrique da Silva Euzébio, Edson de Souza Costa, Rosana Lima de Souza Santos, Moisés dos Santos Cruz, Luiz Carlos Vasconcelos de Deus, and Mr. Hedio Nascimento) at his grandmother's farm in Suruí, in the city of Magé.² They live in the Acari favela, in the North Zone of Rio de Janeiro, Brazil.

July 26, 1990: A death squad called Cavalos Corredores (Running Horses), led by Colonel Emir Campos, kidnaps Mr. Souza do Nascimento, his nine friends and his uncle, Mr. Hedio Nascimento, from the farm.³ The victims are transported in the Fiat vehicle in which they arrived at the farm, and a beige "Kombi" vehicle belonging to Mr. Hedio Nascimento's brother, Nelio de Oliveira Nascimento.⁴

¹ Amada Otero, Author; Katrina Karaguzian, Senior IACHR Editor; David Randall, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

² Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 531, ¶ 50 (July 4, 2024).

³ Leite de Souza et al. v. Brazil, Admissibility and Merits Report, Report No. 100/21, Inter-Am. Comm'n H.R., Case No. 13.691, ¶ 3 (May 20, 2021); *see also* Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 116.

⁴ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 51.

They are allegedly brought to João da Silva Bistene's farm, a military police officer also known as "Peninha."⁵

July 27, 1990: Mr. Nelio de Oliveira Nascimento reports the disappearances of his nephew, his brother, and his nephew's nine friends, and the theft of his vehicle to the 69th Rio de Janeiro Police Station.⁶

July 31, 1990: Ms. Rocha da Silva's father reports to the same Police Station, stating that the police had kidnapped his daughter and her friends.⁷

On the same day, a partially burned "Kombi" vehicle is found with blood inside.⁸ The Baixada Homicide Service of the Baixada General Police Department reports that the vehicle was found in a vacant lot 11.6 kilometers from the kidnapping.⁹ Experts who examined the car say that it is impossible to determine whether it was human blood due to poor preservation conditions and a lack of resources.¹⁰

August 1, 1990: The Fiat vehicle that had also been used to transport the victims is found burned.¹¹

August 2, 1990: The investigation is transferred to the Special Commission of the Secretariat of State for the Civil Police.¹²

1991: The Baixada Homicide Service issues a report stating that the modality of the crime is consistent with the modus operandi of death squads.¹³

May 15, 1992: Law enforcement searches the Santa Cruz Highway in the Mongaba-Magé neighborhood.¹⁴ They discover possible human bone fragments and send them to the Afrânio Peixoto Medical Forensic

⁵ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 51; Leite de Souza et al. v. Brazil, Admissibility and Merits Report, ¶ 7.

⁶ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 53.

⁷ *Id.*

⁸ *Id.* ¶ 54.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* ¶ 55.

¹² Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 53.

¹³ Leite de Souza et al. v. Brazil, Admissibility and Merits Report, ¶ 5.

¹⁴ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 57.

Institute of Nova Iguaçu (“IMLAP”).¹⁵ They also search “Peninha’s” former residence, but do not identify any human remains.¹⁶

July 21, 1992: The Carlos Éboli Institute of Criminalistics examines the soil on “Peninha’s” land and indicates that it is not possible to determine whether the samples contain human remains.¹⁷

January 15, 1993: Mrs. Edméa da Silva Euzébio (leader of the Mothers of Acari and mother of Mr. Henrique Euzébio) and her niece, Sheila da Conceição (Mr. Henrique Euzébio’s cousin), are murdered at the Praça Onze subway station, allegedly by members of the same death squad that carried out the massacre of Mr. Souza do Nascimento and his friends (“Acari Massacre”).¹⁸ Following Mrs. da Silva Euzébio’s murder, military personnel harass and threaten the victims’ families.¹⁹

February 25, 1993: Authorities identify Mr. Mario Maluco as the mastermind behind Mrs. da Silva Euzébio’s and Ms. da Conceição’s murders, and he is tried before the First Criminal Court of the Capital Region.²⁰

June 21, 1995: IMLAP issues an autopsy and concludes that five of six bags of bones contain human remains, including a semi-mandibular skull with entry and exit holes from a firearm projectile.²¹

September 2, 1995: The Chief of Police reports the existence of a video where witness Mr. Claudiomar da Silva identifies the possible perpetrators, but the suspects are not investigated.²²

October 1995: Following anonymous reports that the victims’ bodies had been thrown into the Inhomirim river in Maua-Magé, search operations find dental remains on the river’s banks.²³

¹⁵ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 57.

¹⁶ *Id.*

¹⁷ *Id.* ¶ 61.

¹⁸ Leite de Souza et al. v. Brazil, Admissibility and Merits Report, ¶ 6.

¹⁹ *Id.*

²⁰ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 77.

²¹ *Id.* ¶ 64.

²² Leite de Souza et al. v. Brazil, Admissibility and Merits Report, ¶ 7.

²³ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 66.

