



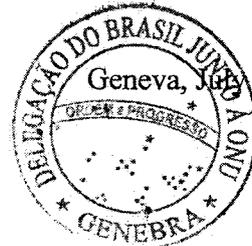
**Permanent Mission of Brazil to the United Nations Office
and other International Organizations in Geneva**

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URGENT

Nº 369/2017

The Permanent Mission of Brazil to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights — Special Procedures Branch — and, with reference to verbal note AL BRA 6/2016, dated September 19th 2016, has the honor to submit (see attached) an additional reply to a joint communication sent by the Special Rapporteurs on the situation of human rights defenders, on extrajudicial, summary and arbitrary executions, on the promotion and protection of the right to freedom of opinion and expression, on the rights to freedom of peaceful assembly and association, on the rights of indigenous persons, and on violence against women, its causes and consequences.



18th, 2017

To the Office of the High Commissioner for Human Rights

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FEDERATIVE REPUBLIC OF BRAZIL

**ADDITIONAL RESPONSE
TO THE JOINT COMMUNICATION
AL BRA 6/2016, SEPTEMBER 19TH 2016**

The Brazilian government presents its compliments to the Special Rapporteurs on the situation of human rights defenders, Mr. Michel Forst, on extrajudicial, summary and arbitrary executions, Ms. Agnes Callamard, on the promotion and protection of the right to freedom of opinion and expression, Mr. David Kaye, on the rights to freedom of peaceful assembly and association, Mr. Maina Kiai, on the rights of indigenous persons, Ms. Victoria Tauli Corpuz, on violence against women, its causes and consequences, Ms. Dubravka Simonovic and, with reference to the joint communication AL BRA

6/2016, dated 19 September 2016, and to the verbal note 58/2017, dated 21 February 2017, would like to provide the following additional clarifications.

(1) Please provide any additional information and any comments you may have on the above mentioned allegations

As explained in verbal note 58/2017, the Special Secretariat for Human Rights of the Ministry of Human Rights hosts a federal team (“equipe federal”, hereinafter referred to as EF) in charge of analyzing, monitoring, coordinating and following up on the implementation of protective measures issued under the auspices of the National Program for the Protection of Human Rights Defenders (PPDDH).

The activities of the EF/PPDDH are guided by Decree n. 6.044/2007, which adopted the National Policy for the Protection of Defenders Human Rights, and Decree n. 8.724/2016, which updated the National Program for the Protection of Human Rights Defenders.

The EF/PPDDH may cover situations all over the country. In case a state has agreed with the federal government to decentralize the implementation of the PPDDH, a local team will bear the primary responsibility to analyze requests and allegations brought to its attention under the program — currently, seven states (Bahia, Minas Gerais, Espírito Santo, Pernambuco, Rio de Janeiro, Rio Grande do Sul and Ceará) have done so.

Once an allegation is received, the EF/PPDDH performs a preliminary screening, corresponding to the initial phase of the process. Afterwards, the EF/PPDDH enters into contact with the applicant or, if not possible, with those who acted on his or her behalf, in order to obtain more information and deepen the analyses of the case.

Information collected during the screening and analyses phases is essential for a thorough understanding of the case. During those phases, EF/PPDDH will assess the profile of the applicant, its way of acting, the existence of a causal link between his or her actions and the threats he or she has faced, the motivation of those who allegedly threaten and, if possible, their individualization and offensive potential of the threats. Such data will substantiate the assessment of the case and provide subsidies for the preparation of a technical opinion, which is then submitted to the deliberative body of the PPDDH.

This technical opinion contains a description of the case, including an assessment of the risks faced by the applicant; a suggestion on his or her eventual inclusion in the program or, if applicable, in other programs deemed more suitable to the circumstances of the case (some victims who for any reason do not account as human rights defenders may yet benefit from two other national programs, dedicated to the protection of children and

adolescents and of victims and witnesses under threat). It also recommends a course of action, including measures to be taken by other bodies and branches of power, at the federal and state level, to monitor and follow up on the situation, protect the human rights defender and address the root causes of the risks to which he or she are exposed.

Once the technical opinion is forwarded to the deliberative body of the PPDDH, it will decide on the applicant's inclusion in the program.

It is important to notice that EF/PPDDH will analyze and suggest all pertinent measures to a given case, regardless of whether or not the applicant is formally included in the program.

It is also important to recall that, immediately after receiving a request, and prior to the initiation of the screening and analyses phases, the EF/PPDDH will also contact the applicant or those acting on his or her behalf, to whom it will inform about the program and provide the number of hotlines, in case the EF/PPDDH must be made aware of any urgent threats requiring an immediate response. If necessary, the EF/PPDDH could then mobilize other bodies to carry out urgent measures of protection.

