

**NATIONS UNIES  
HAUT COMMISSARIAT DES NATIONS UNIES  
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**PROCEDURES SPECIALES DU  
CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS  
OFFICE OF THE UNITED NATIONS  
HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE  
HUMAN RIGHTS COUNCIL**

**Mandate of the Special Rapporteur on the independence of judges and lawyers**

REFERENCE: AL G/SO 214 (3-3-16)  
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Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the independence of judges and lawyers pursuant to Human Rights Council resolution 17/2.

In this connection, I would like to bring to your Excellency's Government's attention information I have received concerning alleged death threats against Mr. **Wesley Pereira Fuganti**, a lawyer, and the reported killing of his client, Mr. **Diogo Rodrigues de Macedo**, after they denounced corrupt practices by the police.

I would like to recall that in three previous urgent appeals concerning death threats and/or killing of judges or lawyers dated 11 July 2011, 19 August 2011 and 10 October 2012, several Special Procedures mandate-holders requested your Excellency's Government to take specific measures to guarantee the rights to life and security of the person of judges and lawyers who have received threats. I regret that to date no response to these communications was received from your Excellency's Government.

According to information received:

Mr. Diogo Rodrigues de Macedo's motorcycle was seized by the military police on the grounds that he had no driving license. At the police station in the city of Salto, São Paulo, it is reported that police officers did not want to release the motorcycle back to Mr. Macedo. It is alleged that later an investigator of the civil police, Mr. [REDACTED], and the head of the civil police, Mr. [REDACTED], went to Mr. Macedo's house and extorted 5000 reais (about 2200 USD) for releasing of the motorcycle. It is reported that Mr. Macedo only gave them 2000 reais (about 900 USD) and said that the rest of the amount would be paid after a few days. It is further reported that police officers released the motorcycle before the payment of the total amount of the bribe. It is alleged that from that moment Mr. Macedo was frequently threatened by police officers.

On 26 October 2012, Mr. Macedo was with a friend in a gas station in the city of Salto, when Mr. [REDACTED], the civil police investigator, allegedly forced him to pay

the rest of the bribe, threatening him with a firearm. Mr. Macedo's friend is said to have immediately left the place to bring a car as a warranty for the bribe. While waiting for his friend to return, Mr. Macedo allegedly went to the bathroom to call his lawyer, Mr. Wesley Pereira Fuganti, who, without delay, informed the 7th Unit of the Internal Affairs of the Civil Police of the State of São Paulo in Sorocaba (Corregedoria Auxiliar de Sorocaba da Polícia Civil do Estado de São Paulo) of the situation of his client.

In order to proceed with the complaint made by Mr. Fuganti, police officers of the 7th Unit of the Internal Affairs of the Civil Police reportedly requested him to accompany them to the place where the extortion was allegedly taking place. It is alleged that the police team of the 7th Unit followed Mr. Fuganti in an unmarked car and told him how to talk to Mr. [REDACTED] and Mr. Macedo while they would be watching from afar in order to confirm the facts. After a few exchanges between Mr. Fuganti and Mr. [REDACTED], Mr. Macedo reportedly went to the bank to withdraw money from his account. Police officers of the 7th Unit of the Internal Affairs of the Civil Police allegedly explained to Mr. Macedo how to make copies of the money in order to keep proof of the crime of extortion. After doing as told, it is reported that Mr. Macedo gave 500 reais (about 220 USD) to Mr. [REDACTED].

After the police team of the 7th Unit reportedly caught Mr. [REDACTED] in flagrante delicto, all persons involved in the situation allegedly went to the premises of the 7th Unit in order to testify. This is where Mr. [REDACTED] was allegedly arrested. According to the source, despite the fact that Mr. Fuganti asked not to be identified in the police documents, in accordance with the provision 32/00 of the court of justice of the state of São Paulo, his name was mentioned in the procedure as the lawyer of Mr. Macedo. When in the premises of the 7th Unit, it is reported that Mr. Fuganti and Mr. Macedo were verbally threatened by Mr. [REDACTED].