1996: Victims' families receive information that Cavalos Corredores threw the victims' bodies to domesticated lions on "Peninha's" farm, but no one investigates these allegations.²⁴

1999: A new complaint is filed, indicating that the victims' bodies were on "Peninha's" farm.²⁵

May 27, 1999: The Carlos Éboli Institute of Criminalistics, alongside other authorities and professors from the Federal University of Rio de Janeiro, begin an expert examination of Magé's rural area and find physical anomalies in the subsoil.²⁶

June 11, 1999: Excavation work reveals that the site had been covered and partially excavated; however, there are no human remains.²⁷

2002: Experts examine "Peninha's" farm without results.²⁸

July 27, 2010: The Public Prosecutor's Office of the State of Rio de Janeiro requests closing the police investigation into the "Acari Massacre," citing a lack of sufficient evidence to support the charge of homicide.²⁹

April 10, 2011: Per the request made by the Public Prosecutor's Office, the case is closed.³⁰

December 13, 2011: The investigation is reopened following a new witness's statement, and authorities charge eight people, most of whom military police officers or former police officers who were part of the "Cavalos Corredores."³¹ The Rio de Janeiro Court of Justice received the complaint, but did not hold a trial.³²

²⁴ Leite de Souza et al. v. Brazil, Admissibility and Merits Report, ¶ 7.

²⁵ *Id.*

²⁶ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 67.

²⁷ *Id.*

²⁸ Leite de Souza et al. v. Brazil, Admissibility and Merits Report, ¶ 7.

²⁹ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 71.

³⁰ *Id.*

³¹ Leite de Souza et al. v. Brazil, Admissibility and Merits Report, ¶ 9; Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 71.

³² Leite de Souza et al. v. Brazil, Admissibility and Merits Report, ¶ 9.

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February 28, 2011: The Public Prosecutor's Office files a complaint against Mr. ECL; EJRC; ASH; IF; AMF; PFC; WLF; and LCS for the murders of Mrs. Edmea da Silva Euzebio and Ms. da Conceição.³³

July 13, 2015: Some of the victims' relatives file an action before the Public Finance Courts of the Capital against the State of Rio de Janeiro, seeking compensation for material and moral damages.³⁴

May 13, 2016: The Attorney General's Office of the State of Rio de Janeiro submits its response to the claim, arguing that the lawsuit is time-barred for having been filed more than five years after the events occurred; subsequently, the court dismisses the action.³⁵

June 2022: The Legislative Assembly of the State of Rio de Janeiro publishes Law No. 9,753, obligating the State to "redress the families of the victims of the so-called Acari Massacre."³⁶

April 4, 2024: Due to insufficient evidence, the 1st Jury Court of Rio de Janeiro acquits the four military police officers accused of murdering Mrs. Edmea da Silva Euzebio and Ms. da Conceição.³⁷

B. Other Relevant Facts

The first of these death squads and militias in Brazil was established around 1950 by former police officers to combat crime.³⁸ Groups include active-duty police officers, former police officers expelled for criminal acts, and security guards.³⁹ Firefighters, military personnel, prison guards, and civilians from impoverished communities also participate.⁴⁰

Death squads emerged in the late 1990s as an extralegal power, extorting and murdering children, adolescents, and adults, especially

³³ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 78.

³⁴ *Id.* ¶ 72.

³⁵ *Id.* ¶ 73.

³⁶ *Id.* ¶ 74.

³⁷ *Id.* ¶ 82.

³⁸ Leite de Souza et al. v. Brazil, Admissibility and Merits Report, ¶ 25.

³⁹ *Id.*

⁴⁰ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 43.

those living in poor neighborhoods and favelas.⁴¹ Some politicians supported those groups.⁴²

II. PROCEDURAL HISTORY

A. *Before the Commission*

December 27, 2006: The Inter-American Commission on Human Rights receives a petition filed by the human rights organization Projeto Legal, alleging Brazil's international responsibility to the detriment of the victims and their families.⁴³

May 20, 2021: The Commission issues its Admissibility and Merits Report. The report concludes that Brazil is responsible for violating Articles II, XVIII, and XXIII of the American Declaration; Articles 3, 4, 5, 8, 13, 16, 19, 24, and 25 of the American Convention in relation to Articles 1.1 and 2 of the same instrument; Articles Ia, bd, and III of the Inter-American Convention on Forced Disappearance of Persons ("ICDFP"); and Articles 7.b) and 7.f) of the Convention of Belém do Pará.⁴⁴ The Commission recommends that the State implement comprehensive strategies to assist the victims' families, investigate and identify the disappearance cases, hold perpetrators accountable and prevent the repetition of these acts through legal and investigative reform, protect human rights defenders, dismantle collusion between the militia and the State, and promote an intersectional, gendered perspective approach within the police and judicial systems in Rio de Janeiro.⁴⁵

B. *Before the Court*

April 22, 2022: The Commission submits the case to the Court after the State fails to adopt its recommendations.⁴⁶

⁴¹ Leite de Souza et al. v. Brazil, Admissibility and Merits Report, ¶ 25; Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 42.

⁴² Leite de Souza et al. v. Brazil, Admissibility and Merits Report, ¶ 25.

⁴³ *Id.* ¶ 1.

⁴⁴ *Id.* ¶ 117.

⁴⁵ *Id.* "Recommends," ¶¶ 1-6.

⁴⁶ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 3.

February 6, 2023: The State raises two preliminary objections against the reparation measures proposed by the Commission and the representatives.⁴⁷

October 27, 2023: The CRIOLA Organization submits an amicus curiae brief signed by Ms. Amanda Pimentel and others.⁴⁸ The Human Rights Clinic of the Brazilian Institute of Teaching, Development and Research and the Libertad Network; the National Council of Human Rights; and the Institute of Facts and Standards also submit amicus curiae briefs.⁴⁹

1. Violations Alleged by Commission⁵⁰

Article 3 (Right to Juridical Personality)

Article 4 (Right to Life)

Article 5 (Right to Humane Treatment)

Article 8 (Right to a Fair Trial)

Article 13 (Freedom of Thought and Expression)

Article 16 (Freedom of Association)

Article 19 (Rights of the Child)

Article 24 (Right to Equal Protection)

Article 25 (Right to Judicial Protection)

all in relation to:

Article 1(1) (Obligation of Non-Discrimination) and

Article (2) (Obligation to Give Domestic Legal Effect to Rights) of the American Convention.

