



*MISSION PERMANENTE DU BRESIL AUPRES DE L'OFFICE DES NATIONS UNIES
ET DES AUTRES ORGANISATIONS INTERNATIONALES A GENEVE*

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The Permanent Mission of Brazil to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and has the honor to refer to the letter AL BRA 11/22, dated 12 January 2023, from the Working Group of Experts on People of African Descent, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on extreme poverty and human rights and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

The Permanent Mission of Brazil in Geneva would like to forward the attached observations of the Government of Brazil regarding the aforementioned letter.

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, 15th March, 2023.

*To the Office of the United Nations High Commissioner for Human Rights (OHCHR)
Special Procedures Branch
Chief*

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ANNEX

COMMENTS FROM THE GOVERNMENT OF BRAZIL

REGARDING LETTER AL BRA 11/2022 (01/12/2023)

On behalf of the allegation letter AL BRA 11/2022, dated January 12th, 2023, the Brazilian government has the honor to inform the following.

I. Introduction

1. This communication refers to the joint letter of allegations AL BRA 11/2022, signed by the Chair of the Expert Working Group on People of African Descent, Catherine Namakula, together with the Special Rapporteur on extrajudicial executions, summary or arbitrary, Morris Tidball-Binz; the Special Rapporteur on extreme poverty and human rights, Oliver de Schutter; and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, K. P. Ashwini.

2. Brazil presents information provided by the Ministry of Racial Equality (MIR), the Ministry of Human Rights and Citizenship (MDHC), the Ministry of Justice and Public Security (MJSP), the Federal Public Attorney (MPF), the State Secretariat of Civil Police of the Government of the State of Rio de Janeiro and the Public Attorney of the State of Rio de Janeiro (MPRJ).

II. Contributions from the Ministry of Racial Equality (MIR)

3. The MIR highlights that the current government is committed to promoting racial equality and combating racism, with the aim of overcoming it in Brazil, in order to promote the reduction of lethal violence against Brazilian black youth, especially in areas such as peripheries and slums.

4. In this sense, it is important to reaffirm the government's commitment to combating and overcoming racism, which becomes evident with the administrative reform that created the Ministry of Racial Equality, enabling the resumption of public policies on the matter.

5. In the structure of the MIR there is the Secretariat for Affirmative Action Policies, Combating and Overcoming Racism, composed of the Department for Combating and Overcoming Racism and the General Coordination of Policies for Black Youth, which cooperate with the National Secretariat of Youth of the General Secretariat of the Presidency of the Republic, to advance in the implementation of the Government Plan aimed at reducing homicides and social vulnerabilities, and focusing ministerial policies on black youth.

6. This is a policy designed in a transversal way to coordinate different agendas that reduces vulnerabilities that affect black youth, having as a priority public security, human rights, education, work, employment and income, economy, culture, sports, health, women, rural people, indigenous peoples and traditional peoples and communities, food and nutritional security, environment, housing and communication. According to a preliminary schedule, in 2023, the Brazilian government, through the Ministry of Racial Equality, will launch the aforementioned plan.

7. The MIR also states that the monitoring of these cases of international repercussion, in addition to the Brazilian government making an effort so that they do not happen again, will be permanently carried out through the aforementioned Department of Policies for Combating and Overcoming the Racism of the Secretariat for Affirmative Action Policies, Combating and Overcoming Racism, through its General Coordination for International Racial Justice.

8. The General Coordination of International Racial Justice is configured as a policy body of the Ministry of Racial Equality which, in coordination with the international advisory body of the Minister's Cabinet (International Advisory), cooperates with the international community in order to promote actions, projects and programs between Brazil and international mechanisms, bilaterally with countries and multilaterally with the purpose of combating and overcoming racism, including its institutional dimension.

III. Contributions from the Ministry of Human Rights and Citizenship (MDHC)

9. The MDHC, through the Department for the Protection of Children and Adolescents, informs that, in 2003, the Brazilian State created the Program for the Protection of Children and Adolescents Threatened with Death (PPCAAM), which was formally instituted in 2007, through Decree No. 6231/2007, revoked by Decree No. 9371/18, later amended by the current Decree No. 9579/18.

10. Until the creation of the PPCAAM in 2003, children and adolescents threatened with death were assisted by the Federal Program for Assistance and Protection for Victims and Witnesses (PROVITA). However, PROVITA is aimed at the elucidation of crimes and appropriate criminal accountability, so that the State's interest in creating this Program is linked to criminal justice.

11. Thus, it was perceived that this conditionality for the protection of children and adolescents was incompatible with the doctrine of full protection and there remained the need to create a Program aimed exclusively at this public, taking into account the specificities that involve the childhood and adolescence.

12. Currently, the PPCAAM is coordinated by the National Secretariat for the Rights of Children and Adolescents of the Ministry of Human Rights and Citizenship (SNDCA/MDHC), and its

execution is carried out by civil society entities, through partnerships signed between the Union, state government and Civil Society Organizations.

13. Today, the Program is present in 18 of the 27 Federative Units, namely, Acre, Alagoas, Amazonas, Bahia, Ceará, Federal District, Espírito Santo, Maranhão, Minas Gerais, Pará, Paraíba, Paraná, Pernambuco, Rio de Janeiro, Rio Grande do Norte, Rio Grande do Sul, São Paulo and Santa Catarina. In states where the PPCAAM is not implemented, cases are under the responsibility of a federal technical team, which also advises the Program's National Coordination.

