



*Permanent Mission of Brazil to the United Nations Office and other International
Organizations in Geneva
Chemin Louis Dunant 15- 1202
Geneva-, Switzerland*

Geneva, 12 September, 2018

Dear Ms. Beatriz Balbin,

I refer to the joint communication AL BRA 3/2018, dated 22 March 2018, regarding the killing of Ms. Marielle Franco and her driver, [REDACTED]

[REDACTED] On behalf of the Brazilian Government, I attach the following comments, which I kindly ask you to transmit to the authors of the referred communication.

Please accept the assurances of my highest consideration.

A handwritten signature in black ink, appearing to read "Joao Lucas Quental N. de Almeida".

Joao Lucas Quental N. de Almeida

Minister-Counsellor

Permanent Mission of Brazil to the United Nations Office in Geneva



FEDERATIVE REPUBLIC OF BRAZIL

RESPONSE TO COMMUNICATION

AL BRA 3/2018

The investigations on the homicides of Councilwoman Marielle Franco and her driver, [REDACTED] are being conducted by the Civil Police of the state of Rio de Janeiro since March 14, 2018, when the crimes occurred. The case is under responsibility of the Homicides Division (police inquiry nº 901-00385/2018). The investigations comply with all legal and procedural protocols necessary to identify and bring into account, as soon as possible, the criminals responsible for the homicide.

The Homicides Division is duly prepared to conduct the investigations. The police department has received, in addition, valuable technical and logistical contribution from other police and non-police institutions, aiming to support and expedite the inquiry. In the search of the criminals, the investigative body has made every effort and has applied all the legally applicable measures throughout the investigations.

The investigation is a priority action for the Brazilian Government and the State Government of Rio de Janeiro. It is conducted under strict confidentiality, so as to ensure its celerity and effectiveness, as authorized by article 20 of the Code of Criminal Procedure. The determination of confidentiality was decided by a judicial order issued by the 4th District Criminal Court of the city of Rio de Janeiro, as an exceptional measure authorized by law, in order to protect the investigation, in particular the identity of the witnesses. As long as confidentiality is needed, the investigative body is not be permitted to grant access to information regarding the investigations.

In addition to the investigations conducted by the Civil Police, the Superintendence of the Federal Police in Rio de Janeiro is investigating the origin of the ammunitions used in the crime (police inquiry nº 023/2018-15). Bearing in mind that the investigations have contiguous objects, the Federal and state authorities are undertaking joint efforts through meetings and investigative technical cooperation, in an attempt to ascertain the facts and the circumstances of the case as soon as possible. The Federal Police designated an investigative team to exclusively to work the case. In addition, the Federal Police offered to support the Homicide Division of Rio de Janeiro, exchanging intelligence information and providing technical assistance.

The investigations by the Civil Police have advanced through the use of technological tools and techniques. The victims were subjected to the necessary medical-forensic examination. The vehicle in which the victims were at the time of the crime was also subjected to the appropriate examination by the Homicide Division and by the Carlos Éboli Forensic Science Institute, in the state of Rio de Janeiro. The Civil Police also analyzed the use of mobile phones in the moments before the crime. There are 26 mobile phones antennas, of five telephone providers, in the region where the crimes were committed.

