

General allegation

119th session (16–20 September 2019)

Brazil

1. The Working Group received information from credible sources alleging difficulties encountered to implement the Declaration on the Protection of All Person from Enforced Disappearance in Brazil. This general allegation mainly focuses on alleged regressions in State public policies to address the enforced disappearances that occurred in Brazil during the military dictatorship, between 1964 and 1985, particularly as regards the search for victims.

2. According to the information received, the Special Commission on Political Deaths and Disappearances (CEMDP) was created in 1995 through Law 9.140, with the aim of clarifying the cases of enforced disappearances that occurred during the military dictatorship, as well as searching and locating the remains, and providing reparation to the families and to the Brazilian society. The CEMDP has acted in recent years as the main State mechanism to locate the bodies of victims of enforced disappearances, to rectify death records and to identify bodies as well as areas where these crimes were committed.

3. The CEMDP has also established, through its working groups, expert work patterns in accordance with well-established international practices, while the forensic work in the country remains subordinated and executed by the police or other institutions that, in many cases, were involved in the serious human rights violations that must be investigated. In addition, the CEMDP is one of the main State mechanisms responsible for the development of public policies for the promotion of memory, truth and reparation.

4. The Working Group was also informed that on 31 July 2019 the President of Brazil summarily dismissed the regional Public Prosecutor, Eugenia Gonzaga from her position as president of the CEMDP. The President also replaced three other members of CEMDP with military personnel and representatives of his political party, the PSL, in what would be a clear interference of the Government in a state agency whose constitution must include representatives of different democratic powers and civil society.

5. It is alleged that the members of the military who were incorporated into the Commission have a history of defending the military dictatorship, and that the replacement of four of the seven members was based on a political-ideological agenda that will affect the fundamental objectives of the CEMDP.

6. It should be noted that the decision to change the members occurred after the Commission documented the disappearance and death of Fernando Santa Cruz, father of the current president of the Brazilian Bar Association, as a violent death caused by State agents. The President of the Republic rejected this information and provided, in public statements, another version of the facts, in apparent contradiction with the information produced by the dictatorship itself.

7. Furthermore, the information received highlights the legal instability faced by the Working Group of Perus (GTP) and the Working Group of Araguaia (GTA), among other collegiate councils and bodies charged with the search of the disappeared. This is a result of the publication of Decree 9.759/2019, which extinguished the state agencies and entities established to guarantee the participation of civil society in the decision making that guide public policies.

8. It is reported that only the Working Group of Perus has the continuity of its operation guaranteed, because it was secured by a judicial decision. This Working Group is of great importance as 1046 sets of bones of alleged victims of the military dictatorship were recovered in the clandestine grave of the Don Bosco Cemetery, in

the Perus neighborhood, which are yet to be identified. In addition, it is presumed that the remains of 41 victims of enforced disappearance could still be buried in that same cemetery.

9. Samples of 750 bodies were reportedly sent to laboratories of the International Commission on Missing Persons (ICMP) in the Netherlands and in Bosnia and Herzegovina. While there are national laboratories in technical conditions to analyze the remaining bodies, they reportedly cannot do so within a reasonable time, due to the workload of daily forensic work.

10. Unlike the Working Group of Perus (GTP), the continuity and operating conditions of other working groups remains undetermined, following the publication of the above-mentioned decree.