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and other International Organizations in Geneva***

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The Permanent Mission of Brazil to the United Nations and other International Organizations in Geneva presents its compliments to Office of the United Nations High Commissioner for Human Rights – Special Procedures Division – and, with reference to letter AL BRA 12/2020, dated 18 January 2021, and to Note Verbale 279/2021, dated 18 March 2021, has the honor to transmit herewith the non-official translation to the response from the Fundação Cultural Palmares (*NOTA INFORMATIVA Nº 0136561/2021*) to the request of information presented by the relevant Special Procedure mandate holders in the abovementioned communication.

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



Geneva, 29 March, 2021

To the

Office of the United Nations High Commissioner for Human Rights (OHCHR)

Palais des Nations CH-1211 Geneva 10, Switzerland

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Non-Official translation

INFORMATIVE NOTE N° 0136561/2021 of Fundação Cultural Palmares

Translation into English of the contents of the aforementioned Informative Note, related to the list of issues mentioned in AL BRA 12/2020. In case of any divergencies, the original document in Portuguese, electronically signed by the President of the Fundação Cultural Palmares, should prevail (see the attachment of Note Verbale 279/2021).

a) Nomination of Mr. Sérgio Nascimento de Camargo to the position of President of Fundação Cultural Palmares

and

(b) statements made by Mr. Sérgio Nascimento de Camargo on social networks.

1. On November 26, 2019, Ordinance n. 2377 was published with the nomination of Sérgio Nascimento de Camargo as President of Fundação Cultural Palmares. Since then, several administrative and judicial actions have been taken from persons of a segment of Brazilian society to demonstrate the non-conformity with his designation for this position. It is known that the criterion for nomination to positions of trust, of free provision and exoneration, does not depend on a public tender, it is based on the discretion and trust deposited by the hierarchical superior. Furthermore, a position of trust has, among other requirements, an underlying bond of trust, necessary for the exercise of activities essentially political, linked to the identification of priorities and the choice of Government guidelines.

2. The legal provision is supported by the Magna Carta, in article 37, item V:

Art. 37. The direct and indirect public administration of any of the Powers of the Union, the States, the Federal District and the Municipalities will obey the principles of legality, impersonality, morality, publicity and efficiency, and to the following:

(...)

V - the trust functions, exercised exclusively by civil servants occupying an effective position, and the commissioned positions, to be filled by career civil servants in the cases, conditions and minimum percentages foreseen in the law, are only destined to the attributions of direction, check and advisory;

3. However, Brazilian legal doctrine states that:

"The posts nominated in commission (whose filling does not require a public tender) are those intended to be held on a temporary basis by a person of confidence of the competent authority to fill them, who can also exonerate *ad nutum*, that is, freely, who is occupying them. (MELLO, 2006, p. 280).

4. We can also highlight other characteristics for the occupation of the trust function, among them: decision-making power and command, situated at a higher hierarchical level in the organization's structure; leadership, driving; direction guidance; and, management.

5. With the advent of Decree n. 9727 of March 15, 2019, other criterias and requirements were also added to nominations to commissioned positions, whose aim is to seek greater qualification and full suitability in the choice of commissioned appointed.

6. According to art. 2nd of the mentioned Decree, the general requirements for the occupation of positions and functions of trust are:

I - moral integrity and unblemished reputation;

II - professional profile or academic background compatible with the position or function for which the person has been appointed; and

III - failure to comply with the ineligibility cases previewed by item I of the caput of art. 1st of the Complementary Law n. 64, of May 18, 1990 ".

7. In addition, for the occupation of positions at levels 5 and 6, commissioned employees must fill one of the following specific criteria (art. 5):

I - possess professional experience of, at least, five years in activities related to the areas of activity of the agency or entity, or in areas related to the attributions and competencies of the position or function;

II - having held a position in a committee or a trust function equivalent to DAS (Superior Directorship or Advisorship) level 3, or higher, in any sphere of power, including in the indirect public administration, of any federal entity for at least three years; or

III - hold a Master's or Doctor's degree in an area related to the areas of activity of the agency or entity or in areas related to the duties of the position or function.

8. Therefore, there is a specific legislation that requires conditions and criteria for the assumption of public positions in the Public Administration "(...) in order to protect the administrative probity, the morality for the exercise of mandate considered as the candidate's previous life" (art. 14, §9º, regulated by Complementary Law 64/1990).

9. From this perspective, the curriculum of Mr. Sérgio Nascimento de Camargo was assessed by the Presidency of the Republic and considered fit for the position of President of Fundação Cultural Palmares, whose approval fill, in

addition to the criteria of trust and sharp judgment of political discretion, the legal requirements established in Decree n. 9727 of March 15, 2019.

10. Despite the fact of the approval of the curriculum of the signatory for occupying this position, several popular actions were proposed, with the Federal Court in the State of Ceará being the competent court to judge the matter. The Court of Ceará, when judging the matter, issued a decision in Popular Action n. 0802019-41.2019.4.05.8103 determining the suspension of the act of nomination on December 5, 2019. Thus, the signatory remained removed from office by judicial decision until the month of February 2020, when the Federal Attorney General's Office obtained a favorable decision from the Superior Court of Justice (Suspension of Injunction and Judgment n. 2650 / EC) to assume the position again.

11. On this occasion, the Superior Court of Justice, in the face of the arguments listed in the Popular Action and in the judicial decision issued by the Federal Court of Ceará, faced the arguments of merit making it enshrined in its decision:

(...)

First, for finding that the act of appointment in question, of free choice of the head of the Executive Power, fulfills, prima facie, all the legal requirements for the commissioning, having in the records documentation that proves Mr. Camargo's ability to perform the duties for which he was appointed.

Second, because it understands that the fact that the nominee eventually exceeded himself in manifestations on social networks does not authorize value judgments about his ethical and moral values or even his professional competence, especially when it is known about the particularities that permeate the manifestations in the aforementioned virtual environment, easily accessible and apparently free territory, which, for this very reason, ends up smashing eventual excesses of those who are confronted there.

Third, understanding that the view of the original institutions about the possible contradiction of the thoughts exposed by the candidate to the values and positions of minorities, whose defense, according to them, "is the reason for the existence of the institution that presides" (fl 51), implies judgment and censorship by part of the Judiciary, which refutes the examination of the purpose they intend to protect. In this context, I do not see how to fail to recognize that the contested decision, under the pretext of inspecting the legality of the administrative act, unduly interfered in the eminently discretionary criteria of the appointment, creating obstacles to the exercise of inherent activity of the Executive Power.

(...)

12. On August 5, 2020, in a reunion, the Ministers of the Special Court of the Superior Court of Justice, unanimously decided to dismiss the Internal Appeals

of the plaintiffs ([REDACTED] and Defensoria Pública da União) maintaining the decision of the legality of the appointment, which is an act of free choice of the Executive Power, removing undue interference from the Judiciary Power in the choice, understanding a serious violation of public order the decision rendered that interfered in the criteria convenience and opportunity of the administrative act. This decision became final on October 6, 2020.

13. As was demonstrated in the judicial decision, the expression of opinion of a Brazilian citizen on a social network cannot be considered a legal, moral or ethical impediment to filling a commissioned position, and remains characterized by the absence of illegality or illegitimacy in the manifestations on social networks. A citizen's political convictions, his religious choice, his thinking were never criteria for nomination to commissioned positions. Otherwise, the rights guaranteed by the Federal Constitution of Brazil (CFB) would have been curtailed:

Art. 5º All are equal before the law, without distinction of any nature, guaranteeing to Brazilians and foreigners residing in the country the inviolability of the right to life, freedom, equality, security and property, in the following terms:

(...)

IV - the expression of thought is free, anonymity being forbidden;

(...)

VI - freedom of conscience and belief is inviolable, with the free exercise of religious cults ensured and guarantees, in the form of the law, the protection of places of worship and their liturgies;

(...)

VIII - no one will be deprived of rights due to a religious belief or a philosophical or political conviction, unless he invokes them to exempt himself from legal obligations imposed on all and refuses to fulfill an alternate provision, fixed by law; (...)

14. It is shown, therefore, the legitimacy of the nomination of Mr. Sérgio Nascimento de Camargo who, in addition to being approved by the criteria of the Executive Power (consulted by the Chief of Staff of the President of the Republic – “Casa Civil”), was confirmed by the Judiciary Power, because all the legal requirements imposed by the Brazilian State are present.

