

TIME RECEIVED	REMOTE CSID	DURATION	PAGES	STATUS
July 15, 2014 6:41:42 PM GMT+02:00	0041229100751	88	3	Received
15/07/2014 17:25	0041229100751	MISSION BRESIL ONU		PAGE 01/03



**Permanent Mission of Brazil to the United Nations Office
and other International Organizations in Geneva**

15, Chemin Louis Dunant
1202 Geneva - Switzerland

URGENT

№ 317 / 2014

The Permanent Mission of Brazil to the United Nations Office and other International Organisations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and, with reference to the allegation letter AL G/SO 214 (3-3-16), BRAS 4/2014, from the Special Rapporteur on the independence of judges and lawyers, Gabriela Knaul, dated 24 April 2014, has the honour to attach herewith the Brazilian government's response.

The Permanent Mission of Brazil avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, July 15, 2014



To the Office of the High Commissioner for Human Rights
Special Procedures of the Human Rights Council
Mandate of the Special Rapporteur on the independence of judges and lawyers
Geneva

In response to the urgent appeal from Special Rapporteur on the independence of judges and lawyers Gabriela Knaul concerning alleged death threats against Mr. Wesley Pereira Fuganti, a lawyer, and the reported killing of his client, Mr. Diogo Rodrigues de Macedo, after they denounced alleged corrupt practices by the police in the State of São Paulo, the Brazilian Government provides information on the questions raised by the Special Rapporteur and thanks the Special Rapporteur for bringing to the Brazilian Government's attention such an important issue.

(1) Are the facts alleged in the description of the case accurate? (3) What specific measures have been taken to protect the life and security of Mr. Fuganti and his family?

Mr. Diogo Rodrigues de Macedo, client of lawyer Wesley Pereira Fuganti, was murdered on November 28th, 2012, after having pressed charges in the General Supervisor's Office of the Civil Police of Sorocaba concerning the allegation that he had been a victim of the crime of extortion committed by two civil police officers of the City of Salto, in the State of São Paulo. On November 29th, 2012, the Executive Secretary of Sorocaba's Division of the Special Unit for Prevention and Repression of Organized Crime of the Public Prosecutor's Office of the State of São Paulo (GAECO Sorocaba – MP/SP) requested that Wesley Pereira Fuganti joined the Victim and Witness Protection Program of the State of São Paulo (PROVITA/SP) in view of his client's death. In an interview with the technical staff of PROVITA/SP, however, the lawyer refused to join the program and claimed to have his own means of ensuring his safety, which was properly registered. On that occasion Mr. Diogo Rodrigues was informed of the possibility of filing a new request to join the Program in the future, if he so wished. It is important to emphasize that the consent of the interested party is crucial for joining victims and witnesses protection programs.

(2) Please provide detailed information on the investigation undertaken in relation to the death of Mr. Diogo Rodrigues de Macedo. Were the perpetrators brought to justice?

The aggravated murder of Mr. Diogo Rodrigues de Macedo was investigated by the 2nd Assisting Supervisor's Office, located in Campinas, in the State of São

Paulo, through Police Investigation record number 210/2012, which was concluded on November 5th, 2013. On November 8th, 2013, the Prosecutor's Office filed charges against [REDACTED] former military police officer, in the 1st Criminal Circuit of Itu/SP, whose judge sentenced the accused to preventive detention, which was registered on the records of Criminal Proceeding number 0001812-44.2013.8.26.0286, currently under court secrecy.

(4) Please indicate the measures taken to ensure that lawyers can carry out their legitimate work in a free and safe environment in Brazil.

Lawyers exposed to severe threat in virtue of their cooperation with police investigation or any criminal proceeding may join the victims and witnesses protection programs provided by the Central Government or by the States, according to the Law # 9,807/99 and Decree # 3,518/2000. In order to join a protection program the interested party, a representative of the Prosecutor's Office, the police officer carrying out the criminal investigation, the judge in charge of hearing the criminal proceeding or public agencies and agencies devoted to human rights defense may file a request to the program's decision-making council (comprised of representatives of the Prosecutor's Office, the Judiciary branch and public and private agencies working with public safety and human rights defense).

The protection measures comprise, among others: home security, including control over telecommunications and escorting to and from home; home transfer or temporary stay at a place compatible with the protection required; preservation of identity, image and personal data; monthly financial aid, if the person under protection is unable to perform regular work or if he or she has no source of income; social, medical and psychological care and assistance; secrecy as to the actions practiced in virtue of the protection granted; and support to comply with civil and administrative obligations that require attending meetings. In exceptional cases and considering the characteristics and gravity of the coercion or threat suffered by victims, the decision-making council may submit the protected person's request to the judge in charge of public registry in order to change his or her full name.

The beneficiary's suspension of professional activities is not mandatory to join protection programs. However, some of his or her professional activities may be suspended during the time of temporary protection, when the expert staff takes

emergency protection measures and carries out a risk assessment to be submitted to the program's decision-making council as background information to support the decision whether to include the requesting party in the program. As to the protection offered to lawyers, once the council decides to include him or her in the program and understands there is a risk to the beneficiary's professional activities, which can no longer be safely performed, he or she may, among other options, be escorted by security agents during the performance of his or her activities or require that his or her name be changed through the issuance of a new professional identity card.

The human rights defender protection programs, executed by the Central Government or by States, are regulated by Decree # 6,044/2007 and aim to ensure the continuity of the work of people under threat due to his or her dedication to human rights promotion and protection.

Finally, Brazil is fully committed to the protection of human rights defenders and to the guarantee of the rights to life and security of the person of judges and lawyers who have received threats. If necessary, Brazil is willing to provide further information on the questions raised by the Special Rapporteur or provide documents related to the case.