**Information Note**

**Brazil: UN experts\* welcome regional court decision on Herzog case**

In a decision released on 4 July 2018, the Inter-American Court of Human Rights urged Brazil to reopen, with due diligence, the investigation and criminal proceedings to identify, prosecute and punish those responsible for the torture and murder of journalist Vladimir Herzog, during the country’s military dictatorship.

Journalist Vladimir Herzog was detained, tortured and murdered by State agents on 25 October 1975, in what the Court characterized as a context of systematic and generalized attacks against opponents to the dictatorship, particularly journalists and members of the Communist Party. On the same day, the army reported that Vladimir Herzog had committed suicide while in detention. In 1975, the Military Justice investigated the case and reiterated the suicide version. Investigations were initiated by judicial authorities in 1992 and 2007, but were subsequently closed due to the enforcement of Brazil’s so-called “Amnesty Law” (Law No. 6.683/79) enacted by the military dictatorship in 1979. In 2009, Mr. Herzog’s family filed a case before the Inter-American Commission on Human Rights, which seized the Court in 2012.

The Court ruled that Brazil violated the rights to judicial guarantees and judicial protection of Mr. Herzog’s family, as well as their right to know the truth and to personal integrity. It urged the State to reopen investigations and criminal proceedings, to provide compensation to the family, and to acknowledge its responsibility in a public act.

The Court further ruled that the violations committed against Vladimir Herzog constituted a crime against humanity, and that the State could not invoke the application of the amnesty law, the existence of statute of limitations or other analogous provisions to excuse their duty to investigate and punish those responsible. The Court concluded that in enforcing exemptions from liability prohibited by international law, Brazil failed to comply with its obligation to adapt its domestic law to relevant international standards. It, therefore, urged Brazil to adopt measures to establish the imprescriptibility of crimes against humanity and international crimes.

The Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Fabian Salvioli, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Nils Melzer, the Special Rapporteur on extrajudicial, summary or arbitrary executions, Agnes Callamard, and the Special Rapporteur on the promotion and protection of freedom of opinion and expression, David Kaye, welcomed the Court’s ruling, which is anchored in international human rights principles, including the non-applicability of statutory limitations to crimes against humanity and serious violations of international humanitarian law.

"43 years after the tragic events, this decision by the regional human rights court provides a first step towards the restoration of the fundamental rights to justice and integral reparation of the family of the victim," they stressed.

The independent experts urged the judicial authorities in Brazil “to carry out, without further delay, effective and independent investigations and criminal proceedings into Mr. Herzog’s case, in full compliance with relevant international standards”. They also recalled the need to guarantee the protection of witnesses and the effective participation of the family of the victim in the judicial process.

The experts underscored the relevance of the ruling in a country where human rights violations committed during the dictatorship remain unpunished. “The lack of accountability for those crimes have enforced a collective sense that law-enforcement officials are above the law, weakening society’s trust in public institutions and the rule of law”, they added. “Impunity for past violations also fail to deter new acts of torture or extrajudicial killings at the hands of public agents”.

Following the notification of the ruling, high-level State officials in Brazil expressed their solidarity with the family of Vladimir Herzog and acknowledged the legitimacy of the Court’s decision, while noting that it provides an opportunity to reinforce the national policy to combat torture and investigate, prosecute and punish such acts. The UN experts welcomed the positive reaction of the Government, and encouraged the relevant authorities to undertake prompt and coordinated efforts to implement the Court’s decision in full.

**\*\*\***

(\*) The experts: Fabian Salvioli, Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence; Nils Melzer, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Agnes Callamard, Special Rapporteur on extrajudicial, summary or arbitrary executions; and David Kaye, Special Rapporteur on the promotion and protection of freedom of opinion and expression.