15. In view of the above and of the clarifications to be presented throughout the Informative Note, it will be demonstrated that the information brought to the attention of the United Nations High Commissioner is from individuals who are not satisfied with the nomination of Mr. Sérgio Nascimento de Camargo to the position of President of the Fundação Cultural Palmares, either because of the work he has been doing at the head of the entity, or taking a position on certain themes of the signatory's social networks, which do not interfere in any way in the public activity carried out by the signatory. Also, that the denunciations

demonstrate concerns or other reasons that are not merely of personal and political convenience.

c) The structural changes promoted at the Fundação Cultural Palmares.

16. In principle, the debate regarding the changes, referred as structural, at the Fundação Cultural Palmares aim at greater advantages, efficiency and economy for the Federal Public Administration. Since the beginning of the current administration, efforts have been made to reduce the cost of administrative expenses, with a view to reallocating resources to the end activities of Fundação Cultural Palmares, with the objective of using efficiently and effectively the resources destined to public policies within the scope of its competences, which is the entity's primary mission.

17. The following are the motivations that led to the structural change of headquarters, the transfer of competence in matters of environmental licensing and the allocation of resources in the finalistic areas, which are being promoted by the current management:

c.1) Justifications/Reasons that led the current administration to change the headquarters of Fundação Cultural Palmares.

c.1.a) Rental agreement for the headquarters building of Fundação Cultural Palmares - historic (administrative process nº 01420.008581 / 2015-34).

18. With a view to housing the headquarters of the Fundação Cultural Palmares and based on art. 24, item X, of Law n. 8.666 /1993, it was signed, directly, the Lease Agreement n. 07/2015, in October 22, 2015, with Eldorado Construtora e Incorporadora Ltda., for 03 (three) years, at monthly initial rent cost of R\$ 162,000.00 (one hundred and sixty-two thousand reais), totaling R\$1,944,000.00 (one million, nine hundred and forty-four thousand reais) the initial amount by year, and monthly installment of initial condominium apportionment of R \$ 27,000.00, totaling the total estimated initial value of the condominium of R\$ 324,000.00. The object of this Lease Agreement is the property located in the Southern Commercial Sector, Quadra 02, Block "C", n. 249 and n. 256, 4th, 5th, 6th and 7th floors, 1st and 2nd basements and store n. 278 on the ground floor, Edifício Toufic, CEP 70.302-918, Brasília/DF, registration n. 7537, of the 1st Property Registry Office of the Federal District.

19. It is enough to analyze the records of the process resulting from Contract no. 07/2015 (01420.008581 / 2015-34) that it was verified, since its origin, that there was not a public notice to search for properties with the desired characteristics and adequate evaluation of the alternatives, to justify the direct hiring, through consultation with research of market without the prior Public Call. Thus, it can be concluded that the decision was not supported by the hiring exemption procedure.

20. Another point to be highlighted, although there was an alert from the Federal Prosecutor's Office to the Fundação Cultural Palmares, through Opinion / PF-FCP / PGF / AGU nº 119/2015 (SEI 0000716), at the time of the property

valuation was the hiring of the company Constol Engenharia Ltda. which presented as a negotiation interval the value of R\$ 143,000.00 to R\$ 162,000.00, with an assessment of m² at R\$ 51.54, having been chosen the biggest and highest square meter of the evaluation carried out for the lease.

21. On October 24, 2016, the 1st Addendum to the Rental Agreement n. 07/2015 was signed to reduce the rent by approximately 7.4074%, from the initial R\$ 162,000.00 to R\$ 150,000.00 monthly and the condominium rate, corresponding to the fraction of 62.39%.

22. However, shortly thereafter, on December 22, 2016, Lessor requested the application of the contractual readjustment of the rent by 7.14%, from R \$ 150,000.00 to R\$ 160,706.09. I.e., despite an attempt to reduce the value, with the application of the readjustment in sequence, one can verify that the value remained almost the same, which demonstrates that there was no benefit for public treasury.

23. Even though Fundação Cultural Palmares has effectively moved its headquarters to the Edifício Toufic in 2015, in 2017 it was decided to add, by means of the 2nd Addendum, the lease of the 3rd floor of the Building, generating an increase of expenses (SEI 0045683).

24. In 2019, in a meeting, the Directors of Fundação Cultural Palmares, looking for an alternative to reduce the expenses, chose to return spaces that were underused in order to probable savings of around 20% (SEI 0087866), which has not been achieved.

25. In a new attempt to reduce the rent, the Fundação Cultural Palmares expressed interest in returning the ground floor store and the 1st basement (SEI 0089900). In response, Lessor informed, by means of a letter addressed to the entity on October 15, 2019 (SEI 0090570):

Subject: Contractual Suppression - Return of the Ground Floor Shop and 1st Basement.

In response to Letter n. 48/2019 / CLOG / CGI / PR-FCP, referring to Process n. 01420.008581 / 2015-34, we inform you that to return the property in question, it must be fully vacated and returned in accordance with the Delivery Inspection Term signed in 12/23/2015. We request the return of 8 assigned parking spaces that are placed in the 3rd basement.

26. Given everything exposed here, it is observed that although there was a manifestation in management for the reduction of the rent value, either through negotiation or by returning part of the leased structure, attempts at negotiation have been thwarted.

27. It is relevant to inform that at the time of the Rental Agreement, the Fundação Cultural Palmares considered among the condominium expenses, other miscellaneous administrative expenses. So, it is included in the value of the condominium, the costs of surveillance, maintenance and cleaning, maintenance

building, receptionist and elevator maintenance. In addition to these ordinary expenses, the space assigned to garage was paid at the same price as the administrative rooms, that is, at the initial value of R\$ 51.54/m².

28. It is worth mentioning that the Edifício Toufic is currently occupied by the Fundação Cultural Palmares and by the National Directorate of the Workers' Party, with apportionment of the Condominium expenses between both.

29. Another point to be raised, no less important, is to stress that the expenses with rent and Edifício Toufic condominium consume a significant portion of the Foundation's budget. In the 2020 financial year, the resources allocated in the Foundation's final budget, for its maintenance were R\$ 9,965,925.00 (nine million, nine hundred and sixty-five thousand, nine hundred and twenty-five reais), of which 31.49% (thirty-one and forty-nine hundredths percent) was destined for payment of rent expenses and other charges at Ed. Toufic, in amount of R\$ 3,138,580.84, as detailed below:

FCP Budget - 2020	
A. Finalistic	1,298,973.00
B. Administrative Maintenance	9,965,925.00
C. Total (C = A + B)	11,264,898.00
Rent, Property Tax and Condominium Expenses	
D. IPTU	51,903.01
E. Condominium	689,680.92
F. Rent	2,221,273.20
G. Rent Adjustment (10/22/2019 to 12/31/2020)	175,723.71
H. (H = D + E + F + G)	3,138,580.84
Percentage of rental expenses in the Budget	
I. Total Budget (I = H / C)	27.86%
J. Rent, Condominium and Property Tax Expenses	31.49%

30. In the face of such a situation, the Fundação sought an alternative less costly of a physical space to house its headquarters in Brasília, culminating in the assignment of free use by Empresa Brasil de Comunicação S/A, of a property located at SCRN 702/703, Block B, lots 02, 04, 06 (main building), 08 and 10 (Term of Cession of Free and Temporary Use of Real Estate EBC / DIAFI / GMAPA / N° 1001/2020, published in the section 1 of the Union's Official Gazette (DOU) of June 16, 2020 - administrative process n. 01420.101081 / 2020-38).

31. Expenses related to the transfer of headquarters and delivery of the leased property were estimated at R\$ 1,133,213.41 (one million, one hundred and thirty-three thousand two hundred and thirteen reais and forty-one cents), which diluted in 10 (ten) years (assignment term) will represent an annual expense of R\$ 113,321.34 (one hundred and thirteen thousand three hundred and twenty-one reais and thirty-four cents). Adding to this result the projected annual expense for maintenance of the new headquarters, of R\$ 1,161,081.25 (one million one hundred and sixty-one thousand eighty-one reais and twenty-five cents), the

estimated total annual expense is R\$ 1,274,402.59 (one million, two hundred and seventy-four thousand, four hundred and two reais and fifty-nine cents).

32. Thus, if the real rent and condominium value of the current headquarters in 2020 were R\$ 3,138,580.84 and the estimated expenditure for the new headquarters was R\$ 1,274,402.59 (one million, two hundred and seventy-four thousand four hundred and two reais and fifty-nine cents), **the annual savings in the Foundation's budget will be R\$ 1,864,178.25**, which is quite significant considering that it is a small institution, with a limited budget for vast legal assignments.

c.1.b) CEF report and the need for contractual termination.