Article 1(a) (Prohibition of Practicing, Tolerating or Permitting Forced Disappearances)

Article 1(b) (Duty to Punish Forced Disappearances)

Article 1(d) (Duty to Take Measures)

Article 3 (Obligation to Adopt Legislative Measures) of the Inter-American Convention on Forced Disappearance of Persons

Article 7(b) (Duty to Prevent, Investigate, and Punish Violence)

Article 7(f) (Duty to Adopt Fair and Effective Legal Procedures) of the Inter-American Convention on the Prevention, Punishment, and

⁴⁷ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 7.

⁴⁸ *Id.* ¶ 11.

⁴⁹ *Id.*

⁵⁰ Leite de Souza et al. v. Brazil, Admissibility and Merits Report, ¶ 117.

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2. Violations Alleged by Representatives of the Victim⁵¹

Article 3 (Right to Juridical Personality)

Article 4 (Right to Life)

Article 5 (Right to Humane Treatment)

Article 8 (Right to a Fair Trial)

Article 19 (Rights of the Child)

Article 24 (Right to Equal Protection)

Article 25 (Right to Judicial Protection)

all in relation to:

Article 1(1) (Obligation of Non-Discrimination) of the American Convention

III. MERITS

A. *Composition of the Court*⁵²

Nancy Hernández López, President
Humberto Antonio Sierra Porto, Judge
Eduardo Ferrer Mac-Gregor Poisot, Judge
Ricardo C. Pérez Manrique, Judge
Verónica Gómez, Judge
Patricia Pérez Goldberg, Judge

Pablo Saavedra Alessandri, Secretary
Gabriela Pacheco Arias, Assistant Secretary
Marisol Blanchard Vera, Deputy Secretary

B. *Decision on the Merits*

⁵¹ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 6. The victims are represented by Projeto Legal, the Organização de Direitos Humanos, and Nicodemos Advogados Associados.

⁵² Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, at 1 n.*. Vice-President Judge Rodrigo Mudrovitsch, a Brazilian national, did not participate in the proceedings of this case or in the deliberation and signing of this Judgment, in accordance with Article 19.1 and 19.2 of the Rules of Court.

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July 4, 2024: The Court issues its Judgment on Preliminary Objection, Merits, Reparations and Costs.⁵³

The Court found unanimously:

The Court accepted the State's partial acknowledgment of international responsibility.⁵⁴ The State recognized the violation of Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right of Recourse Before a Competent Court) in relation to Article 1(1) of the same instrument but only regarding the length of the investigation into the deaths of Mrs. Edmea da Silva Euzebio and Ms. da Conceição.⁵⁵

The Court found unanimously:

*The Court dismissed the State's preliminary objection for lack of jurisdiction *ratione temporis* with respect to events that occurred before the State recognized the Court's jurisdiction.⁵⁶ The Court stated that the doctrine of non-retroactivity does not apply in this case, as the Court has jurisdiction to hear cases that are ongoing and permanent, regardless of the date the State accepted the Court's jurisdiction.⁵⁷*

However, the Court found it did not have jurisdiction to rule on the murders of Mrs. Edmea da Silva Euzebio and Ms. da Conceição, since the deaths constituted instantaneous violations occurring before the State recognized the Court's jurisdiction.⁵⁸

The Court found unanimously that Brazil had violated:

Article 3 (Right to Juridical Personality), Article 4 (Right to Life), Article 5 (Right to Humane Treatment), Article 7 (Right to Personal Liberty) of the American Convention, in relation to Article 1.1 (Obligation of Non-Discrimination) of the Convention, and read in conjunction with Article 1(a) of the Inter-American Convention on Forced Disappearance of Persons, to the detriment of Mr. Hedio Nascimento, Mr. Souza do Nascimento, Mr. Moisés dos Santos Cruz,

⁵³ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 13.

⁵⁴ *Id.* "Decide" ¶ 1.

⁵⁵ *Id.* ¶ 20.

⁵⁶ *Id.* ¶¶ 26-33.

⁵⁷ *Id.*

⁵⁸ *Id.* ¶ 161.

Mr. de Souza Costa, Mr. Vasconcellos de Deus. Mr. da Silva Euzebeio, Ms. de Souza Santos, Ms. Cristiane Leite de Souza, Ms. Rocha da Silva, Mr. Hoodson Silva de Oliveira, and Mr. Carlos da Silva,⁵⁹ because:

*Forced disappearance is a human rights violation consisting of “a) deprivation of liberty; b) the direct intervention of State agents or their acquiescence; and c) the refusal to acknowledge detention or the lack of information on the fate or whereabouts of the person.”*⁶⁰ *The Court also considers conduct involved in forced disappearances as violations of the rights to recognition of juridical personality, life, personal integrity, and personal liberty, as enshrined in Articles 3, 4, 5, and 7 of the Convention, respectively.*⁶¹

*The Court stated that in the case of forced disappearances, it must show that the State’s conduct allowed the violation to occur.*⁶² *On this aspect, the State’s defense of a lack of evidence will not stand, as it is the State itself that has the means to control and confirm the facts.*⁶³ *As such, the Court attributes a high probative value to witness statements in forced disappearance cases.*⁶⁴