In the early hours of 29 November 2012, Mr. Fuganti reportedly received a call from Mr. Macedo's girlfriend, informing him that Mr. Macedo had been killed by a former military police officer of the state of São Paulo, Mr. [REDACTED], in front of his house in the city of Itu, São Paulo. It is reported that Mr. Fuganti immediately called police officers of the 7th Unit. In the morning of the same day, Mr. Fuganti was taken by police officers to testify. According to the source, at that moment, Mr. Fuganti requested protection to the 7th Unit, but his request was denied. Investigation into the killing of Mr. Macedo is reportedly under way.

Because he was denied protection, Mr. Fuganti reportedly got scared and decided to bring the situation to the attention of the Action Group for the Repression of the Organized Crime in Sorocaba (Grupo de atuação especial de combate ao crime organizado - Núcleo Sorocaba (GAECO)) in the Public Prosecution's Office of the state of São Paulo. According to the source, the GAECO requested a police escort for Mr. Fuganti, but this demand was denied.

Mr. Fuganti was reportedly oriented towards the program called "Provita" in São Paulo, which is part of the national system of assistance to victims and witnesses who are at risk. He and his family immediately moved to São Paulo. However, it is alleged that if entering this program Mr. Fuganti would not be allowed to exercise his legal profession or have any kind of external communication. Consequently, Mr. Fuganti and his family decided to leave the headquarters of the program in São Paulo and went on to live in different hotels and relatives' homes.

After a few days, Mr. Fuganti reportedly requested the Public Prosecution's Office to send a letter to the São Paulo section of the Brazilian Bar Association (Ordem dos Advogados do Brasil- Seccional São Paulo) informing them of his case. This letter was allegedly sent in December 2012 under the procedure number 452/2012. On 8 January 2013, the president of the Commission for the Rights and Prerogatives of the Brazilian Bar Association allegedly requested a meeting with Mr. Fuganti and other members of the Bar Association. It is reported that this meeting was held in February 2013 and that, at that occasion, the Brazilian Bar Association said that they could not do anything about Mr. Fuganti's situation as there is no specific legislation addressing the protection of lawyers in such cases. The Bar Association also reportedly said that they would follow his situation and advised him to stay in the program Provita.

Due to the lack of protection available to him and his family, Mr. Fuganti reportedly decided to move to the United Kingdom, where he and his family applied for asylum. On 24 May 2013 the Public Prosecution's Office reportedly wrote a letter to the British Home Office to support the asylum application of Mr. Fuganti and his family. The asylum applications were reportedly denied on 27 February 2014 by the British Home Office on the ground that Brazil is considered a safe country. It is reported that Mr. Fuganti and his family are currently at risk of being deported from the United Kingdom.

Concern is expressed that the threats against Mr. Fuganti are linked to the legitimate exercise of his professional duties. Further concern is expressed about the lack of effective and adequate protection measures to ensure the security of lawyers in Brazil, in particular lawyers who are at particular risk because of the sensitivity of the cases they are dealing with, such as cases of corruption of police officers.

Without expressing at this stage an opinion on the facts of the case, I would like to appeal to your Excellency's Government to take immediate, effective and adequate measures to protect the rights to life and security of Mr. Fuganti and his family.

In this view, I would like to refer your Excellency's Government to the Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders held in Havana, Cuba, from 27 August to 7 September 1990. In particular:

- Principle 16, which states: "Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference [...]";

- Principle 17, which states: "Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities"; and

- Principle 18, which states: "Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions".

Moreover, it is my responsibility under the mandates provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention. Since I am expected to report on these cases to the Human Rights Council, I would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the description of the case accurate?
2. Please provide detailed information on the investigation undertaken in relation to the death of Mr. Diogo Rodrigues de Macedo. Were the perpetrators brought to justice?
3. What specific measures have been taken to protect the life and security of Mr. Fuganti and his family?
4. Please indicate the measures taken to ensure that lawyers can carry out their legitimate work in a free and safe environment in Brazil.

I would appreciate a response within sixty days. Your Excellency's Government's response will be made available in a report to the Human Rights Council for its consideration.

While waiting for your response, I urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned person are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. I also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Excellency, the assurances of my highest consideration.

Gabriela Knaul  
Special Rapporteur on the independence of judges and lawyers