33. If the mistakes made at the beginning of the contract were not enough, as reported above, in the year 2019, the need for administrative review regarding the Rental Agreement was evidenced, in virtue of the significant budgetary commitment of the entity with this expense item.

34. To better motivate the act of reducing the value of the Rental Agreement and better support the decision to terminate the contract, an inspection report from Caixa Econômica Federal (CEF) was requested. The Report prepared, Evaluation Report n. 6997.6997.000574624 / 2019.01.01.01, was due to the appraisal carried out on November 7, 2019, supported by the technical norms of ABNT and the real estate appraisal rules NBR 14653-Part I and Part II, which demonstrated a minimum lease range of R\$ 76,000.00 and a maximum of R\$ 80,000.00, while Fundação Cultural Palmares effectively paid the monthly amount of R \$ 230,926.47 (October/2020 basis).

35. Furthermore, considering that partitions, air conditioners (including air conditioning services installation) and other improvements, included in the rental price, are owned by the Lessor, it is assumed that the Fundação Cultural Palmares has been paying indirectly, for more than five years, for these assets without having effective possession of them. This is easily deduced when evaluating the improvements, the value of the rent paid and the value assessed for the property by the Caixa Econômica Federal inspection report. If the entity had the goods been acquired through a bidding process, it could even, in this case, take them to the new headquarters of the entity.

36. From the history brought here, it can be said that, with the contractual format of the lease, the Federal Public Administration ceased to carry out a mandatory bidding procedure, and cannot claim that it paid the best price, not only for the non-acquisition of said goods, but also for the facilities. In view of all this information, the Public Administration faced and does face to all these irregularities, opting for the signature of the **Term of Free Assignment of Property of the Union** to shelter the Foundation's headquarters, considerably releasing the company's budget for application in its finalistic areas.

c.1.c) Invasion threats and environmental recordings (administrative process 01420.100859/2020-91).

37. Other relevant reasons for Fundação Cultural Palmares to leave Edifício Toufic were the constant threats of invasion and environmental recordings since the beginning of the mandate of the current President of the Fundação Cultural Palmares. The headquarters of the Fundação Cultural Palmares had been the target of invasion, such as the one in December 29, 2019, and several social media threats of new intrusions, including the possibility of setting “fire on Palmares”, as registered in social networks and disclosed to society in the Public Note available on the Foundation's website (<http://www.palmares.gov.br/?p=56479>), and whose facts were registered with the Public Security Secretariat and the Federal Police Superintendence, both in the Federal District (SEI 0113322 and 0113337).

38. In addition, an illegal recording, which was subject of an expert examination, caused many disorders to the current management. This recording was widely publicized on the portals of the company, although the investigation concluded that it was illegal and, therefore, the recording should not be used as any means of proof (SEI 0135919). The recording refers to the meeting held at the Office of Fundação Cultural Palmares on April 30, 2020 and whose audios were delivered to the press. This meeting was recorded in a clandestine manner and without the consent or authorization of the signatory. All the processes installed based on the evidences obtained in that recording, therefore, have unlawful content.

39. The grounds for the complaints made against the signatory are based, in essence, on several reports published in the media and information, with reference to audios obtained by illegal wiretapping, such as those posted on the “Alma Preta Portal”, on the “O Estado de São Paulo” newspaper, on free editing platform (Wikipedia), on the opinion page of “Jornal Estadão”, on “Portal Terra” and in “Revista Congresso em Foco” and that do not contain suitable sources to support oppositions or establish the truth about the facts. The news media reproduced parts of that listening, having been edited and decontextualized to give a different connotation from that intended in the illegally recorded dialogue.

40. On this subject, the then STF Minister [REDACTED] rapporteur at APn 307-3, on the prohibition of use of illicit evidence, it was positioned as follows:

Undoubtedly, illicit evidence among us does not have the necessary legal standing as a means of formation of the conviction of the judge, reason why it should be disregarded, even if to the detriment of the investigation of the truth (...) (STF, Penal Action nº 307-3-DF, Plenary, Min. [REDACTED] Diário da Justiça, 13.10.95).

41. Therefore, the journalistic articles point to a conclusion resulting from a clandestine recording, and it cannot be attributed absolute credibility, because it is essential to point out, in an irrefutable way, the authorship of the phrases so that the issues punctuated by the reporting parties can be elucidated. Still in relation to the statements made in the illegal recording, it is relevant to bring to the attention that the investigation conducted by the Federal Police concluded that the signatory did not have criminal conduct (SEI 0135919).

42. Thus, it was applied, regarding the environmental recording that took place at the Fundação Cultural Palmares, the theory of the fruit of the poisoned tree: a contaminated tree cannot bear healthy fruit. In other words: it is not possible to derive lawsuits or punishments from an illegal recording. Any evidence obtained by these wiretaps is illegal by similarity. Consequently, it can be concluded that there is also no breach of the Code of Conduct of the Federal High Administration liable to punishment, since the questions raised were derived from evidence obtained in a clandestine form.

c.1.d) Decision of the Executive Board.

43 In view of the notes presented above, since 2019 the Board of Directors of Fundação Cultural Palmares seeks another headquarters for the entity. Thus, the administrative acts aimed at transferring the headquarters of Fundação Cultural Palmares date, initially, from the decision taken at a meeting held on September 25, 2019 (SEI 0087866) by the entity's Board of Directors at the time, composed of the former President of the Foundation, [REDACTED], and respective Directors: [REDACTED], Director of the Department for the Protection of Afro-Brazilian Heritage (DPA), and [REDACTED] Director of the Department for Fomentation and Promotion of Afro-Brazilian Culture (DEP):

*(...)Collegiate Board decided for the immediate application of the proposal in the document, which are: a) the immediate modification of the 07/2015 contract, with a reduction in the amount of R\$ 433,367.46, corresponding the return of the Ground Floor and 1st basement, meaning a reduction of 19.51% (nineteen integers and fifty-one hundredths percent); b) the adequate space for the Foundation, defining what should be prioritized in the new location, indispensable for the preparation of the Basic Project; c) **the creation of a working group in charge of producing the public call for tenders for prospecting real estate in the market in Brasília/DF, to be leased to house the new Palmares headquarters, by collecting technical proposals that meet the requirements that may be defined by the Executive Board** ; and d) a possibility of hiring an architect or engineer to advise the working group to be constituted, in the case that the Ministry of Citizenship does not assign a professional of its staff, in timely. After the deliberations and decisions, the Minutes were approved without restrictions. (highlighted by me).(...)*

44. In the same sense, in a meeting held on June 2, 2020 (SEI 0112930) by the current Executive Board, composed by Mr. Sérgio Nascimento de Camargo, and by the respective Directors: [REDACTED] Director of the Department of Fomentation and Promotion of Afro-Brazilian Culture (DEP), and [REDACTED] Director of the Department for the Protection of Afro-Brazilian Heritage (DPA), given the history of the lease, decided to change the headquarters of the Foundation:

(...) The Collegiate Board approves the management decision regarding the change of the foundation's headquarters, as well as the decision of cession to the EBC building and to receive the movable assets transferred

by disposal, provided that the administrative and legal formalities are fulfilled. (...)

45. Thus, it should be clarified that the administrative decision to terminate Contract n. 07/2015 and the transfer of the headquarters of Fundação Cultural Palmares were handled both by the previous management and by the current management, converging on the position that the contract signed is no longer advantageous to the Public Administration, and must be terminated.

46. In addition, the administrative measure adopted is in line with Ordinance No. 179, of April 22 2019, edited by the Ministry of Economy, which seeks to rationalize public spending on the rental of real estate.

c.1.e) Alternation of the headquarters of Palmares in the Special Secretariat of Culture (SECULT).

47. Still on issues related to structural change, resulting from threats to the Fundação Cultural Palmares headquarters, there was a need to temporarily transfer part of the activities of the entity's headquarters to the Special Secretariat of Culture (SECULT), at the Esplanada dos Ministérios, for internal consultations and eventual face-to-face meetings. Sporadically, with the temporary closure of the Special Secretariat for Culture, due to COVID-19, the face-to-face meetings take place at the EBC Building or by videoconference.

48. Furthermore, due to the pandemic resulting from COVID-19, the employees and contributors of Fundação Cultural Palmares were already working in home office, a situation that will last until there is security to the health and integrity of all for the exercise of the public function under the terms of Ordinance n. 2789/2020, from the Ministry of Economy. It is very important to note that the Fundação Cultural Palmares did not adopt a solution causing discontinuity in its service due to the alternation of headquarters.

