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Agenda item 1

Organizational and procedural matters

Written statement* submitted by the Ordem dos Advogados do Brasil Conselho Federal, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[13 February 2017]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Separation. United National Human Rights Council Special Rapporteur on the Independence of Judges and Lawyers. Brazilian Bar Association seat request.

Brasilia, February, 13, 2017.

To the United Nations High Commissioner for Human Rights, Mr. Zeid Ra'ad Al Hussein
To the United Nations Secretary-General, Mr. António Guterres

I am honored to inform you about a subject relevant to the legal order regarding the cases of violence against lawyers around the world e other offenses against the free exercise of the legal profession.

In Brazil, as well as in several countries such as China, Pakistan, Iraq, among others, the number of persecuted or murdered lawyers has grown dramatically.

The lawyer, inserted in a history of struggle for human rights and working to prevent abuse of power, is now a victim of violation of rights and his professional prerogatives, have been suffering real attacks. Such violations are responsible for the restriction of the free exercise of the legal profession and immediate solutions are necessary to provide effectiveness to the guarantee of lawyers' rights.

The Federal Council of the Brazilian Bar Association (OAB) already carried out some projects related to this subject in the Brazilian territory. It is important to mention the creation of the National Commission of Prerogatives' Defense and Advocacy Promotion and of the National Prosecution Service for the Defense of Lawyers' Prerogatives. These bodies work together aiming at defending dignity and promoting the free exercise of advocacy. Their goal is to prevent the violation of rights laid down in the Statute of the Legal Profession and of the Brazilian Bar Association, acting repressively when a real case of offense of lawyers' prerogatives persists.

Such actions aim at strengthening measures implemented in the country by the OAB, regarding the combat to violence against lawyers, making major efforts by means of an organized body that controls, oversees and makes the statistical and historical data about cases related to the restriction of lawyers' professional exercise.

The incidence of violations are notably not limited to Brazil. Throughout the world, there were several cases of harmful attacks to lawyers' professional freedom and serious violations of their rights, representing a clear attack to the Democratic Rule of Law.

The attacks directed toward lawyers are unacceptable, especially those involving Human Rights lawyers. Therefore, cases of restriction of free professional exercise are global facts and should be treated as an international problem, once the perpetuation of human rights violation represent a step backwards harming all the idealized international protection system.

Inexorably, the respect to prerogatives is linked to the Democratic Rule of Law, and for that reason, violence against lawyers is so alarming. It highlights an evident attack to the historic battles for political and civil liberties, in which lawyers play a role of human rights defender.

In this context, it is increasingly necessary to take actions and develop mechanisms aiming at not only the free professional exercise but also the protection of the Democratic Rule of Law and respect to individual guarantees.

The OAB Federal Council approved the creation of the Prerogatives' Systems in its Chapters located throughout Brazil and the monitoring of cases of serious violation of human rights involving lawyers during their professional exercise. In this context, it seems to be more and more urgent the insertion of this subject as a priority theme in this illustrious institution, enabling to create universal mechanisms to defend legal professionals.

However, even with the existence of institutions and bodies that, somehow, value matters related to human rights and lawyers' professional freedom, there is not a specific body for monitoring the occurrence of violent acts against lawyers, not only to repress grievances perpetrated worldwide but also to empower the civil society in the fight for their interests.

Federal Council of the Brazilian Bar Association presents the present proposition requesting a seat for the civil society, namely to the Brazilian Bar Association, in the United National Human Rights Council, on the grounds of all the facts exposed above, in order to legitimate the power and duty to act in defense of the access to Justice, representing the legitimate interests of the organized civil society on the international stage, based on the principle of equality.

Furthermore, it also proposes the separation of the United National Human Rights Council Special Rapporteur on the Independence of Judges and Lawyers, responsible for the analysis of cases of violence against lawyers

throughout the world. This way, representatives of the main lawyers' entities would occupy the position of rapporteur, in a rotation system. The Brazilian Bar Association would be among those entities and would appoint its rapporteur.

As I am certain of your special attention in receiving the suggestions presented, I take this opportunity to send you my sentiments of high esteem and best regards.

Claudio Lamachia
National President
The Brazilian Bar Association Federal Council
