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公民权利和政治权利，包括失踪和即审即决问题

2004 年 3 月 18 日巴西常驻联合国日内瓦办事处代表团致 联合国人权事务高级专员办事处的普通照会

巴西常驻联合国日内瓦办事处和其他国际组织代表团向联合国人权事务高级专员办事处致意，并且荣幸地代表巴西政府转交一些有关巴西政府就法外处决、即审即决或任意处决问题特别报告员阿斯玛·贾汉吉尔女士在她最近对巴西的访问中会见的一些证人采取的调查和保护措施的资料。

巴西常驻代表团愿向高级专员办事处转达巴西政府的请求：将本文件 * 译成联合国所有正式语文，并在人权委员会第六十届会议上作为正式文件予以分发和散发，作为贾汉吉尔女士的报告(E/CN.4/2004/7/Add.3)的补充。

* 仅以提交语文分发。

Annex

Brasília January 22th 2004.

To Her Excellency
Ms. ASMA JAHANGIR
Special Rapporteur of the Commission on Human Rights on
Extra-judicial, Summary or Arbitrary Executions
Geneva

Topic: Measures of investigation and protection adopted by the Federal Government

Dear Madam Rapporteur,

The Special Secretary for Human Rights, Minister Nilmario Miranda, asked me to inform Your Excellency on the measures of investigation and protection adopted by the Federal Government as regards some of the witnesses interviewed by Your Excellency during your mission in the country in October 2003.

At the outset I reiterate our support to cooperation and dialogue with all United Nations human rights mechanisms and organisms, conventional and extra-conventional ones. The Government of Brazil expects the official issue of the recommendations made by Your Excellency. We see them as useful tools to orientate discussion, adoption and implementation of public policies in the field of promotion and protection of human rights and in particular to fight extermination murders in Brazil.

The killing of two witnesses that entertained private meetings with Your Excellency in Itambé (State of Pernambuco) and Santo Antonio de Jesus (State of Bahia) is a regrettable and repugnant episode not tolerated by Federal authorities. Immediately after receiving news on the crimes, the Federal Government adopted the following measures aiming at the investigation of facts and identification of responsibilities:

a) Flavio Manoel da Silva

As a preliminary explanation, it is worthy to mention that Flavio Manoel da Silva was not covered by the Programa de Proteção à Testemunha – PROVITA (Program for Protection of Witnesses – PROVITA). As he was consulted about his interest in being included in the Program (both by members of the technical team of PROVITA in Pernambuco and by municipal councillor Manoel Mattos), Flavio Manoel said he would think about this possibility, but he has never indicated clearly his willingness to be included in the Program.

According to Article 1º, item III, Law nº 10.446/2002, which establishes that crimes related to human rights violations should be investigated by the Federal Police Department, this Special Secretariat has requested authorization to the Minister of Justice so that the Federal Police Department could conduct investigations on Flavio Manoel's homicide.

The Secretariat of Public Security of the State of Paraíba designated a special police chief to ascertain the facts and opened a police inquiry (nº 023/2003-DP Pedras do Fogo). Investigations have also been followed by a public prosecutor.

There are indications that L.M.L. and C.R.B. should be the authors of the murder. Some witnesses have testified about their participation in the crime. Police authorities requested their temporary arrest and both are currently under custody of the Regional Office of the Federal Police Department (Superintendência Regional da Polícia Federal) of the State of Paraíba.

Both defendants deny their responsibility for the crime. Nevertheless, investigations continue in order to obtain more material evidences to be added to the abundant testimonies already received against these two people.

b) Gerson de Jesus Bispo

According to its Resolution nº 47 of 9 October 2003, the National Council for Defence of the Rights of Human Beings (Conselho de Defesa dos Direitos da Pessoa Humana - CDDPH) recommended a police inquiry to be set up by the Federal Police Department as well as a report by the Public Prosecution Service and a criminal process by Federal Justice on the homicide of Gerson de Jesus Bispo.