49. It should be noted that, with the alternation of the headquarters of the Fundação Cultural Palmares, since approximately June 17, 2020, there is no longer talk of an invasion to the building of the entity. By the other side, the Palmares Cultural Foundation continues under cyber-attacks on its technology structure information kept at Edifício Toufic. This situation led to the loss of documents, inoperability of the Electronic Information-SEI and institutional e-mail, recurring facts in the entity.

50. The extreme measure of temporary change of headquarters ended up having a practical result to efficiency, since the security guards hired for the surveillance of the ministerial building also guarantee the security of Foundation staff members.

c.1.f) Moving to the building provided by the Union (Administrative Process No. 01420.100436/ 2020-71).

51. In view of the evidence on the property rental process, the decisions of the Executive Board, threats of invasion and environmental records, in addition to the

fact that rent consumes a significant portion of the company's budget (around 30%), administrative and legal procedures necessary to the move were initiated at the headquarters of the Fundação Cultural Palmares.

52. To this end, possibilities for real estate assignment were sought with the Secretariat of Union Patrimony (SPU) and the Special Secretariat for Culture (Secult), having as answer the absence of available properties. In the face of denial, the current administration, in consultation with the Presidency of the Republic, got the possibility of receiving the assigning a property from Empresa Brasil de Comunicação (EBC) to Fundação Cultural Palmares, whose building, owned by the Federal Government, had already been occupied by the National Council of Justice (CNJ).

53. Then, the Document n. 183/2020 / GAB / PR-FCP (SEI 0105219) was sent, asking EBC about the possibility of assignment to Fundação Cultural Palmares and the administrative process n. 01420.100436 / 2020-71 was opened. After the administrative procedures, the Palmares Cultural Foundation signed the Term of Free and Temporary Use of Real Estate with EBC, a federal public company, with the aim of installing the company's headquarters.

54. Even though all administrative procedures have followed the technical and legal requirements applicable to the Public Administration, the decision to change the headquarters has been object of lawsuits, representations before the Federal Public Ministry, internal control bodies and the Ethics Committee of the Presidency of the Republic. So far, there has been no challenge or illegality that point out possible irregularities liable to repair, omission or damage to the National Treasure.

55. However, citizens, who are still dissatisfied, continue to seek the legal, political and now international bodies to prevent the continuation of the Foundation's legal business. The most serious, and which escapes the light of public transparency, is that the informants who have been making complaints like these, empty and frivolous, are trying to induce the Superior Courts that it is more advantageous and economical for Fundação Cultural Palmares to continue paying rent in building over 50 years old, whose value is above the market price, as evidenced a by the valuation report of Caixa Econômica Federal (CEF), than to transfer its headquarters free of charge to the Union building, exempting itself from this expense item.

c.2) Environmental licensing.

56. Other accusations related to the structural changes that took place at the Cultural Foundation Palmares and that are being the object of denunciations with the Executive, Legislation and Judiciary powers, is that the signatory allowed the transfer of competence from the environmental licensing processes to the National Institute of Colonization and Agrarian Reform (Incra) and whose fact does not correspond to the truth. The agenda transfer of competence is due to the fulfillment of legal rules from the Government Federal Government and, if it were not fulfilled, this signatory and the technicians would respond (legally) for this act.

57. Thus, it is relevant to note that the legislative modification of the transfer of competence between the entities occurred when this signatory was returning to Fundação Cultural Palmares after the episode of suspension of the nomination act, having not participated in the discussions on the subject. In fact, in view of the government's decision-making power, the legislative change began in January 2019 with the restructuring of the Ministry of Agriculture, Agriculture and Supply (MAPA) and was completed in moment of the organization of the agrarian autarchy (Incra).

58. The change in competence to manifest in the environmental licensing processes took place with the publication of Decree n. 10252, of February 20, 2020, in which it attributes the Incra Directorate of Land Governance to coordinate environmental licensing activities, *in verbis*:

Art. 13. The Land Governance Directorate is responsible for:

VII - coordinate the activities of environmental licensing in lands occupied by the remnants of quilombos in articulation with the responsible environmental agency [...]

59. It should be noted that this decree is the responsibility of the President of the Republic, that using the attribution conferred by art. 84, caput, item VI, item "a", of the Federal Constitution, changed the regulatory structure and the statement of commissioned position and trust functions of Incra, in addition to imposing the relocation of posts.

60. In this sense, it was up to the Fundação Cultural Palmares to abide by the presidential decision. To this end, Incra and Fundação Cultural Palmares issued, on May 27, 2020, a Joint Letter to the Brazilian Institute of the Environment and Renewable Natural Resources (IBAMA) and to the state environmental agencies, informing about the transfer of about 600 environmental licensing processes under its responsibility by the entity for the agrarian autarchy. The document states that Fundação Cultural Palmares no longer has the role of continuing to analyze and manifest itself in environmental licensing processes, whether federal, state or municipal, since they have become the exclusive competence of Incra.

61. Therefore, the decision to transfer the competence of the manifestations in the processes of Environmental licensing by Fundação Cultural Palmares to Incra was not under this current management. Due to its capillarity throughout Brazil, Incra will be able to treat the matter more efficiently, better serving the communities than the Fundação Cultural Palmares itself.

c.3) Allocation of resources in the finalistic areas.

62. Another structural change carried out by the current administration was to seek the best mechanism to democratize the access to the public resources of Fundação Cultural Palmares based on the distribution of resources in its finalistic

areas, to reach a greater number of black culture trainers, fulfilling the institutional mission of Fundação Cultural Palmares.

63. Thus, the entity decided to launch public notices in the national level for the promotion, dissemination and diffusion of black culture, reaching a greater number of segments of the black culture and doers of that culture, differently from how it was being done. The historic registers demonstrates that most of the resources in the finalistic areas had served to only a small portion of the target audience of the entity, practically the same categories and artists, including many already consecrated. In addition, most of the resources were concentrated in the states of Bahia, Rio de Janeiro and Alagoas, and the direct hiring modality was used frequently.

64. In this perspective, the “Arte do Quilombo” Notice was launched in 2020, which aimed to select and reward individuals who are members of remaining quilombo communities duly certified by the Fundação Cultural Palmares and self-declared blacks or browns practicing of several Afro-Brazilian cultural expressions. The amount made available for the award was approximately R\$ 1,000,000.00 (one million reais) and 91 artists were awarded from all regions of the country. The areas involved in the Public Notice were: a) Music; b) Dance; c) Theater; d) Craftsmanship; and, e) Reading, writing and orality: Myths, folklore narratives. Such activities had the following objectives: to strengthen the expressions of quilombola and Afro-Brazilian culture; to identify, to value and to give visibility to cultural activities led by blacks and strategies for the preservation of their Afro-Brazilian cultural identities; encourage the full and effective participation of the black, brown and quilombola population in the design, execution and evaluation of projects, activities, actions and initiatives that involve the Afro-Brazilian culture cultivated by them.

65. With the execution of this Notice in 2020, a structural change took place in the allocation of resources from the finalistic areas of the entity and the democratization of access to public resources aimed to culture makers.

d) Extinction of collegiate bodies by Ordinance No. 45, of March 2, 2020.

66. Ordinance n. 45, of March 2, 2020, of Fundação Cultural Palmares had as its object the extinction of 08 collegiate bodies, namely:

- Quilombo dos Palmares Memorial Park Management Committee;
- Standing Commission on Special Accounting Procedures;
- Governance Committee;
- Open Data Committee;
- Committee for the Sustainable Logistics Management Plan;
- Special Commission of Inventory and Disposal of Goods; and,
- Information Security Committee.

67. It should be clarified that the publication of the aforementioned collegiate decree is legally supported by Decree n. 9759, of April 11, 2019, which sought to extinguish all collegiate bodies of the Federal Public Administration and to create guidelines, rules and limitations for the committees, commissions, working

groups or any other collegiate positions and by the Decree n. 10139, of November 28, 2019, which provides for the review and consolidation of standard acts under decree in the Federal Public Administration. When these norms are combined, it should be noted that the collegiate bodies of Fundação Cultural Palmares, mentioned in the ordinance had already been tacitly revoked as they no longer meet the requirements of the referred decrees.

