

ANNEX
INFORMATION FROM THE GOVERNMENT OF BRAZIL
REGARDING THE COMMUNICATION FROM THE SPECIAL
RAPPORTEUR ON THE PROMOTION AND PROTECTION OF
HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS WHILE
COUNTERING TERRORISM.

Concerning the communication from the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ms Fionnuala Ní Aoláin, with the call for inputs for the Report to the 77^a of the UN General Assembly, the Government of Brazil thanks the Special Rapporteur for the communication and would like to convey the following information.

With regard to item (a), Brazil has not experienced negative effects in the application of federal Law 13,260 of 2016, which establishes as criminal offense the crime of terrorism, or other measures to combat terrorism. Law 13,260 establishes that terrorism consists of the practice by one or more individuals of violent acts for reasons of xenophobia, discrimination against race, colour, ethnicity and religion, when committed with the purpose of provoking terror within society, exposing people, property, public security and safety to danger.

Law 13,260/2016 does not apply to individual or collective acts in political demonstrations nor to social and religious movements or trade unions, which exist for the purposes of advancing their interests by means of protests, objections, demonstrations, criticism or support.

With regard to item (b), there is a positive relationship between the Brazilian legislation and the UN normative framework. In Brazil Law 13.810/2019 and Decree 9.825/2019 set forth the immediate application of sanctions resulting from resolutions of the United Nations Security Council. This way Brazil promotes peace and prevents conflicts. The defence of peace and the peaceful settlement of disputes, as well as the repudiation of terrorism, are principles that guide the international relations of Brazil and are enshrined in Art. 4 of the Brazilian Constitution.

With regard to item (c), Brazil receives a large number of refugees from countries in conflict. In this context, Law 9.474/1997 sets forth the guarantee for refugees of conditions in which their human rights are

respected, following the principle of the prevalence of human rights, which also guides Brazil's international relations, as per the aforementioned Art. 4 of the Constitution.

With regard to item (d), counter-terrorist technical assistance and training can have a positive impact on advancing peace-building and peacekeeping, as well as conflict prevention or resolution. In this sense, the Brazilian Federal Police allows its staff to take leaves for training, especially those working for the Office for Combating Terrorism, which is under the Intelligence Directorate.

With regard to item (e), in Brazil individuals who are under 18 years of age cannot be convicted of any crime. The law sets forth that socio-educational measures shall be applied to young offenders with a view to their full protection. According to Art. 227 of the Brazilian Federal Constitution, "It is the duty of the family, society and the State to guarantee children, adolescents and young people, with absolute priority, the right to life, health, food, education, leisure, professional training, culture, dignity, respect, freedom, family and community life, in addition to protecting them from all forms of negligence, discrimination, exploitation, violence, cruelty and oppression". Such constitutional precepts are implemented by Law 8,069/1990 and other pieces of legislation.

With regard to item (f), in Brazil, everyone is equal before the law, without distinction of any nature, guaranteeing Brazilians and foreigners residing in the country the inviolability of the right to life, liberty, equality, security and property, according to Article 5 of the Federal Constitution, which guarantees, in item I, that men and women are equal in rights and obligations, under the terms of the Constitution.

With regard to item (g), in Brazil, the government bodies in charge of combatting terrorism, of which the Federal Police stands out, have not experienced any negative impact with regard to peace stakeholders, since the objectives of the Brazilian authorities are in line with the peace-making goals of peace-building stakeholders.

With regard to item (h), in Brazil, the counter-terrorism frameworks have a favourable impact on peace operations and on peacekeeping forces and mandates in multiple scenarios, as the country adopts the peaceful settlement of conflicts as a guideline for its international relations, leading

government bodies to act against terrorist organizations and their members, while always respecting human rights obligations.

With regard to item (j), Brazil complies with the provisions the 1949 Geneva Conventions.

With regard to item (k), the Brazilian legal framework is in perfect harmony with the highest humanitarian standards. In addition to its legislation, in practice, Brazil fully respects the rights of any accused or investigated person, with very strict control protocols, which are duly followed by the government bodies fighting terrorism.