To date, the main line of investigation reinforces the case for summary execution of the Councilwoman and her driver. The action by militias is not excluded, although no alternative line of investigation has been discarded. So far, according to information from the Public Prosecutor's Office of the state of Rio de Janeiro (procedure nº 2018.00393266), it has been verified that: (1) around 7 pm, Councilwoman Marielle arrived at Casa das Pretas, at Inválidos street, in Lapa, to mediate a debate promoted by PSOL with young black women; (2) according to images obtained by the Civil Police, a Cobalt model vehicle with Nova Iguaçu plates, a municipality of the State of Rio de Janeiro, was stationary close to the place; (3) when the Councilwoman arrived, a man got out of the vehicle and started talking on the cell phone; (4) around 9 pm, the Councilwoman left the place, accompanied by her adviser and by her driver in a vehicle, and, shortly thereafter, the Cobalt began to follow; (5) shortly after, another vehicle, with characteristics not yet disclosed, joined the Cobalt in the pursuit of the Councilwoman's vehicle; (6) around 9:30 pm, at Rua Joaquim Palhares, in Estácio, one of the vehicles approached the Councilwoman's car, from which thirteen shots were fired, nine of which hit the bodywork and four, the window, resulting in the deaths of Marielle and [REDACTED] (7) the weapon that hit the victims was a 9mm pistol, and the shots were fired at a distance of 2 meters; (8) the Civil Police recovered 9 capsules at the scene of the crime and found that the ammunition belonged to a lot stolen from the Federal Police of Brasília.

Due to the confidential status of the investigations, it is not possible to provide, at the moment, to provide other information on the state of the investigations. Information about the authorship of the crime and materials collected in this pre-procedural phase will serve, once the police inquiries are closed, to prepare for the criminal prosecution, when due publicity will be given to the case. Once the police inquiry is completed, the conclusions will be available to the members of the families of the victims, who may initiate civil lawsuits to seek material reparation and moral damages, without prejudice to their prerogative to fully monitor the criminal case (when they may even act as prosecution assistants, through representation by lawyer or by the Public Defender's Office).

The Public Prosecutor's Office of the state of Rio de Janeiro has been, since the beginning of the investigations, available to promote, within its legal mandate, applicable protection measures to members of the families of the victims or to witnesses.

Brazil, through the Ministry of Human Rights (MDH), implements the National Policy for the Protection of Human Rights Defenders (PNPDDH), created by Decree nº 6.044, of February 12, 2007, and the Program for the Protection of Human Rights Defenders (PPDDH), established by Decree nº 8.724, of April 27, 2016, both with the purpose to coordinate measures for the protection of persons who have their rights threatened as a result of their actions protecting

or defending human rights. The PNPDDH attests to the commitment of Brazil with the protection of all those individuals who promote the realization of human rights in the country.

The PPDDH is managed by the General Coordination of Protection of Human Rights Defenders of the National Secretariat of Citizenship of MDH. It is articulated to ensure that the defender remains at his/her place of work and residence, so as to afford no discontinuity in their activities to protect and promote human rights. At present, 444 human rights defenders are included in the PPDDH throughout Brazil.

The program is implemented through agreements with state authorities in Minas Gerais, Pernambuco and Maranhão. In the states of Ceará and Pará, the recently concluded agreements are in the deployment phase. In the states in which there is no state program, the cases of human rights defenders are accompanied by a federal technical team, directly coordinated by the MDH.

The protective measures include: visits to the place of work of the defender for preliminary analysis of the case and the threat; holding public hearings for conflicts settlement; dissemination of the activity of the defender and the program; coordination with bodies working to solve the threats; monitoring of investigations and denunciations; monitoring, through periodic visits to the place of work of the defender to verify the permanence of the risk and of the situation of threat; provisional withdrawal of the defender from his or her place of work, in exceptional and emergency cases; and coordination with the security forces of the states, for police protection in cases of serious risk. The protective measures include coordination with ministries, justice system, and public bodies of supervision, regularization, titling of lands, investigation of threats and punishment of perpetrators. This coordination is made shortly after reception of the demand, regardless of the inclusion of the defender in the protection policy.

The PPDDH operates within the federative structure of government in Brazil, through concerted work by all levels of the government and relevant civil society organizations, with a view to containing risk or vulnerability. The program makes use of bilateral or multilateral cooperation and coordination with national and international non-governmental organizations to structure a network of protection of human rights defenders.