68. It is also noted that the collegiate extinction was preceded by several meetings and preparation of notes on technical and legal issues, aiming at adapting the collegiate bodies to the legal provisions. The management's intention has always been to recreate the collegiate bodies, adapting them to the criteria defined in the federal decree. In this way, the collegiate bodies were recreated by the following Ordinances:

- Ordinance n. 58, of March 24, 2020 - Institutes the Special Account Procedures Commission of Fundação Cultural Palmares
- Ordinance n. 60, of March 24, 2020 - Institutes the Management Commission of the Sustainable Logistics Management Plan of Fundação Cultural Palmares;
- Ordinance n. 62, of March 24, 2020 - Institutes the Special Commission for Inventory and Disposal of Assets of Fundação Cultural Palmares
- Ordinance n. 64, of March 24, 2020 - Institutes the Internal Governance Committee of Fundação Cultural Palmares;
- Ordinance n. 65, of March 24, 2020 - Institutes the Information Security Committee of Fundação Cultural Palmares;
- Ordinance n. 66, of March 24, 2020 - Institutes the Information Technology Committee of Fundação Cultural Palmares;
- Ordinance n. 124, of May 29, 2020 - Transfer the powers of the previous Open Data Committee to the Governance Committee of the Fundação Cultural Palmares;

69. As for the Quilombo dos Palmares Memorial Park Committee (PMQP), since it is a collegiate body, which will include the participation of other federated entities, its reestablishment must be made by Decree - an act that depends on the signature of the President of the Republic. Such proposal was submitted to the Ministry of Tourism (entity to which the Fundação Cultural Palmares is formally linked) to be forwarded to the Chief of Staff of the Presidency of the Republic, according to Official Letter N. 121/2021 / GAB / PR-FCP (SEI 0136476 - Process N. 01420.101497 / 2019-12).

e) Black Awareness Day - November 20th.

70. The Law No. 7,668/88 and Decree No. 6853/09 establishes that the Fundação Cultural Palmares has the legal / statutory / regimental duty to value, promote and protect the Brazilian black culture. However, the legal framework does not declare that the protection, promotion and enhancement of the Brazilian black culture should be done only in the light of one exclusive segment of black culture nor of a specific date in time.

71. The proposal of the current administration is to value the black cultural heritage and tradition according with the heterogeneous and miscegenated Brazilian cultural tradition. The social, the economic and the ethnic-racial prejudice issues need to be tackled with no harm to the bonds of solidarity that unite the Brazilian people. Such issues, according to the current administration, should not be dealt with in the light of decisions and rivalries among the different peoples that build up the Brazilian society. It is *not* the intention of the current administration to let black men and women who were important for the formation of Brazilian culture be erased from the memory of the Brazilian people, as it is understood that the existence of the Brazilian black cultural heritage is inseparable from Brazilian culture as a whole.

72. Moreover, on November 20th 2020, the Fundação Cultural Palmares reopened the Quilombo dos Palmares Memorial Park, located in União dos Palmares/AL for visits and celebrations alluding to that date, observing the security guidelines provided for in Decree nº 71467, of September 29th 2020, edited by the government of the State of Alagoas, in view of the Covid-19 pandemic.

73. Thus, differently from what some Brazilian citizens claim, the current administration sought to recall other dates that are equally significant for the history of the struggle of the black population for their rights and not only the November 20th. Historically, for example, the date of May 13th represents the moment of signing the so-called Golden Law, putting an end to slavery in Brazil and is also a historical landmark to be remembered.

f) publication of articles on the website of Fundação Cultural Palmares on May 13th 2020.

74. Another subject brought to the attention of the High Commissioner for Human Rights refers to the publication of articles on the website of Fundação Cultural Palmares, on May 13th 2020, containing different views on the personality of Zumbi dos Palmares and the relevance of that date for the black culture. It is pertinent to note that transmitting communications with divergent understandings about facts related to the same theme are valued in mature democratic regimes that, for the sake of individual freedom, tolerate criticism, especially those that aim to problematize preconceived, widespread and untrue ideas among the population.

75. It should be noted that the authors of the articles published on the website of the Fundação Cultural Palmares were duly cited and that their reflections, in turn, are also supported by the specialized and recognized academic literature on Zumbi dos Palmares. For the purposes of knowledge, the curricula of the authors of these publications that express their abilities to discuss the subjects covered are added:

Master and PhD in Social Anthropology from the University of São Paulo (USP). He is a PhD Professor at Universidade Estadual Paulista (UNESP),

where he works in undergraduate and graduate courses, on the Marília and Botucatu campuses. He is currently also director of the Department for the Protection of Afro-Brazilian Heritage - DPA, of Fundação Cultural Palmares - FCP.

Graduated in Portuguese Language and Literature at the University of Brasília (1994), Master in Linguistics (DEA en Sciences du Language - Analyse du Discours - Université de Paris X, Nanterre, 1999) and PhD in Literature / Sciences du Langage by the Universidade Federal Fluminense and by the Nanterre Paris Ouest La Défense.

Teacher of History and Geography, Journalist, Writer, Political Activist, Monarchist and Conservative.

76. Thus, if we take as a reference the art. 5, *caput*, of the Brazilian Federal Constitution, which establishes that "All the people are equal before the law, without distinction of any kind, guaranteeing to Brazilians and foreigners residing in the country the inviolability of the right to life, freedom, equality, security and property (...) ", and the Law N. 7,716, of January 5th 1989, which "defines crimes resulting from prejudice of race or color", it can be said that advancing the possible homosexuality of a public personality, in an article whose nature is that of historical investigation, does not hurt his/her honor in any way, nor as injury, nor as defamation neither as slander.

77. Despite the fact that this administration understands that these texts are not considered nor offensive, nor discriminatory neither prejudiced against the memory of Zumbi dos Palmares, the articles were removed from the Fundação Cultural Palmares' website due to a judicial decision. Therefore, the questioning was overcome in the scope of Brazilian Internal Law. The articles were written by opinion makers who differ from the historical opinion of others, also academic authors, who deal with the matter and are not authored by the President of Fundação Cultural Palmares.

78. If some Brazilian scholars do not recognize the figure of Princess Isabel in the abolition of slavery, this does not constitute an affront to human rights. The Fundação Cultural Palmares has praised the historical figure of Zumbi dos Palmares for thirty consecutive years without being accused of ideological privilege or having only this current of thought. In other words, thinking differently cannot be an offense, but just a respect for democracy according to the current constitutional parameters.

g) "Not Racist" stamp.

79. Another record brought to the attention of the High Commissioner for Human Rights refers to an idea proposed by Mr. Sérgio Nascimento de Camargo to create a "Not Racist" ("Não é Racista") stamp. The signatory addressed the opinion on social networks, but that was soon disregarded. It should be noted

that in the Fundação there was no administrative procedure that required the motivation of the act, such as the technical assessment of the feasibility of the proposal, nor to require the manifestation of the Federal Attorney's Office with the Fundação Cultural Palmares regarding the legality of the matter. Thus, it is ratified that the creation of the stamp was not treated in an institutional way.

80. In addition, the question was taken to a merely philosophical field, as is the understanding of the magistrate of the 6th Federal Court in the Federal District, Dr. [REDACTED], when judging the popular action N. 1031191-65.2020.4.01.3400, proposed by [REDACTED], as seen below:

(....)

The party accuses a deviation of purpose, because the Fundação Palmares would start to support people who are being condemned by racism by the public opinion, contrary to any judicial procedure.

However, it would also be possible to think in the opposite direction. In mobilizing the Fundação to grant an "anti-racist stamp", the Federal Government is not making less of racism or defending that it does not exist; in seeking to separate between true racists and those who are only accused of racism, it is possible to argue that the initiative strengthens the moral authority of the racist label: if the presence of the stamp is eloquent, its absence would also be. There is, it seems to me, the premise that the trivialization of the racist slogan goes against the inclusion of blacks in Brazilian society.

These are not legal but philosophical issues. They are within the limits of a public policy designed to deal with two problems identified by the Executive Branch: both racism and the victimization of those who, not being racist, are condemned as if they were.

This Judgment cannot control the merit of the case.

(...) (emphasis added by the signatory).

81. In this sense, the idea was completely discarded, despite the fact that the Stamp "Não é Racista" did not intend to mischaracterize the mission of the Fundação, but rather constituted an idea of the signatory to create a certification aiming at individualizing and correcting any injustices. In this sense, there is no need to talk about violations of human rights, the right to life and freedom, freedom of opinion and expression, sexual orientation or any other variant that can differentiate human beings.

h) Restriction of spaces for dialogue on decisions and policy formulation within the Fundação Cultural Palmares for some Afro-Brazilian communities.

82. In order to comply with the guidelines of the current Government, the Fundação Cultural Palmares, like all other federal public bodies and entities, had also to remodel its actions and projects, many of them by imposition of the law.