*Regarding the first element to establish a forced disappearance, the deprivation of liberty, the Court verified that the eleven individuals were kidnapped on July 21, 1990, and thus deprived of their liberty.*⁶⁵

*For the second element, the direct acquiescence of state agents, the Court considered the history of violence committed by militias composed of military police against the black population, those living in poverty, and those residing in favelas.*⁶⁶

*The Court noted that events before the disappearances showed evidence of State intervention.*⁶⁷ *On July 14, 1990, six members of the “Running Horses” broke into Mrs. Edmea da Silva Euzebio’s home in the Acari Favela, detained and threatened to kill three of the victims, and demanded community funds to pay for the youths’ release.*⁶⁸ *Also, a report from the Baixada Homicide Service showed that officers from the Robbery and Cargo Theft Delegation threatened Mr. Vasconcellos de*

⁵⁹ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 116.

⁶⁰ *Id.* ¶ 92.

⁶¹ *Id.* ¶ 93.

⁶² *Id.* ¶ 95.

⁶³ *Id.*

⁶⁴ *Id.* ¶ 96.

⁶⁵ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 102.

⁶⁶ *Id.* ¶ 103.

⁶⁷ *Id.* ¶ 104.

⁶⁸ *Id.* ¶ 105.

*Deus with death.*⁶⁹ The Court also noted that Laudicena de Oliveira Nascimento, a key witness and owner of the property from which the eleven people disappeared, testified that the abductors identified themselves as police officers who would be taking the disappeared to the police station.⁷⁰

*A witness, identified as a military police officer and driver for “Peninha,” also testified that the missing people were taken to “Peninha’s” farm, where the girls were raped, all were murdered, and the bodies were discarded in the Estrela River.*⁷¹

*As for the third element, refusal to acknowledge detention or failure to provide information, the Court observed that the State’s failure to clarify the facts or the whereabouts of the alleged victims after almost thirty-four years was sufficient.*⁷²

Article 19 (Rights of the Child) of the American Convention, to the detriment of Ms. Cristiane Leite de Souza, Ms. Rocha da Silva, Mr. Silva de Oliveira, and Mr. Carlos da Silva,⁷³ because:

*The Court reiterated that children are entitled to human rights attributed to all human beings and also enjoy specialized rights that necessitate specific duties from their families, society, and the state.*⁷⁴ *Four guiding principles of the Convention on the Rights of the Child must be present in every protection system: the principles of (1) non-discrimination; (2) the child’s best interests; (3) respect for the right to life, survival and development; and (4) respect for the child’s opinion in all proceedings that affect them, to guarantee their participation.*⁷⁵

*Since four of the forcibly disappeared persons were between the ages of fourteen and seventeen at the time of the events, the State is culpable for failing to satisfy these principles.*⁷⁶

Articles 7(b) (Duty to Prevent, Investigate, and Punish Violence) and 7(f) (Duty to Adopt Fair and Effective Legal Procedures) of the “Convention of Belém do Pará,” and Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent

⁶⁹ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 106.

⁷⁰ *Id.* ¶ 107.

⁷¹ *Id.* ¶ 108.

⁷² *Id.* ¶ 113.

⁷³ *Id.* ¶ 116.

⁷⁴ *Id.* ¶ 97.

⁷⁵ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 97.

⁷⁶ *Id.* ¶¶ 97, 116.

Tribunal), and Article 25(1) (Right of Recourse Before a Competent Court) of the American Convention on Human Rights, in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Ms. de Souza Santos, Ms. Rocha da Silva, and Ms. Cristiane Leite de Souza.⁷⁷ because:

There is also no evidence to date that the State investigated the alleged acts of sexual violence committed against the girls.⁷⁸ Therefore, the Court concluded that the State failed to conduct a serious and effective investigation aimed at determining the truth of the crime against these girls, to the detriment of the victims' families' access to justice.⁷⁹

The Court also observed that eighteen years have passed since the last search efforts were carried out, demonstrating a total lack of action by the judicial authorities, which violates the guarantee that investigations take place within a reasonable period.⁸⁰

Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), Article 19 (Rights of the Child), and Article 25(1) (Right of Recourse Before a Competent Court) of the American Convention, in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, and Article 1(b) (Duty to Punish Forced Disappearances) of the Inter-American Convention on Forced Disappearance of Persons, to the detriment of the children Ms. Rocha da Silva, Ms. Cristiane Leite de Souza, Mr. Silva de Oliveira, and Mr. Carlos da Silva,⁸¹ because:

The Court articulated that both Articles 8 and 25 of the American Convention enshrine the right to obtain a response to claims and requests made to judicial authorities within a reasonable time.⁸² The Court noted that a prolonged delay in the process may in itself constitute a violation of these judicial guarantees.⁸³

Here, investigative excavation work was initiated in May 1999 but was delayed until 2006, despite the fact that the State had been informed that remains would be found at the excavation sites.⁸⁴ This had

⁷⁷ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 152.

⁷⁸ *Id.* ¶ 141.

⁷⁹ *Id.* ¶ 144.

⁸⁰ *Id.* ¶ 150.

⁸¹ *Id.* ¶ 153.

⁸² *Id.* ¶ 148.

⁸³ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 148.