Independent monitoring and social control is carried out in the framework of the Permanent Commission of Human Rights Defenders and Confrontation of the Criminalization of Social Movements, instituted by the National Human Rights Council (CNDH). In addition, by means of MDH Ordinance nº 398/2017, a working group to discuss the methodology of social participation within the scope of PPDDH was established. Currently, the MDH is examining proposals to improve the program, with a view to de-bureaucratizing the entry into the protection system, reducing the time it takes for the cases to be evaluated for

admission, as well as improving the early alert system and strengthening the network of support to the protection system.

The established methodology of the PPDDH requires the prior request by the individual at risk for inclusion in the program. It is necessary to fulfill certain requirements to receive the benefit of protection, such as: the application for inclusion must be voluntary; the petitioner must represent a group and be recognized as the legitimate representative of that group; the threat must be linked to the activities of the petitioner as a human rights defender. The PPDDH was not informed of any threats against the life of Marielle Franco and did not receive a request for her inclusion in the protection policy, although her work in the defense and promotion of human rights was recognized in the exercise of her mandate as Councilwoman. Currently, in the state of Rio de Janeiro, eight leaders are included in the program and are accompanied by a federal technical team.

Furthermore, efforts have been made since 2016 to improve the management of the protection programs, with the objective of improving its implementation. Until now, such efforts have sought to harmonize the practices of implementation of the three programs, as well as to propose actions to deal with other challenges faced in the implementation of the protection policy.

The government approved a substantial increase in the 2018 budget for the protection program, in the amount of R\$ 6.8 million, which represented increase of approximately R\$ 2,3 million, compared to R\$ 4.5 million in 2017. This represents a 33,82% increase from 2017 to 2018 in the budget of PPDDH. Extra-budgetary resources to the order of R\$ 4.9 million were also allocated in 2018 to expand the network, making it possible to conclude agreements with the states of Bahia, Rio de Janeiro, Espírito Santo and Rondônia, where procedures already are underway. These measures attest to the commitment of Brazil with the protection of the women and men who fight for the realization of human rights in country.

In addition to the PPDDH, the MDH coordinates also the Federal Program of Assistance to Threatened Victims and Witnesses (PROVITA), created by Federal Law nº 9.807 of July 13, 1999, which established the standards for organization and maintenance of state programs of protection. As provided by Law nº 9.807/1999 and Decree nº 3.518/2000, the PROVITA aims to provide special protection to victims and witnesses of crimes that are coerced or exposed to serious threat for their collaboration with the investigation or the criminal case, and who do not have their physical and psychological integrity protected by other means. Protective measures include psychosocial support and other measures of protection. The Brazilian system of protection of threatened victims and witnesses consists of a total of 14 protection agreements in effect, among which thirteen are state programs, signed between

the Federal Government and the states, and one is federal agreement, which serves other units of the Federation that do not have agreements.

Currently, the Brazilian protection model is mainly implemented in partnership between the central government and the federal states, where a partnership with a non-governmental entity that has recognized work in the defense of human rights is established. The exceptions are the programs of the state of Rio Grande do Sul, implemented by the state government itself, through an agreement with the Federal Government; the program of the state of Rio de Janeiro, whose agreement is signed directly with civil society; and the program of the state of Amazonas, signed with the Public Prosecutor's Office of the state and implemented by civil society entities. The annual budget of PROVITA for 2018 is R\$ 15,5 million, which is supplemented by about R\$ 9 million in state resources offered as part of the agreements. Comparing to 2017, there was a 32% increase in the 2018 budget.

The Rio de Janeiro program and the federal program rely on MDH resources, as they involve civil society organizations. In order to meet these growing demands a expand coverage to states that do not have specific initiatives, the federal program increased the number of posts from 110 to 140. These posts increase the capacity of PROVITA, making it possible to work with cases from states that do not have programs co-financed by Ministry of Human Rights.

As of March of this year, 524 people (witnesses and family members) were under protection.

Following the murder of Marielle Franco and [REDACTED] PROVITA Rio was called upon to assess the case, but the families declined the assistance offered by the program.