83. One of the norms that urged the Fundação Cultural Palmares to review its administrative acts was Decree N. 9759 / 2019, which determined the extinction of all councils, committees, commissions, groups and other types of collegiate bodies linked to the Federal Public Administration that were created by decree or lower normative act, excluding those mentioned in law, if the respective legislation does not detail the powers and composition of the collegiate body. Thus, the lack of access to spaces for dialogue on decisions and formulation of public policies, due to the extinction of the entity's collegiate bodies, was due to legal determination and not by arbitration on the part of the signatory. However, it is worth noting that there are collegiate groups at the Fundação Cultural Palmares that continue with open spaces for dialogue among Afro-Brazilian communities.

84. The action adopted by the Government to extinguish around 700 (seven hundred) collegiate bodies is based on the need to rationalize the governmental structure and save resources, by means of closure of inoperative and inefficient bodies that were previously created. Nevertheless, the abovementioned decree also provides guidelines and procedures for the institution of new collegiate bodies, which are being created gradually.

85. In relation to the formulation of public policies, for the sake of better understanding, it is relevant to highlight the institutional competence of Fundação Cultural Palmares, established in the article 2 of Law N. 7,668, of August 22nd 1988, and which is currently under the institutional framework of the Ministry of Tourism :

Art. 2. The Fundação Cultural Palmares - FCP may act, throughout the national territory, directly or through agreements or contracts with States, Municipalities and public or private entities, is responsible for:

I - promoting and supporting events related to its objectives, including aiming at the cultural, social, economic and political interaction of black people in the social context of the country;

II - promoting and supporting exchanges with other countries and with international entities, through the Ministry of Foreign Affairs, to carry out research, studies and events related to the history and culture of black people.

III - carrying out the identification of the remaining quilombo communities, proceeding with the recognition, delimitation and demarcation of the lands occupied by them and granting them the corresponding title (Incorporated by the Provisional Act N. 2216-37, from August 31st 2001).

86. On the other hand, art. 201 of Administrative Rule N. 3136, of December 26th 2019, which approves the Internal Regulations of the Ministry of Women, Family and Human Rights, states the following:

Art. 201. The National Secretariat for Policies for the Promotion of Racial Equality - SNPIR is responsible for:

I - assisting the Minister of State in the formulation, coordination and articulation of policies and guidelines for the promotion of ethnic-racial equality;

II - formulating, coordinating and evaluating affirmative public policies for the promotion of ethnic-racial equality and the protection of the rights of ethnic-racial individuals and populations, with an emphasis on quilombola, gypsy, black population and foreigners of ethnic-racial profile affected by actions of ethnic-racial discrimination and other forms of intolerance;

(...) (emphasis added by the signatory)

87. Thus, when reading in conjunction the legal attributions of the Fundação Cultural Palmares and the National Secretariat for Policies for the Promotion of Racial Equality (SNPIR), it is clear that there is a mistaken understanding of the competences of the Fundação Cultural Palmares with regard to the formulation and to the access to public policies to combat racism and, consequently, the appropriate way to discuss issues related to the Afro-Brazilian communities, as these are competences of SNPIR. It is important to outline that the treatment of the questions brought to Fundação Cultural Palmares are those related to the institutional competence determined by law.

88. In this sense, it is reaffirmed that the information brought to the attention of the UN High Commissioner for Human Rights regarding the restrictions on access to public policies and spaces for dialogue by Afro-Brazilian communities does not proceed. In the year 2020, it should be clarified that several communications conveyed by the communities were received and answered, fostering a closer dialogue between them and the current administration.

i) Derogatory comments against black culture, quilombola communities and Afro-Brazilian religion, contrary to the main objective of Fundação Cultural Palmares.

89. As highlighted in **paragraph 71**, the proposal of the current administration is to value the heritage and the black cultural manifestations in line with the heterogeneous and miscegenated Brazilian cultural tradition. The dynamics of preservation and contribution to the smooth running of the institutional mission is what has been the subject of numerous complaints. However, any mention of disrepute in relation to the current administration regarding non-compliance with the prerogatives established in the Law that created the Fundação Cultural Palmares does not proceed and does not offend human rights.

90. In relation to the signatory's statements, which are not derogatory comments against black culture, quilombola communities and Afro-Brazilian religion, it is worth referring again to the understanding of the Superior Court of Justice, in Suspension of Injunction and Sentence N. 2650 / CE, from which I highlight:

(...)

*Second, because it is understood that **the fact that the nominee occasionally exceeded himself in manifestations on social networks***

does not authorize value judgments about his ethical and moral values or even his professional competence, especially when one knows the particularities that permeate the manifestations in the aforementioned virtual environment, an easily accessible territory and considered to be apparently free, which, for this reason, ends up stimulating possible excesses of those who are confronted there.

Third, because it is understood that the view of the originating institutions about the possible contradiction of the thoughts exposed by the nominee to the values and positions of minorities, whose defense, according to them, "is the reason for the institution presided by him" (pg. 51), implies judgment and censorship by the Judiciary, which refutes the examination of the purpose that they claim to protect. In this context, I do not see how to fail to recognize that the decision at stake, under the pretext of inspecting the legality of the administrative act, unduly interfered with the eminently discretionary criteria of the appointment, causing obstacles to the exercise of activity inherent to the Executive Branch. (emphasis added by us).

91. In other words, the signatory's manifestations, as a citizen, are only his positions on certain themes that differ from those that do not have the same line of understanding. The publications of the signatory's private account on social networks are not for the restriction and / or exclusion of any segment of black culture or of religious intolerance, but rather present a comprehensive and inclusive view of the other cultural aspects and manifestations typical of the pluralism of Brazilian society. It is relevant to highlight that social networks allow people with similar thoughts to approach one another by free and conscious choice, while people with divergent thinking, normally, move apart.

92. In a specific case, it should be clarified that there was a disagreement between a former civil servant of the Fundação Cultural Palmares and the signatory and that it was the object of several actions aiming at dismissing the signatory. Such an episode, of an isolated nature, in the signatory's opinion, cannot, absolutely, be considered as contrary to the legal entity's objective. It remains to be elucidated that, following a clandestine hearing of a meeting that took place on April 30th 2020 and published in various media on June 2nd 2020, the personal conflict between the former servant and the signatory arose.

j) Statements by Mr. Sérgio Camargo regarding the case that occurred on November 19th 2020, in which a person was killed by private security guards in a supermarket.

93. The publication brought to the attention of the High Commissioner for Human Rights, presumed to have been released by the signatory on November 25th 2020, was just a counterpoint between the case that took place at the Carrefour supermarket and the film that depicts the life of Carlos Marighella, from which an analogy was made with the authors. In the film as well as in the widely publicized case of the death of João Alberto Silveira Freitas, the mentioned characters conduct opposed the legal norms. However, obviously, at no time does the

signatory justify that the violence practiced by the security guards was a correct behavior.

94. The signatory's manifestation was the expression of a reflective indignation regarding the conduct of certain idolized people, who bring in their biographies traces of conflict with the State and without a proper contribution to the country's growth, thus not becoming, in the opinion of the signatory, worthy of receiving honors. The signatory's understanding is that there are other people who deserve to be recognized by the media for their contributions, unblemished conduct, performance according to state regulations and behaviors based on ethics and morals. Let us repeat, this signatory repudiates any form of violence and violation of human rights.

95. In spite of the signatory's disagreement regarding the media and social opinion in relation to the crime committed against Mr. João Alberto, it is relevant to highlight that: *"All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood"*, as mentioned in Article 1 of the Universal Declaration of Human Rights.

k) Centralization of decision-making by Fundação Cultural Palmares.

96. Since the beginning of the signatory's management, decision-making has been based on technical and legal opinions, as well as brought to the appreciation and vote of the Board of Directors of Fundação Cultural Palmares, composed of the President and the directors of the Department of Support and Promotion of Afro-Brazilian Culture (DEP) and the Department for the Protection of Afro-Brazilian Heritage (DPA), under the terms of Decree N. 6853 / 2009, and whose decisions are decided by the majority of votes including the one of the President, who, in addition to the personal vote, has the right of expressing the casting vote.

97. In addition, the legal entity's governance structure includes several internal bodies that are led to deliberate on relevant issues of Fundação Cultural Palmares. This includes the Internal Governance Committee, whose mechanisms assist decision-making not only by the Board of Directors, but also by the entity's Presidency.

98. As part of the Public Administration, the Fundação Cultural Palmares has been paying attention to its primarily technical and transparent work, registering all its activities in internal processes. There is a whole technical dynamic committed to the regularity and validity of the acts of current administration and in compliance with the principles that govern it.

99. Another point worth mentioning is that the signatory, from the beginning of his term, sought to appoint federal civil servants to the commissioned positions of free appointment to compose his technical and executive staff and, even for positions without ties to the Public Administration, he selected curricula of professionals with proven technical qualification in the area of expertise.