14. The PPCAAM targets children, adolescents and young people threatened with death. The latter up to the age of 21, if they leave the Socio-Educational System. Historically, the main reason that leads to the need for protection by the PPCAAM is child labor, especially by teenagers, in the illegal drug trade (more than 50% of cases). The involvement of this public with this and other illicit practices, as far as it is concerned, leads to the third main reason that gives rise to the need for protection by the PPCAAM, that is, police threat (9%), motivated, for example, by denunciations of abuses of authority in operations linked to the "war on drugs", or by confrontations that adolescents and young people are often involved in, in which these professionals are also injured or killed and the corporation is mobilized by the desire for revenge.

15. Since its implementation, in 2003, until May 2022, the Program included and protected 4,942 children and adolescents and 8,197 family members, totaling 13,139 people protected. Considering the proportion between the total number of protected persons and the number of children and adolescents victims of violent death, a conservative estimate is that the Program contributes 6.8% to the reduction of the lethality rate in this age group.

IV. Contributions from the Ministry of Justice and Public Security (MJSP)

16. The MJSP takes into account the reports of police officers involved in the incident, available in the Police Report No. 2315826221027230003 based on information collected from the Federal Highway Police (PRF). According to the report, there was an attempt of assault on Via Transolímpica with a Federal Highway Policeman as a fatal victim. The PRF teams went to the scene of the incident and began chasing a vehicle with suspects, who would have started an exchange of fire. The vehicle fled. New information said that the vehicle would be in the Chapadão community. In view of the information, the teams headed for the town and were met with gunfire. The shootout lasted 30 minutes and the teams were successful in entering the community, when the suspects escaped in cars and motorcycles, firing even more shots. After the escape, the team reported having apprehended two minors (carrying firearms and a large amount of narcotic material) and verified the death of another minor. The occurrence was forwarded to the 27th Department of Police and the Homicide Police Station of Capital-RJ, and the investigations are contained in PCERJ Procedure 031-06272/2022.

17. Regarding the compatibility of the measures taken, as reported in the previous item and as is quite common in communities dominated by drug trafficking in the municipality of Rio de Janeiro, the PRF teams found large caliber weapons , carried out by various criminals. The police officers of the specialized teams who participated in the occurrence have specific training and qualification according to the national legislation and international human rights treaties. The PRF reports states that there was no other alternative but to counter the aggression that threatened the lives of police officers and community residents.

18. Regarding the human rights components included in the Code of Conduct/Guidelines of the PRF, it is reported that during the Police Training Course (CFP) students receive classes on “Human Rights and Integrity”, addressing the following components: Human Rights and PRF ; confronting human rights violations; vulnerable groups; violence against women; children's work; sexual exploitation of children and adolescents; MAPEAR Project; slave-like work; practical situations of action of the PRF in relation to slave Labor; human trafficking; performance police as a mechanism to guarantee/promote Human Rights; human rights and Integrity.

19. Also during the Police Training Course (CFP) and during training updates (CTP), police officers receive training in the different kinds of use of force.

V. Contributions from the Federal Public Attorney (MPF)

20. The Federal Public Attorney (MPF) informs that Criminal Investigative Procedure No. 1.30.001.004773/2022-84 was instituted through Ordinance No. 10 on October 28, 2022 to investigate the murder of the [REDACTED] in the police operation carried out by the Federal Highway Police in Complexo do Chapadão on October 27, 2022.

21. The investigation is in progress with a degree of secrecy reserved in order to safeguard data relating to the witnesses of the fact, and the collection of testimonial evidence has already begun, such as, for example, the minors [REDACTED], seized during the operation carried out in Complexo do Chapadão.

22. The Public Attorney notes that a copy of Procedure No. 901-00960/2022 filed by the Homicide Police Station of the Capital was requested from the Civil Police of the State of Rio de Janeiro, as well as the documents relating to the aforementioned police operation, and the production of legal medical reports to the Legal Medical Institute (IML) and the production of the residueographic report to the Institute of Criminalistics Carlos Éboli - ICCE.

VI. Contributions from the Civil Police State Secretariat of the Government of the State of Rio de Janeiro

23. The Civil Police State Secretariat of Rio de Janeiro informs that the inquiry into the case under discussion is in progress, that several diligences have already been carried out, and that others are still pending.

24. The body is willing to send a full copy of the inquiry as soon as possible, taking into account legal and logistical factors.

VII. Contributions from the Public Attorney of the State of Rio de Janeiro (MPRJ)

25. The MPRJ informs that the Executive Advisory (ASSEEXEC) initiated the administrative management procedure (SEI n° 20.22.0001.0003860.2023-71), which was sent to (i) the General Coordination for the Promotion of the Dignity of the Human Person (COGEPDPH), to (ii) the GTT-Police Lethality and to (iii) the Center for Operational Support of Criminal Investigation Prosecutors (CAOPJIPE) for analysis and manifestation.

26. COGEPDPH forwarded the records to the Coordination for the Promotion of Victims' Rights (CDV) to report whether it received any demands regarding the direct and indirect victims involved in the events and whether other measures were eventually adopted.

27. CAOPJIPE informs that a Criminal Investigative Procedure was instituted on 02/02/2023, which follows the regular procedure.

28. The GTT-Police Lethality clarified that the MPRJ did not receive any communication of the carrying out of a police operation by the state security forces in Complexo do Chapadão on 10/27/2022.

29. The GTT-Police Lethality informed, on the other hand, that the police operation center on duty received denunciations of supposed violations of rights that occurred during the police operation carried out by the Federal Highway Police and that, due to the mentioned denunciations, the Fact Notice n° 043/2022 was instituted and registered under MPRJ No. 2022.00986068, distributed to the 4th Specialized Criminal Investigation Prosecutor's Office of the Rio de Janeiro.

30. Finally, the MPRJ points out that it recognizes the existence of a transnational public sphere and that it seeks to carry out a large-scale action consistent with the defense of human rights conferred by the constituent legislator, in addition to being aware of the importance of its role in strengthening international protection systems.