⁸⁴ *Id.* ¶ 139.

an impact on the forensic preservation of the sites, as by 2006, the owners had already disrupted the land through construction.⁸⁵ The State also failed to question or investigate any of the officers of the 9th Military Police Battalion, even though this group was noted to be involved in the disappearances.⁸⁶ For these reasons, the Court found that the State failed to conduct a systematic search with due diligence in a serious, coordinated fashion.⁸⁷ All of the foregoing constituted a violation of the victims' families' right to access to justice.⁸⁸

When the victim of a forced disappearance is a child, State authorities have a duty to promptly attempt to determine their whereabouts.⁸⁹ In the case of girls, their vulnerability to human rights violations may be enhanced due to their historically higher susceptibility to sexual violence.⁹⁰ Since, in the thirty-four years since the investigation began, the State has not investigated the alleged sexual violence committed against the missing girls, the Court found that Brazil violated the guarantee of an investigation within a reasonable period of time.⁹¹

Article 2 (Obligation to Give Domestic Legal Effect to Rights) of the American Convention and Article 3 (Obligation to Adopt Legislative Measures) of the Inter-American Convention on Forced Disappearance of Persons, to the detriment of Mr. Hedio Nascimento, Mr. Souza do Nascimento, Mr. Moisés dos Santos Cruz, Mr. de Souza Costa, Mr. Vasconcellos de Deus, Mr. da Silva Euzebeio, Ms. de Souza Santos, Ms. Cristiane Leite de Souza, Ms. Rocha da Silva, Mr. Silva de Oliveira, and Mr. Carlos da Silva⁹² because:

The Court noted that the State's failure to classify forced disappearance as a crime in its legal system facilitated impunity in the present case, given that the forced disappearances of the eleven people from the Acari Favela were only investigated as potential homicides.⁹³ This allowed domestic courts to apply the statute of limitations, which prevented a proper understanding of the crime's multi-offensive

⁸⁵ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 139.

⁸⁶ *Id.* ¶ 140.

⁸⁷ *Id.* ¶ 144.

⁸⁸ *Id.*

⁸⁹ *Id.* ¶ 135.

⁹⁰ *Id.* ¶ 136.

⁹¹ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 150.

⁹² *Id.* ¶ 153.

⁹³ *Id.* ¶ 143.

*nature.*⁹⁴ For these reasons, the Court found that the State had violated its duty to adopt domestic legal provisions and the necessary legislative measures to criminalize the forced disappearance of persons.⁹⁵

Article 8.1(Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), Article 13.1 (Right to Seek, Receive, and Impart Information and Ideas), and Article 25.1(Right of Recourse Before a Competent Court) of the American Convention in relation to Article 1.1 (Obligation of Non-Discrimination) of the Convention, to the detriment of Adaías Alves de Souza, Alci Vaz da Silva, Ms. Aline Leite de Souza, Armando Luiz Bastos de Deus, Denise Vasconcellos, Dinéa dos Santos Cruz, Euzilá Joana Martins da Silva, Hélio Nascimento, Júlio Cesar Bastos de Deus, Ms. Laudicena de Oliveira Nascimento, Manoel Costa, Marilene Lima de Souza, Rita Cássia de Souza Santos, Rosângela da Silva, Tereza de Souza Costa, Vera Lúcia Flores Leite, and Wilson. de Souza Costa,⁹⁶ because:

*The Court noted that Article 13 protects the right to request and receive information under the State's control.*⁹⁷ *The State cannot claim it does not know the victims' whereabouts in order to avoid providing information until all efforts to locate the victims have been exhausted.*⁹⁸

*In the present case, the Court noted that almost thirty-four years have passed since the forced disappearance of the eleven individuals, and the whereabouts of the alleged victims remain unknown.*⁹⁹ *Despite the search efforts and demands for justice by the Mothers of Acari movement, the perpetrators remain completely unpunished.*¹⁰⁰ *The Court found the State responsible for violating the right to the truth to the detriment of the victims' families, so long as this situation persists.*¹⁰¹

Article 8.1(Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and Article 25.1(Right of Recourse Before a Competent Court) of the American Convention in relation to Article 1.1 (Obligation of Non-Discrimination) of the

⁹⁴ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 143.

⁹⁵ *Id.*

⁹⁶ *Id.* ¶ 154.

⁹⁷ *Id.* ¶ 146.

⁹⁸ *Id.*

⁹⁹ *Id.* ¶ 147.

¹⁰⁰ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 147.

¹⁰¹ *Id.*

Convention, to the detriment of Mrs. Edmea da Silva Euzebio, Ms. Vasconcellos, Ms. Martins da Silva, Ms. Laudicena de Oliveira Nascimento, Ms. Marilene Lima de Souza, Ms. de Souza Costa, Ms. Flores Leite, and Rosangela da Silva,¹⁰² because:

If a State discriminates in the respect for or guarantee of a right in the Convention, it violates Article 1(1).¹⁰³ The Court recalled that racial discrimination is one of the categories of special protection under Article 1(1).¹⁰⁴ Further, although poverty is not specifically a protected category, discrimination based on poverty is still prohibited by the Convention's norms.¹⁰⁵

It was alleged that both the victims of the forced disappearance and their families are subject to discrimination for being poor Black residents of favelas.¹⁰⁶ During the public hearing of this case, the victims' families, and particularly the Mothers of Acari, were subjected to discriminatory treatment by the state including hostility at state-run facilities, comments from police officers that they were "mothers of criminals," and reference to them as powerless since they were poor and lived in favelas.¹⁰⁷ The Court also acknowledged the cultural differences caused by their economic position, such as their lack of formal attire and limited knowledge of their right to political participation, as another barrier that perpetuated discriminatory bias.¹⁰⁸

Therefore, the Court concluded that the State is liable for failing to respect the full and free exercise of the rights to a fair trial and to judicial protection without discrimination.¹⁰⁹

Article 5.1 (Right to Physical, Mental, and Moral Integrity) of the American Convention, in relation to Article 1.1 (Obligation of Non-Discrimination) of the Convention, to the detriment of Ms. Alves de Souza, Ms. Vaz da Silva, Ms. Aline Leite de Souza, Mr. Armando Luiz Bastos de Deus, Ms. Denise Vasconcellos, Ms. Dinéa dos Santos Cruz, Ms. Martins da Silva, Mr. Hélio Nascimento, Mr. Júlio Cesar Bastos de Deus, Ms. Laudicena de Oliveira Nascimento, Mr. Manoel Costa, Ms.