100. Thus, it has been shown that the allegations that the signatory acts in an arbitrary and centralized manner in decision-making involving the institutional mission of Fundação Cultural Palmares are untrue.

L) Additional information for the United Nations High Commissioner.

I.1) - Actions carried out at the Fundação Cultural Palmares in my management.

101. The organizational structure of the Fundação Cultural Palmares includes: Presidency, Office, Federal Attorney, Audit, General Coordination of Internal Management and General Coordination of Strategic Management (intermediate areas), Department of Protection of Afro-Brazilian Heritage, Department of Endorsement and Promotion of Afro-Brazilian Culture and the National Information and Reference Center of Black Culture (finalistic areas).

102. Since the beginning of the current administration, the areas have been carrying out their activities normally, without suffering processes discontinuity or any kind of constraint. According to the clarifications provided so far and additional information to be presented, the management has sought to implement measures to reduce administrative expenses and reallocate these resources to its end activities, which is the mission of the Fundação Cultural Palmares, that is, to support its target community by means of the best possible ways. The actions that are being developed by these units are:

I.1.b) General Coordination of Internal Management

103. Due to its small budget, the Fundação Cultural Palmares has concentrated its efforts on reducing expenses with administrative maintenance, mainly aiming at strengthening its end activities, since that it holds 6.26% of the total institutional budget, whereas the amount on administrative expenses represents 48.40%.

104. In 2020, the main effort of internal management was aimed at reducing the administrative maintenance costs, especially with regard to the leasing expenses of its headquarter, as already mentioned in **items 4.18 to 4.56**. After the replacement of the headquarters of Fundação Cultural Palmares to a property provided by Empresa Brasil de Comunicação - EBC, it is estimated that 31.49% of maintenance expenses will be saved annually from 2021 onwards.

105. This new reality enabled the entity, at the opportunity of preparing its budget proposal for 2021 (PLN 28/2020 - PLOA / 2021), to reallocate maintenance resources for final activities in the amount of R\$ 1,100,000.00, representing an increase 113.44% (one hundred and thirteen and forty-four hundredths percent) in these activities.

106. With regard to services focused on the Information Technology area, in previous administrations, the contracts for the provision of services were carried out through bidding waiver, which is not the appropriate modality. However, the current administration, through the General Coordination of Internal Management, circumvented and regularized the services situation with the conclusion of Electronic Bid N. 05/2020, resulting in the hiring of the company

DSS Serviços de Tecnologia da Informação Ltda, according to the process 01420.101176 / 2020-51.

107. And, no less important, aiming to finalize actions pending from previous administrations, the Fundação Cultural Palmares finalized the donation of goods in an agreement signed with the Ministry of Social Development, such as computers, printers, furniture in general, motor vehicles, among others to the following quilombola communities: Movimento Popular do Arapoanga pela Cidadania - DF, Associação Quilombola do Ribeirão do Itambé - MT, Comunidade Quilombola Kalunga do Município de Cavalcante de Goiás - GO, Comunidade Quilombola Kalunga do Município de Teresina de Goiás - GO and Comunidade Quilombola Kalunga do Município de Monte Alegre - GO, according to process 01420.101064 / 2019.

108. The Fundação Cultural Palmares formalized 9 (nine) voluntary transfers in 2020: 7 (seven) Terms of Foment and 2 (two) agreements, all of them resulting from parliamentary amendments in support of Afro-Brazilian culture, totaling R\$ 1,900,540.00 (one million, nine hundred thousand, five hundred and forty Brazilian reais), benefiting initiatives of civil society organizations and public entities.

109. Without considering the instruments of voluntary transfers under development, 4 (four) installments of accounts from previous years were analyzed in 2020, and 11 analyzes remain incomplete.

L.1.b) General Coordination of Strategic Management.

110. In compliance with Paragraph 2 of Art. 22 of Law N. 13971 / 2019 (PPA Law 2020-2021), the Fundação Cultural Palmares carried out in a short time its strategic planning for the quadrennium 2020/2023, resulting from a profound work of managers and employees, sponsored and led by their senior management. The Institutional Strategic Planning was regulated through Administrative Rule FCP N. 136, of August 26th 2020 (Process N. 01420.101195 / 2020-88).

111. In an unprecedented way, the Integrated Value Chain made it possible to recognize the public value that the Fundação Cultural Palmares should deliver to the segment of the legal entity's target people, consisting of blacks, browns and quilombolas. It is an essential tool to guide the Fundação Cultural Palmares in several transformative processes, such as: process mapping, strategy planning, modernization and innovation through the project laboratory, management focused on more effective results, to the target people, expanding the reach of Fundação Cultural Palmares.

112. It is also reported, the adhesion to the Program of Strategic Management and Transformation of the State (TransformaGov), instituted by Decree N. 10382 / 2020. It is an initiative of the Federal Executive Branch with the objective of evaluating and modernizing the strategic management of the bodies that make up the direct, the autarchic and the foundational federal public administration,

optimizing the implementation of its public policies and making public spending on delivery value to society more efficient. (Process N. 01420.101075 / 2020-81).

113. In 2020, the Fundação Cultural Palmares started implementing a set of 38 short and medium term strategic solutions, already developed by the Ministry of Economy, to support new management improvement solutions, such as:

i. *Governance and Strategic Management Actions, which involves: registering the FCP in the restricted X-ray environment, and validating its information on the panel; establishing the Office of Strategic Projects and Process Transformation, based on the Value Chain; evaluating the competences of the FCP that can be performed by other organizational structures; supporting the institutionalization of the internal governance system; establishing a Digital Governance Committee, or equivalent, under the terms of Decree N. 10332 / 2020; introducing an Integrity Program; publishing the risk management policy; setting up the Section of Organization and Innovation, with the appropriate competences; formulating the Institutional Strategic Plan, in line with other planning instruments (PPA, ENDES, sector plans); and, being included in the Master Plan for Information and Communication Technology of the MTUR under the terms of Decree N. 8638 / 2016 and Administrative Rule SGD / ME N. 778/2019;*

ii - *Work Processes Actions, which involve: preparing the Code of Classification of Documents and Temporality Table of Finalistic-Activities from the value chain; instituting the Permanent Document Evaluation Commission (CPAD); adopting the Federal Government's Digital Protocol solution using the gov.br solution; implementing the National Electronic Process Service Coding (PEN); implementing the CES Strategic Module, for SEI governance and management for remote monitoring of the central body; implementing the CES document management module; preparing a project to improve the management of Serra da Barriga (Mercosur Cultural Heritage); preparing a project to improve the management of cAis do Valongo (RJ); and, reviewing and improving the support / service processes for quilombola communities.*

iii- *People Management Actions, which involve: establishing the desirable profile for DAS or FCPE positions, at levels 5 and 6; implementing the Electronic Frequency Record System (SISREF); developing a People Development Plan (PDP) based on the demands of institutional strategic planning and the assessment of individual performance; encouraging registration of employees in the Talent Bank and implementing the use of the Talent Bank Panel by the People Management area; preparing a work plan for the migration of ANA's retirement and pension concession and maintenance services to the Department of Centralization of Services for Inactive, Pensioners and Extinguished Bodies - DECIPEX; managing vacations and leave of the team's workers through the Sigepe Gestor application; and, adopting the Message Central module as a tool for*

sending messages to the organization's workers.

iv - Asset Management and Costing Actions, which involve: reviewing the Annual Contracting Plan (PAC) in order to align it with the Institutional Strategic Planning; implementing the Integrated Asset Management System (SIADS); implementing TaxiGov in the states; adhering to the Virtual Warehouse; performing evaluation possibilities of sharing spaces with other bodies/legal entities (in regional representations); identifying partnerships to improve and reduce custody and storage costs for the Palmares collection (museums, libraries or permanent exhibitions); joining the Rede + Brasil; joining the automated analysis of Accountability; training public agents in the Fiscalização Mais Brasil inspection application; training in Model of Excellence in Management (MEG-Tr), and training civil servants who work with the transfer of resources from the Federal Government.

I.1.c) Internal Audit.

114. Since the beginning of the current administration, the Internal Audit has made efforts in carrying out control actions, in meeting the demands of internal and external control bodies, in analyzing the conformity of the processes of special accountability, in improving its processes and the activities of effective transparency of the Fundação.

115. In 2020, 14 audit activities were carried out, 11 of them were predicted in the Annual Internal Audit Plan (PAINT) and three were added during the financial year, which represents an execution of 117% in the reference year.