Concerning specifically the gender sub-topic and recalling that the Women, Peace and Security (WPS) Agenda of the UN Security Council through Resolution 1325 (2000), the Brazilian government, on its part, developed the National Action Plan (PNA) related to UNSC Resolution 1325, named "Women, Peace and Security", confirming Brazil's commitment to gender equality, and substantiating the recognition that women are an interested and essential party to the advancement of international peace and security issues.

With regard specifically to the point "Assessment of counter-terrorism frameworks on the Youth, Peace and Security Agenda, in particular the protection of youth under the Convention on the Rights of the Child and the role of youth in fragile and conflicted societies", the Government of Brazil indicates the establishment of the National System of Socio-Educational Assistance (SINASE, in Portuguese) by federal Law n° 12.594/2012, which, based on educational and rehabilitation principles, sets forth the rules for young offenders being held accountable for breaking criminal law, with emphasis on guaranteeing their fundamental rights while those socio-educational measures are being applied to them.

In view of the fact that SINASE has been in force for 10 years and the need for objective evaluation to guide future measures and investments in socio-educational policies, the Government of Brazil, in partnership with the UN and academia, has conducted a deep and comprehensive nationwide assessment to identify how effective SINASE's guidelines and operational activities are in assisting young offenders to whom socio-educational measures are being applied.

Based on that assessment, the Government of Brazil proposed the improvement of the socio-educational policies through a public-private partnership, carried out in a pilot project, which has the main purpose of developing an assistance policy more focused on activities related to education, to professional guidance, to assisted introduction to the labour market, to family and community life for those young persons under socio-educational measures, and all that within a framework of more efficient and cost effective management.

In Brazil the Youth Act, established by Law 12,852, dated August 5th, 2013, sets forth guidelines for the development and implementation of public policies for Brazilians aged 15-29 years old. This piece of legislation recognizes, among other aspects, that young persons are endowed with universal, generational and singular rights (Art. 2, IV), establishing directives for public or private agents on the provision of assistance to young people according to their specific needs.

The Youth Act also sets forth the promotion and enforcement of the right to public security and access to Justice, ensuring the effective protection of the youth's rights to live in a safe environment, without violence, with protection against mental and physical harm, as well as equal opportunities and facilitation for their intellectual, cultural and social improvement, in the following terms:

"Section XI

Right to Public Security and Access to Justice

Art. 37. All young people have the right to live in a safe environment, free from violence, having their physical and mental health guaranteed, with equal opportunities and facilitation for their intellectual, cultural and social development.

Art. 38. Public security policies for young people should be coordinated with regard to measures taken by the Federal Union, the States, the Federal District and municipal governments and non-governmental entities, having as guidelines:

- I – the integration with other policies for the youth;
- II – the prevention and the tackling of violence;

III – the promotion of studies and research, and the gathering of statistics and relevant information to support public security measures and allow the periodic evaluation of the impacts of public policies regarding the causes, consequences and frequency of violence against young people;

IV – the give priority to measures for young people at risk, social vulnerability and those released from the national penitentiary system;

V – the promotion of effective access of young people to the Office of Public Defender, considering the specifics of the juvenile condition; and

VI – the promotion of effective access for young people with disabilities to Justice on an equal basis with other people, including through the provision of adaptations in legal proceedings appropriate to their age."

The Government of Brazil underlines the programmes and public policies below implemented for the protection and development of young Brazilians:

a) Horizontes Programme: the purpose is to stimulate young people, especially those from low-income families, to be interested in opening new businesses or improving existing enterprises, thus helping create new jobs, improve their social well-being and generate income. The Programme is conducted nationwide through partnerships with subnational public entities and civil society organizations; and

b) Espaço 4.0 (Space 4.0): this programme seeks to promote the access of young people aged 15 to 29 to the new technologies of the "Industry 4.0", providing them with the opportunities for technical training and engagement in the labour market, considering the requirement skills for the 21st century. "Espaço 4.0" was conceived based on the "makerspace" or "fablabs" models, which consist of a creative and innovative space, with tools such as 3D printers, modeling software, computers, cell phone maintenance kits, which are available to users with trained professionals who teach them how to handle such equipment.