¹⁰² Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 178.

¹⁰³ *Id.* ¶ 163.

¹⁰⁴ *Id.* ¶ 166.

¹⁰⁵ *Id.* ¶ 168.

¹⁰⁶ *Id.* ¶¶ 165, 168.

¹⁰⁷ *Id.* ¶¶ 174-176.

¹⁰⁸ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 174.

¹⁰⁹ *Id.* ¶ 178.

Marilene Lima de Souza, Ms. Cássia de Souza Santos, Ms. Rosângela da Silva, Ms. Tereza de Souza Costa, Ms. Flores Leite, and Mr. Wilson de Souza Costa,¹¹⁰ because:

*The Court has repeatedly held that the families of victims of forced disappearance suffer violations of their right to mental and moral integrity, which is only exacerbated by the State's failure to provide information or diligently investigate the disappeared's whereabouts.*¹¹¹ *Aline Leite de Souza, sister of Cristiane Leite de Souza, who was seven years old at the time of the events, stated that as a child, the events caused learning difficulties, and she has had to manage her trauma with medication since adolescence.*¹¹² *Rosângela da Silva stated that, at the time of the events, her family consisted of her mother and her two children, and that her only source of income was her mother's salary.*¹¹³ *After her murder, "she had to go out into the street, eat garbage, [...] beg at doors to find a solution and to keep [herself and] her children alive."*¹¹⁴

*Many mothers of the victims also left their jobs to become full-time activists as the Mothers of Acari.*¹¹⁵ *Additionally, relatives seeking justice have reported receiving threats.*¹¹⁶ *The Court emphasized that both Ms. Edmea da Silva Euzébio and the other mothers in the Mothers of Acari movement were entitled to special State protection for their important work; however, the State's hostile and discriminatory treatment negatively impacted the victims' relatives' personal integrity.*¹¹⁷

Article 17 (Rights of the Family) and Article 19 (Rights of the Child) of the American Convention, in relation to Article 1.1 (Obligation of Non-Discrimination) of the Convention, to the detriment of Ms. Aline Leite de Souza, Ms. Alves de Souza, and Ms. Flores Leite,¹¹⁸ because:

¹¹⁰ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 195.

¹¹¹ *Id.* ¶ 182.

¹¹² *Id.* ¶¶ 183-184.

¹¹³ *Id.* ¶ 185.

¹¹⁴ *Id.*

¹¹⁵ *Id.* ¶ 185.

¹¹⁶ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 191.

¹¹⁷ *Id.* ¶¶ 192, 194.

¹¹⁸ *Id.* ¶ 196.

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The Court recalled that Article 17 recognizes the family as the natural and fundamental unit of society.¹¹⁹ Thus, the State is under an obligation to promote the development and strength of the family unit, and the separation of children from their families constitutes a violation of their right to a family.¹²⁰ Additionally, Article 19 requires the State, as a guarantor, to provide “protective measures” for boys and girls, demanding greater care and responsibility in consideration of children’s special vulnerability.¹²¹

The Court found that the State’s conduct caused Ms. Aline Leite de Souza to suffer severe emotional trauma at an early age, and her testimony indicated that the disappearance of her sister contributed to her dysfunctional family environment.¹²² Therefore, the Court concluded that the State is responsible for violating Articles 17 and 19 to the detriment of Aline Leite de Souza.¹²³

C. *Dissenting and Concurring Opinions*

[None]

IV. REPARATIONS

The Court ruled unanimously that the State had the following obligations:

A. *Specific Performance (Measures of Satisfaction and Non-Repetition Guarantee)*

1. Judgment as a Form of Reparation

The Court noted that the Judgment itself is a form of reparation.¹²⁴

2. Obligation to Investigate the Facts and Identify, Judge, and, Where Appropriate, Punish Those Responsible

¹¹⁹ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 186.

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Id.* ¶ 187.

¹²³ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 196.

¹²⁴ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, “PROVIDES” ¶ 12.

The Court ordered the State to continue the investigation into the disappearances at issue with due diligence and within a reasonable time to identify, prosecute, and punish those responsible.¹²⁵ The State must provide the necessary human and material resources to the judicial bodies working on the case to ensure impartiality, and ensure that the victims or their families can participate in the investigation and prosecution of those responsible.¹²⁶ Additionally, the State must give all participants appropriate security guarantees.¹²⁷ Because of the nature and severity of the violations, the State must not apply amnesties, statute of limitations, the principle of non-retroactivity, *res judicata*, *ne bis in idem*, or any similar liability exclusion policy to excuse itself from this obligation.¹²⁸

Further, the State is ordered to ensure that criminal proceedings incorporate gender perspectives and intersectional approaches in accordance with Inter-American standards.¹²⁹

3. Determining Whereabouts

The Court ordered the State to immediately and rigorously search for the whereabouts of the eleven victims of forced disappearance with adequate technical, scientific, and human resources and through the relevant judicial and administrative channels.¹³⁰ The State must adopt the necessary measures to ensure the search is carried out safely, providing security and/or protection guarantees to those involved.¹³¹

The State must communicate with the victims' relatives, guaranteeing their participation and knowledge in the matter.¹³² If the State determines that the disappeared are deceased, then the remains must be returned to their relatives after confirming and verifying their respective identities.¹³³ Additionally, the State must pay for funeral expenses after mutual agreement with the deceased's relatives.¹³⁴

4. Rehabilitation Measures

¹²⁵ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 206.

