

ANNEX

COMMENTS FROM THE GOVERNMENT OF BRAZIL

REGARDING NOTE VERBALE ARDS/YB/SH/FC (31/3/2023)

With regards Note Verbale ARDS/YB/SH/fc, dated 31st March 2023, the Brazilian government has the honor to inform the following:

a) Case of João Pedro Mattos Pinto:

The Ministry of Human Rights and Citizenship (MDHC) transmits considerations from the Public Attorney of the State of Rio de Janeiro (MPRJ) in relation to João Pedro Mattos Pinto. The case is handled by the General Coordination for the Promotion of Human Dignity (COGEPDPH).

The COGEPDPH informs that, in May 2022, the procedure (SEI n° 20.22.0001.0024880.2022-81) was initiated to address the request made by the Office of the United Nations High Commissioner for Human Rights (UNHCHR/UN) to the Brazilian State regarding the update on the progress of the case of João Pedro Mattos Pinto (São Gonçalo - RJ, May 18, 2020).

In the case file, the Operational Support Center for Criminal Investigation Prosecutions (CAOPIPE) reported that on 12/17/2021 the 1st Specialized Criminal Investigation Prosecutor of the Criminal Investigation Nucleus of Niterói and São Gonçalo filed a complaint against civil police officers Mauro José Gonçalves, Maxwell Gomes Pereira and Fernando de Brito Meister for committing, in theory, the crime of double-qualified homicide for a vile reason and for using a resource that made the victim's defense difficult, and the crime of procedural fraud, a criminal offense triggered by the death of teenager João Pedro Mattos Pinto, which occurred on May 18, 2020, at Complexo do Salgueiro, in São Gonçalo. CAOPIPE informs that the complaint was filed in the records of the Criminal Investigative Procedure (PIC) under MPRJ No. 2020.00357146 and received by the Court of the 4th Criminal Court of the District of São Gonçalo (Case No. 0040480-71.2021.8.19.0004).

The judicial process follows the regular procedure. According to public information from the Court of Justice of Rio de Janeiro, an instruction and judgment hearing on the case is scheduled for May 24, 2023.

The Civil Police State Secretariat of Rio de Janeiro informs that several types of investigations were carried out, including simulated reproduction. The police inquiry n° 951-00310/2020 investigated the circumstances surrounding the victim's death. It informs, moreover, that the said investigation was conducted in secrecy. The policemen Fernando de Brito Meister, Mauro José Gonçalves and Maxwell Gomes Pereira were denounced and respond to proceedings before the Jury Court, under process n. 0040480-71.2021.8.19.0004.

It also informs that Police Chief Sérgio Sahione, Coordinator of the Coordination of Operations and Special Resources (CORE) of the Civil Police of Rio de Janeiro at the time, made the following statement when asked about helping the victim João Pedro:

"The teenager was rescued by the operator Mauro José Gonçalves with the help of a private vehicle to the CORE aircraft and was transported by aircraft to the Official State Heliport, where a medical team from CBMERJ was waiting for him with an ambulance parked next to the "main spot" for providing pre-hospital care and immediate referral to the Miguel Couto Emergency Hospital, approximately 600 meters away from the site. It should be noted, considering the variables of time, homologation of the landing site for that type of aircraft, autonomy, possibility of contact with the local medical team, among others, that it is up to the captain of the aircraft, assisted by the co-pilot, to analyze of the best possible choice for providing assistance".

b) Case of Mrs. Luana Barbosa dos Reis Santos

The General Police Station of São Paulo relayed updated information provided by the Judiciary Police Department of Deinter-3 Ribeirão Preto regarding the case of Luana Barbosa dos Reis Santos. The fact was investigated and concluded by the Civil Police of the State of São Paulo. Based on the consultation system of the Court of Justice of the State of São Paulo, Fábio Donizeti Pultz, André Donizeti Camilo and Douglas Luiz de Paula are defendants in process No. 011942-10.10.2016.8.26.0506.

The Public Attorney's Office of São Paulo informs that it initiated the criminal action in progress before the 1st Jury and Execution Court of the Comarca de Ribeirão, against the defendants André Donizete Camilo, Douglas Luiz de Paula and Fábio Donizete Pultz, who are responsible for committing the crime provided for in article 121, §2, items I (filthy reason), III (somewhat cruel) and IV (resource that made it impossible for the victim to defend herself) of the Penal Code. According to the indictment, the execution of the offense began on April 8, 2016 and was consummated on April 14, 2016, with the death of Luana Barbosa Dos Reis Santos.

The complaint was made on April 20, 2018, shortly after the occurrence of the facts. The Public Attorney's Office requested that the accused be "pronounced", that is, submitted to trial by the jury. On February 21, 2020, the indictment was handed down. This same judicial decision also allowed the defendants to remain free during the course of the proceedings. The defendants filed an appeal against the indictment decision before the São Paulo Court of Justice.

The Court of Justice of São Paulo maintained the understanding that the defendants should be tried before the Jury Court.

In view of such collegiate decision, the defendants filed a new appeal - Special Appeal - before the Superior Court of Justice (Resp n° 2044322 / SP (2022/0395987-9), registered on 12/13/2022. In parallel, the Public Ministry of São Paulo and the assistant prosecutor also filed an appeal - Extraordinary Appeal before the Federal Supreme Court. Both appeals follow regular procedure and await final decisions on their respective issues.

A decision on the appeals filed by the parties is awaited so that the trial of the accused before the Jury Court of Ribeirão Preto can be carried out.

c) Complementary information

The Ministry of Justice and Public Security (MJSP) has been active in important actions to confront all forms of violence against vulnerable groups. The National Public Security Plan aims, among other objectives, to reduce homicides and other lethal violent crimes. In this way, it aims to increase the effectiveness and integration in preventing and combating violence. Confronting, preventing and reducing violent crimes, especially against minorities and vulnerable groups, are objectives of the National Policy on Public Security and Social Defense.

With regard to the protection of children and adolescents, it is worth highlighting Decree No. 9,579, of November 22, 2018, which deals with the Program for the Protection of Children and Adolescents Threatened with Death - PPCAAM.

Furthermore, Brazil follows the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials - PBUFAF, as it is a signatory of the United Nations Charter. It is government policy to induce and encourage the differentiated use of force by state agents.

References should be made to Interministerial Ordinance No. 4,226, of December 31, 2010, which establishes Guidelines on the Use of Force by Public Security Agents. The Ordinance, which is mandatory for public security professionals in the Union, is an important tool in disseminating the doctrine of the use of force and in the gradual use of less lethal resources to the detriment of the use of firearms by state, DF and municipal police officers. Regarding the differentiated use of force, we also mention the advent of Law No. 13,060, of December 22, 2014. This law disciplines the use of instruments of lesser offensive potential by public security agents throughout the national territory.

It has been in effect since the last version, in 2014, of the National Curriculum Matrix for Training Actions for Professionals in the Public Security Area. Thus, measures to prioritize policies to reduce police lethality are considered: training actions based on human rights; measures aimed at improving police training, including ongoing training programs, and which include raising awareness of the need to respect human rights and the issue of the use of force and police activity.

It is also noteworthy that public security training, according to the National Curriculum Matrix, brings the theme of Human Rights as a transversal and interdisciplinary theme in all courses in the area.

Finally, the National Secretariat for Public Security has prioritized working groups to improve, review or update regulations and doctrine on the differentiated use of force and reduction of lethality and police victimization. The referenced measures make up a set of actions that aim to induce public security policies with citizenship, based on human rights principles, seeking to mitigate, prevent or prevent similar cases from occurring and remain without due accountability of their authors.