According to police inquiry IPL 339/03, R. S.S. is the principal suspect of Gerson de Jesus Bispo's homicide. The Federal police chief responsible for the investigation stated that there is a great animosity between Gerson's and R.'s families. The latter has admitted that he denounced Antonio de Jesus Bispo, Gerson's brother and R.'s former accomplice, to the police. Antonio ended up being killed in an alleged confrontation with police agents.

In 22 August 2003 Amaroliton dos Santos, R.'s uncle, was killed. The victim's family suspected Gerson would have killed Amaroliton to take vengeance on R., because his denounce against Antonio.

Evidences collected by the Federal Police Department gave rise to an order of arrest to R.S.S. by a local judge. He is currently under detention at the Federal Police Office (Superintendência da Polícia Federal) in Salvador, Bahia.

As regards the list containing names of threatened people, elaborated by the Non-Governmental Organization "Justiça Global" and sent to this Secretariat by Your Excellency's assistants, I inform you that the technical team of PROVITA General Coordination has examined each case listed there and gathered the following information:

State of Pará:

J. A. L.C.

She has showed no interest to be included in the Program PROVITA/Pará. We have been informed that she has been receiving escort from the State of Pará Military Police.

L.B. A.

He has participated in PROVITA/Pará, but he left the program in February 2003. In 13 October 2003, he has been sent to the coordinator of the Service for Protection of Special Witnesses (Serviço de Proteção ao Depoente Especial - SPDE) of the Federal Police Department with a request to inclusion in that service. He is now under protection of SPDE.

J. D. B. G. and D.G. S.

The team has not been able to find them. According to the Commission Pastoral of Land (Comissão Pastoral da Terra - CPT), the first one is currently in a situation "incommunicable". The latter left the State by his own means and is with his family members, taking care of his health, in an unknown place.

M. J. D. C.

The team of PROVITA from Para has not been able to determine the whereabouts of M. J., neither as concerning governmental authorities or local organizations of civil society. The Public Prosecution Service has no information about the existence of any investigation procedure in which M. J. should be listed as a witness.

W.S.M., S. S. M.R., and C. S. F.

Following their interview to a technical team of the Program last 6 November, the Deliberative Council of the State decided to include the three people in PROVITA/Pará. Werley is under PROVITA protection since 27/11/2003. His partner and his sister have refused to be included in the Program.

C. F. R.V. and G.R.S.

The team of PROVITA from Para has not been able to determine the whereabouts of these people neither as concerning governmental authorities or local organizations of civil society. The Public Prosecution Service has no information about the existence of any investigation procedure in which these people should be listed as witnesses.

State of Bahia:

A .M. S.

After consultation, A. M. said she has no interest in being included in the PROVITA/Bahia.

A.A. S.

She has been sent to PROVITA/Bahia by the Third Prosecution Office of Santo Antonio de Jesus in 13 October 2003 together with her six sons/daughters. The family remained under jurisdiction of the Program

from 13 to 29 October, during a process of selection, and then decided not to be included in PROVITA.

R. S. S.

As the principal suspect of the homicide of Gerson de Jesus Bispo, as mentioned above, R. is under temporary arrest by the Office of the Federal Police Office in Salvador.

H. O S.

He has been sent to PROVITA/Bahia by the Third Prosecution Office of Santo Antonio de Jesus in 13 October 2003 together with his mother and one brother. The family remained under jurisdiction of the Program until 21 October, during a process of selection, and then decided not to be included in PROVITA. They signed a document accordingly.

H. (no information about his last name)

Due to insufficient information given by "Justiça Global", it was not possible to identify this person.

State of São Paulo:

E. N.

He is currently under protection of PROVITA/São Paulo.

The Brazilian Government expresses its commitment to bring to the knowledge of Your Excellency any updating on the information included in this letter on the occasion of the presentation of your report during next Session of the United Nations Commission on Human Rights.

Attentively,

Mario Mamede
Deputy Special Secretary for Human Rights

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