¹²⁶ *Id.* ¶¶ 207-208.

¹²⁷ *Id.* ¶ 208.

¹²⁸ *Id.* ¶ 206.

¹²⁹ *Id.* ¶ 207.

¹³⁰ *Id.* ¶ 214.

¹³¹ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 214.

¹³² *Id.*

¹³³ *Id.*

¹³⁴ *Id.*

Since the Court has determined that the State violated the victims' relatives' personal integrity, the Court ordered the State to provide medical, psychological, and/or psychiatric treatment to all those affected, should they require it.¹³⁵ In providing treatment, the State must account for individual assessments with the particular circumstances and needs of each family member of a victim.¹³⁶ Starting from the notification of the judgment, beneficiaries have eighteen months to alert the State of their intention to receive appropriate treatment.¹³⁷ The State will be given a maximum of three months, starting from the date the request is received, to effectively provide care and designate an interlocutor for the beneficiaries.¹³⁸

5. Publish the Judgment

The Court ordered the State to publish the Court-prepared summary of the judgment once in the Official Gazettes of the Union and Rio de Janeiro, and a publicly circulated national newspaper, and the full judgment on various official government websites for at least one year, and within six months of the Judgment.¹³⁹ The State must also post the Court's judgment indefinitely on its official social media accounts at least five times during business hours, indicating that the Court declared the State's international responsibility in the present case.¹⁴⁰ The State must immediately inform the Court once each publication is made.¹⁴¹

6. Hold a Public Act of Acknowledgment of Responsibility

The Court ordered the State to conduct a public ceremony recognizing its international responsibility in the presence of the victims and high officials within one year of receiving this Judgment.¹⁴² It should perform the act at a time and place decided by the victims to ensure their presence, and broadcast the ceremony to the media.¹⁴³ The State must mention the particular gendered impact suffered by the victims in

¹³⁵ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 219.

¹³⁶ *Id.*

¹³⁷ *Id.* ¶ 220.

¹³⁸ *Id.*

¹³⁹ *Id.* ¶ 224.

¹⁴⁰ *Id.*

¹⁴¹ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 225.

¹⁴² *Id.* ¶¶ 226-227.

¹⁴³ *Id.* ¶¶ 227-228.

the Mothers of Acari and their role as searching mothers negatively affected by the actions of the extermination groups within favelas and other impoverished communities in the State.¹⁴⁴

7. Create a Memorial

The Court ordered the State to create a memorial site in the Acari neighborhood of Rio de Janeiro within two years, paying tribute to the eleven victims who were forcibly disappeared, Mrs. Edmea da Silva Euzebio, Ms. da Conceição, and to all the members of the Mothers of Acari group.¹⁴⁵ The State must consult with and agree upon the creation of the site with the victims' families and/or their representatives.¹⁴⁶

8. Guarantees of Non-Repetition

The Court reiterated that the State must, within a reasonable time, adapt its legal system to criminalize forced disappearance.¹⁴⁷ To comply with this measure, the State must adopt all necessary actions to ensure the effective prosecution and appropriate punishment of forced disappearances through existing domestic law mechanisms.¹⁴⁸

9. Propose Recommendations for Combating Criminal Organizations

The Court ordered the State, with an inter-institutional group, to prepare a study on militia and death squad activities in Rio de Janeiro.¹⁴⁹ The study should also include recommendations and proposals for administrative, legislative, judicial, and law enforcement agencies, and offer tools, strategies, and solutions to combat these criminal groups.¹⁵⁰ The State has one year to create the reference group, and one year after formation to complete these initiatives.¹⁵¹

10. Adopt International-Standard Investigation Protocols

¹⁴⁴ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 226.

¹⁴⁵ *Id.* ¶ 230.

¹⁴⁶ *Id.*

¹⁴⁷ *Id.* ¶ 240.

¹⁴⁸ *Id.*

¹⁴⁹ *Id.* ¶ 242.

¹⁵⁰ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 242.

¹⁵¹ *Id.*

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The Court ordered the State to adapt or adopt investigation protocols to meet international standards, requiring a gendered, childhood, and intersectional approach in investigating alleged police violence in Rio de Janeiro.¹⁵²

A. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

The State must award \$30,000 USD to each of the searching mothers and grandmothers in the Mothers of Acari: (1) Mrs. Edmea da Silva Euzebio, (2) Ms. Denise Vasconcellos, (3) Ms. Martins da Silva, (4) Ms. Laudicena de Oliveira Nascimento, (5) Ms. Tereza de Souza Costa, (6) Ms. Flores Leite, and (7) Ms. Marilene Lima de Souza.¹⁵³

The State must award the sum of \$20,000 USD to the mothers and fathers who are not members of the Mothers of Acari group: (1) Ms. Alves de Souza, (2) Ms. Vaz da Silva, (3) Ms. Dinéa dos Santos Cruz, (4) Mr. Hélio Nascimento, and (5) Mr. Manoel Costa.¹⁵⁴