116. In the context of monitoring, 19 deliberations of the Federal Audit Court (TCU) were notified to the Fundação Cultural Palmares, 14 related to special accountability, one related to the work process of a technical committee and four related to different demands, such as a survey of organizational governance and hiring planning. In relation to the other monitoring demands, 15 recommendations from the Comptroller General of the Union (CGU) and 30 recommendations in execution issued by the internal audit were followed up. There was also the monitoring of the presentation of accounts for the 2019 financial year to the TCU.

117. In the process of taking special accounts, two processes were submitted for conformity analysis.

118. In the internal processes, the Annual Report of Internal Audit Activities (RAINT) for the year of 2019, the Annual Internal Audit Activity Plan (PAINT) of 2020 and the PAINT of 2021 were prepared and approved. For the improvement of internal processes, this Internal Audit started the process of self-evaluation of its activity through the adoption of the model of internal audit capacity, Model IA-CM (Internal Audit Capability Model), with the objective of identifying the necessary actions to align its internal processes with the international practices of audit activity.

119. Still under the responsibility of the Internal Auditor, as the monitoring authority of the Access to Information Law (LAI), monitoring of the Open Data Plan in effect until 2019 was carried out and adjustments were made to the active transparency information published by the Fundação on its institutional website, in the section "Access to Information". Such effort resulted in a significant improvement in the transparency items complied with by the FCP: from 9 to 36 items complied, out of the 49 assessed by CGU, from 18% to 36% of mandatory active transparency compliance items. The 9 items that had not been fulfilled and the 4 items that had partially fulfilled are dealt with in the action plan to improve the legal entity's active transparency during the year.

I.1.d) National Information and Reference Center for Black Culture.

120. The National Center for Black Culture Information and Reference - CNIRC is one of the finalistic areas of the Fundação Cultural Palmares whose purpose is to promote and carry out activities of study, research and reference of Afro-Brazilian culture, as well as the dissemination of information and content about this topic. It is also the unit responsible for the custody and preservation of the entity's archives and assets. The Oliveira Silveira Library, opened on November 20th 1998, is part of these assets. Its rich collection, one of the largest specialized in Afro-Brazilian culture in Brazil, consists of 17 thousand items including books, periodicals, theses, photographs, posters, CDs and DVDs, three-dimensional pieces and artifacts, as well as documents that report African ancestry in Brazil. The collection consists of both publications by the legal entity itself, as well as others acquired from publishers or received through donations. In the new headquarters of the Fundação Cultural Palmares, the library will be reopened in a new space, that is bigger, more modern and adapted to the technical standards of accessibility, with children's space, video library, individual and group study room. The proposal will be to move and qualify the new space with storytelling, literary evening shows and exhibitions, among other activities.

121. This Center, along with the Regional Representation of the Fundação Cultural Palmares in Rio de Janeiro, will be responsible for the management of the warehouse called Docas D. Pedro II, located in the municipality. It is a building that is located on the archaeological site Cais do Valongo that received the title of Cultural Heritage of Humanity by UNESCO in 2017. At the time, the Brazilian government assumed, among its responsibilities, the construction of a center of tourist reception and a memorial of the celebration of the African heritage. To this end, it was decided that the Fundação Cultural Palmares will be responsible for the management of an Interpretation Center (space to be built in the aforementioned building). It is important to point out that only in this administration did the measures for obtaining, transferring and regularizing the assignment and possession of the aforementioned property were taken and the occupation of the building by the Fundação Cultural Palmares is to happen in the current year.

122. In addition, another project of paramount importance is the land located at SHIS QL 24, Lote B, Lago Sul (first-class area of Brasília), whose purpose is the construction of the National Museum of Afro-Brazilian Memory - MNMAfro. This

land, owned by the Federal Government, had been promised to be transferred to the entity since 2010, but the negotiations have not progressed and now this administration is adopting the legal and administrative procedures necessary for the transfer of the land to the Fundação Cultural Palmares.

123. Another action developed by CNIRC refers to the Public Selection Notice N. 01/2019 - II Oliveira Silveira Award that selected and awarded 7 (seven) literary works in the children's and youth category at the end of 2019. The winning works will be published and 42 thousand copies will be distributed for the purpose of disseminating the writers who work with the black theme and their works.

I.1.e) Department for the Protection of Afro-Brazilian Heritage (DPA).

124. The Fundação Cultural Palmares is involved in the distribution of basic food baskets to the remaining quilombola communities - CRQs. 81,159 food baskets were distributed between January and December 2020, in partnerships with the Ministry of Women, Family and Human Rights, the Ministry of Citizenship and the National Supply Company.

125. In addition to actions aimed at basic food baskets, the Fundação Cultural Palmares sought partnerships with other entities of the Federal Government with the purpose of mitigating the effects of the pandemic caused by Covid-19, through the supply of hygiene kits, such as alcohol-gel and masks, and in the production of booklets with guidelines on the disease prevention, which were distributed in the African descent of quilombo communities .

126. Also in 2020, the FCP issued another 10 (ten) certificates of recognition for remaining quilombo communities, related to processes opened in previous years, resulting in a total of 29 (twenty-nine) certificates issued, covering 34 (thirty-four) remaining quilombo communities located in the states of Alagoas, Bahia, Ceará, Maranhão, Minas Gerais, Pará and Paraíba.

127. Also in 2020, 145 (one hundred and forty-five) Permanent Scholarships were granted to quilombola students. The "Bolsa Permanência" (Permanence Cash Aid) is a public policy aimed at granting financial assistance to students, especially quilombola students, indigenous people and those in a situation of socioeconomic vulnerability, who are enrolled in federal higher education institutions. The scholarship aims at contributing to the permanence and the qualification of the beneficiaries. The resource is directly paid to undergraduate students through a benefit card by the Ministry of Education.

128. It should be noted that the Fundação Cultural Palmares continues to monitor processes of environmental licensing projects with whom it has Terms of Commitment, as is the case of Mineração Rio do Norte. In addition, it monitors the impacts and damage caused by the disasters at Samarco (Mariana) and Vale (Brumadinho).

129. Another action that has been taken is the management of the Serra da Barriga National Monument (MNSB), which is located in the Municipality of União dos Palmares, in Alagoas, and has been recognized as a Mercosur Cultural

Heritage since 2017. In 2020, the MNSB received 7,987 (seven thousand nine hundred and eighty-seven) visitors from other states and from abroad, from 27 (twenty-seven) countries, a decrease of 76.59% compared to 2019, caused by the suspension of activities in the Serra due to the pandemic of Covid- 19.

130. It is noteworthy that the Public Ministry has engaged the Fundação Cultural Palmares in all actions involving quilombola communities, in addition to cultural aspects, as well as guaranteeing the territory. Thus, aiming at protecting the Afro-Brazilian culture, the Fundação Cultural Palmares has accompanied and developed these actions, avoiding the risk to the cultural heritage of traditional communities (quilombolas and people from places of worship called "Terreiros").

131. The DPA has also been discussing priority actions for implementation purposes in this administration, such as: a) cultural monitoring - training for cultural managers of quilombola community organizations; b) training project on quilombola information; c) reinforcement of Serra da Barriga; and d) information strengthening project. As a strategic and daring project, it intends to create a database on quilombola communities.

1.1.f) Department of Stimulation and Promotion of Cultural Negra (DEP).

132. The Department of Foment and Promotion of Afro-Brazilian Culture - DEP works directly with artists, producers, Civil Society Organizations and the civil society in general, through the foment, dissemination, support and promotion of related projects.

133. Currently, in accordance with its statutory duties, its implementation is primarily through public calls, as an instrument of democratic access to available resources. It also supports projects with resources from parliamentary amendments, whose beneficiaries are contemplated as indicated by the members of the Parliament.

134. Occasionally, according to the real demand verified, events of reference to Afro-Brazilian culture, with similar themes, may be held.

135. Under the responsibility of the DEP, the public call for proposals to support projects entitled "Arte do Quilombo" was carried out. This Contest aimed at selecting and rewarding individuals that are members of remaining quilombo communities - CRQ, duly certified by the Fundação Cultural Palmares, self-declared blacks or browns, and authors of the most diverse Afro-Brazilian cultural expressions, as explained in paragraph 65 of this Informative Note. 91 artists were awarded.

136. In addition to the aforementioned Public Notice, the DEP promoted the procedural instruction of 7 (seven) projects related to voluntary transfers (agreements and terms of development) with funds from parliamentary amendments, in addition to the follow-up and monitoring of other 7 (seven) voluntary transfers in effect, also funded by funds from parliamentary amendments, distributed in several regions of Brazil. The aforementioned

projects under instruction are now in execution, corresponding to actions with different themes, all corresponding to expressions of the Afro-Brazilian culture.