It is essential for the effective implementation of the program that the EF/PPDDH is able to be in contact with the applicants or those acting on their behalf. Regular contact facilitates the mobilization of the competent authorities, in case of imminent risk. It is also essential that the EF/PPDDH adopts a proactive approach, with regard to addressing and preventing situations of risks.

(2) Please indicate measures taken to protect the life, physical integrity and freedom of the persons mentioned, as well as of other human rights defenders and members of the MST, thus ensuring that they are capable of carrying out their legitimate activities in a safe and enabling environment, free of threats or acts of intimidation and harassment of any kind.

In all cases brought to the attention of the PPDDH, once the context of a threat is identified, the EF/PPDDH recommends that a given set of bodies carry out activities under their respective mandates, in order to prevent or minimize the threats, address their root causes and protect the human rights defenders.

That notwithstanding, it is important to keep in mind that the majority of cases contained in the joint communication AL BRA 6/2016 had never been previously reported to the PPDDH. If that does not exclude the need to further strengthen the visibility and the outreach of the PPDDH, it does create a substantial challenge for the EF/PPDDH to act, without any prior request to do so.

MR. ANTÔNIO DE MIRANDA

Among the cases contained in joint communication AL BRA 6/2016, only Mr. Antônio de Miranda has been assisted by the EF/PPDDH.

The corresponding application was received by the EF/PPDDH on June 4th 2015. Based on those accounts, the EF/PPDDH further discussed the situation with the National Institute for Settlements and Agrarian Reform in the state of Paraná (INCRA/PR), the Secretariat for Public Security, the General Command of the Military Police, the General Delegate of Civil Police, the National Agrarian Ombudsman and the Office of the Federal Public Prosecutor. Based on its assessment, the EF/PPDDH

[REDACTED]
[REDACTED]
[REDACTED] EF/PPDD also offered to facilitate a mediating meeting by the National Commission to Combat Violence Arising out of Agrarian Conflicts.

The case is at the screening stage, being regularly follow-up by the EF/PPDDH and the PPDDH. It has not yet been possible to carry out a personal contact with the beneficiary, even though the EF/PPDDH has made itself available to consult with Mr. Antônio de Miranda since August 2015, in the state of Paraná.

The negotiations with Mr. Antônio de Miranda took place through telephone contacts and, later, an e-mail was sent in order to confirm it that the meeting would take place on August 13, 2015, in the court of justice located in the municipality of Laranjeiras do Sul, in the state of Paraná.

On August 12th, 2015, around noon, Mr. Antônio de Miranda made contact with the EF/PPDDH in order to cancel the meeting, saying that he was in Brasilia. At that time, Mr. Miranda was informed of the possibility of being received, in person, in Brasilia. However, due to other commitments, he reported that it was not possible to meet at that time.

In the meantime, the case of Mr. Antônio de Miranda has been monitored by the EF/PPDDH, which continues to be in contact other bodies in charge of addressing the circumstances and reducing the risks to which Mr. Antônio de Miranda is exposed.

GUARANI-KAYOWÁ INDIGENOUS PEOPLE

With regard to communities of the Guarani-Kayowá indigenous people located in the state of Mato Grosso do Sul, some indigenous leaders have been protected under the PPDDH, other than those mentioned in the joint communication AL BRA 6/2016.

As part of that, the PPDDH is constantly monitoring the situation and promoting the coordination among other public bodies in charge of public security, administration of justice and the protection of indigenous peoples' rights, in order to minimize the risks to which Guarani-Kayowá indigenous communities are exposed.

That notwithstanding, on June 14th, 2016, Clodiello de Souza, a health agent and indigenous leader of the Guarani-Kaiowá people, was shot dead during a raid purportedly carried out by gunmen in the indigenous settlement Tey Jussu, in the municipality of Caarapó, in the state of Mato Grosso do Sul. The PPDDH had not been contacted prior to the communication of his death, rendering unfeasible any evaluation and subsequent inclusion of his case amongst the members of his people already under protection.

GUAJAJARA INDIGENOUS PEOPLE

The EF/PPDDH was informed about the homicide of Mr. Isaías Guajajara and Mr. Genésio Guajajara while monitoring the situation of Mr. [REDACTED] another leader from the Araribóia Indigenous Land, located near the municipality of Amarante, in the state of Maranhão. The EF/PPDDH had not been able to monitor the cases or to consider the possibility of including the victims in the program.