The State must award the sum of \$20,000 USD to the sons of Mr. Luiz Carlos Vasconcellos de Deus: (1) Mr. Armando Luiz Bastos de Deus and (2) Mr. Júlio Cesar Bastos de Deus.¹⁵⁵

The State must award the sum of \$20,000 USD to the daughter of Mrs. Edmea da Silva Euzebio and sister of Mr. Luiz Henrique da Silva Euzebio: Ms. Rosangela da Silva.¹⁵⁶

The State must award the sum of \$10,000 USD to the sister of Ms. Cristiane Leite de Souza, the sister of Ms. Rosana de Souza Santos, and the brother of Mr. Edson de Souza Costa: (1) Ms. Aline Leite de Souza, (2) Ms. Rita de Cássia de Souza Santos, and (3) Mr. Wilson de Souza Costa, respectively.¹⁵⁷

¹⁵² Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 244.

¹⁵³ *Id.* ¶ 255.

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

2. Non-Pecuniary Damages

The State must award \$90,000 USD for each of the eleven disappeared victims, to be paid to their families in accordance with domestic law.¹⁵⁸

The State must award \$55,000 USD for each of the searching mothers and grandmothers in the Mothers of Acari: (1) Ms. Edmea da Silva Euzebio, (2) Ms. Denise Vasconcellos, (3) Ms. Martins da Silva, (4) Ms. Laudicena de Oliveira Nascimento, (5) Ms. Tereza de Souza Costa, (6) Ms. Flores Leite, and (7) Ms. Marilene Lima de Souza.¹⁵⁹

The State must award \$45,000 USD to the mothers and fathers who are not members of the Mothers of Acari group: (1) Ms. Alves de Souza, (2) Ms. Vaz da Silva, (3) Ms. Dinéa dos Santos Cruz, (4) Mr. Hélio Nascimento, and (5) Mr. Manoel Costa.¹⁶⁰

The State must award \$45,000 USD to the sons of Mr. Luiz Carlos Vasconcellos de Deus: (1) Mr. Armando Luiz Bastos de Deus and (2) Mr. Júlio Cesar Bastos de Deus.¹⁶¹

The State must award \$65,000 USD to Ms. Rosangela da Silva, daughter of Ms. Edmea da Silva Euzebio and sister of Mr. Luiz Henrique da Silva Euzebio.¹⁶²

The State must award \$20,000 USD to the sister of Ms. Cristiane Leite de Souza, the sister of Ms. Rosana de Souza Santos, and the brother of Mr. Edson de Souza Costa: (1) Ms. Aline Leite de Souza, (2) Ms. Rita de Cássia de Souza Santos, and (3) Mr. Wilson de Souza Costa, respectively.¹⁶³

3. Costs and Expenses

The State must pay \$20,000 USD for costs and expenses to be divided among the victims' representatives.¹⁶⁴

¹⁵⁸ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 258.

¹⁵⁹ *Id.* ¶ 259.

¹⁶⁰ *Id.*

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 265.

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The State must pay \$3,684.46 USD to reimburse the Victims' Legal Assistance Fund for expenses incurred.¹⁶⁵

4. Total Compensation (including Costs and Expenses ordered):

\$2,238,684.46 USD

B. Deadlines

The State must pay pecuniary and non-pecuniary damages, and reimburse costs and expenses directly to the individuals specified in this judgment within one year from the date of the State's notification of this order.¹⁶⁶ If the intended recipients die, their beneficiaries must receive the compensation.¹⁶⁷ The State must pay in U.S. currency, following the appropriate market exchange rate.¹⁶⁸ If the State is prevented from paying because of the beneficiaries' conduct the State must hold the amount in a bank account for ten years, after which time the recipient forfeits any unclaimed funds to the state.¹⁶⁹ The total compensation awarded in this judgment must be paid in full to the designated individuals, without tax or fee deductions.¹⁷⁰ If the state fails to make timely payments, it will be subject to interest charges based on the default bank interest in Brazil.¹⁷¹

V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

VI. COMPLIANCE AND FOLLOW-UP

[None]

VII. LIST OF DOCUMENTS

¹⁶⁵ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 268.

¹⁶⁶ *Id.* ¶ 269.

¹⁶⁷ *Id.* ¶ 270.

¹⁶⁸ *Id.* ¶ 271.

¹⁶⁹ *Id.* ¶ 272.

¹⁷⁰ *Id.* ¶ 273.

¹⁷¹ Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, ¶ 274.

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A. Inter-American Court

1. Preliminary Objections

Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 531, (July 4, 2024).

2. Decisions on Merits, Reparations and Costs

Leite de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 531, (July 4, 2024).

3. Provisional Measures

[None]

4. Compliance Monitoring

[None]

5. Review and Interpretation of Judgment

[None]

A. Inter-American Commission

1. Petition to the Commission

[None]

2. Report on Admissibility

Leite de Souza et al. v. Brazil, Admissibility and Merits Report, Report No. 100/21, Inter-Am. Comm'n H.R., Case No. 13.691, (May 20, 2021).

3. Provisional Measures

[None]

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4. Report on Merits

Leite de Souza et al. v. Brazil, Admissibility and Merits Report, Report No. 100/21, Inter-Am. Comm'n H.R., Case No. 13.691, (May 20, 2021).

5. Application to the Court

[None]

VIII. BIBLIOGRAPHY

[None]