NILCE DE SOUZA MAGALHÃES

The EF/PPDDH informed that Nilce de Souza Magalhães, a leader of the Movement of People Affected by Dams ("Movimento dos Atingidos por Barragem - MAB") in the state of Rondônia, disappeared on January 7th, 2016. On the January 15th, law enforcement agents arrested [REDACTED] based on accounts of witnesses which linked him to the killing. The suspect later confessed to having killed the victim in the district of Nova Mutum-Paraná, in the state of Rondônia. According to the police chief in charge of the case, [REDACTED] was a rural worker, with no past criminal records. He allegedly killed the victim with a firearm, on the grounds of past personal grievances, and tried to hide the body by dropping it in a dam, nearby, with the assistance of two other individuals. The body was recovered on June 21st 2016. On March 24th, 2017, the criminal case came to a conclusion. [REDACTED] was sentenced by the jury court to 15 years in prison for murder and the concealment of the corpse. The jury also sentenced [REDACTED], committed after the murder of the victim.

OTHER CASES

In relation to the individuals listed below, no requests for the inclusion or follow-up by the EF/PPDDH were recorded, that being the reason why the cases were not included among the beneficiaries of measures of protection issued under the PPDDH:

Aponuyre Guajajara
Assis Guajajara
Clodioeldo de Souza
Edmilson Alves da Silva
Fernando Gamela
Henrique Gustavo Souza Pratti
Italo Eduardo Diniz Barros
Leomar Bhorbak
Manoel Messias Pereira
Orislando Timothy Araújo
Pedro Marcelino
Vilmar Bordim
Ye Sapo
José Bernardo da Silva (PE)
Marcus Vinícius de Oliveira (BA)
Yssô Truka (PE)

(3) To provide details and, when available, the results of any criminal investigations carried out on the homicides, attacks, acts of harassment and death threats described. If no investigation or diligence has been carried out, the rapporteurs ask for explanations.

On the request for further information on the results of any criminal investigations carried out to examine the responsibility of those involved in the reported facts, the PPDDH, as it had already been explained, is primarily in charge of coordination and overseeing the implementation of measures for the protection of human rights defenders who are under threat, owing to their work in defense of human rights.

The EF/PPDDH is, therefore, competent to identify, accept and lead the demands related to the security of the individuals monitored by the program. It is also mandated to consult with competent bodies at the federal and state levels and to refer situations to those bodies which are competent to take the necessary measures to reduce or eliminate the experienced situation of threat.

The PPDDH does not have, though, the authority to establish investigative or police procedures, in accordance with its methodological guidelines and the legislation governing its activities (Presidential Decrees 6.044/2007 and 8.724/2016).

The decision to include a case under the supervision of the PPDDH gives rise to consultations with the competent bodies in order to request them to monitor and to take the necessary measures, in line with their respective mandates and obligations, to address the root causes, mitigate the risks and protect the freedom and the physical integrity of human rights defender under threat, so that he or she could continue to perform his or her activities.

Requests are sent by the EF/PPDDH to different bodies, including those involved in the investigation and administration of justice, to obtain information and follow-up on situations that may involve reprisals or constraints against human rights defenders.

Regardless of the independence of bodies and authorities in charge of the administration of justice, the national program can call their attention to the importance of fully investigating cases of violations committed against human rights defenders.

(4) To provide information on measures taken to improve the response and effectiveness of domestic mechanisms which might be available for the protection of Human Rights defenders, including measures adopted to combat reprisals, after reporting to competent domestic authorities.

The Brazilian government has constantly sought to improve its response to situations of threats faced by human rights defenders.

The launching and the implementation of the national program for the protection of human rights defenders is, in and of itself, a demonstration of that commitment.

The PPDDH, established by Presidential Decrees 6.044/2007 and 8.724/2016, foresees, as already explained, the implementation of a variety of measures, in coordination with government agencies and civil society organizations, that can have a positive impact in reducing or overcoming situations that would require formal monitoring by the program — in other words, by reducing the threats and risks that may affect human rights defenders while exercising their functions.

It is true that the geographical dispersion of cases, across a large territory, creates additional challenges for the effective protection of human rights defenders.

That is why, in the last two years, the EF/PPDDH has had a series of consultations with law enforcement and public security officials from states all over the country. Such

effort aims to contribute to the establishment of local protection networks, in order to facilitate the dialogue and to provide human rights defenders with more agile responses.

(5) To explain what measures Brazil have been taken to ensure that all human rights defenders can undertake peaceful and legitimate activities without fear of criminalization, judicial persecution, violence or any other undue restrictions.

The PPDDH is a public policy which, at its core, aims to and relies on the strengthening of the federative pact. Measures undertaken as part of the PPDDH need to be implemented through joint and collaborative work among a variety of public bodies, at the federal and state level, together with non-governmental organizations. What the program aims is to set up a network for the protection of human rights defenders, able to address the causes of their vulnerability, to empower and to protect human rights defenders. It is worth recalling that the activities of PPDDH are aimed not only at protecting the life and physical integrity of human rights defenders, but also at promoting measures to overcome the root causes that generate the risks.

Geneva, July 18th, 2017