

CHAPTER V

Follow-up of recomendations issued by the IACHR in its Country or Thematics reports

Brazil



CHAPTER V: BRAZIL

I.	INTRODUCTION	817
A.	Background: <i>In loco</i> visit and report on Brazil.....	817
B.	Human rights situation in Brazil after publication of the country report.....	818
C.	Follow-up report on recommendations.....	819
II.	FOLLOW-UP ON RECOMMENDATIONS	821
A.	The Institutional Underpinning of Human Rights	821
B.	Economic, social, cultural, and environmental rights	825
C.	Citizen security	833
D.	Access to justice.....	839
E.	Persons of African descent.....	843
F.	Indigenous peoples and traditional quilombola communities	848
G.	Women	863
H.	Children and adolescents	873
I.	Lesbians, gays, bisexuals, trans and intersex (LGBTI) persons.....	878
J.	Persons with disabilities.....	884
K.	Persons deprived of liberty	890
L.	Human rights defenders	900
M.	Human trafficking.....	905
N.	Forced internal displacement.....	906
O.	Human mobility migration, asylum, and statelessness	907

P.	Memory, truth, and justice	921
III.	SUMMARY TABLE OF THE LEVEL OF STATE COMPLIANCE WITH THE RECOMMENDATIONS	926
IV.	CONCLUSIONS	929

CHAPTER V

FOLLOW-UP ON THE RECOMMENDATIONS ISSUED BY THE IACHR IN ITS COUNTRY OR THEMATIC REPORTS

SECOND FOLLOW-UP REPORT ON THE RECOMMENDATIONS ISSUED BY THE IACHR IN ITS REPORT ON THE SITUATION OF HUMAN RIGHTS IN BRAZIL¹

I. INTRODUCTION

A. Background: *In loco* visit and report on Brazil

1. This report aims to follow up on the recommendations made in the report on the situation of human rights in Brazil, approved by the Inter-American Commission on Human Rights (IACHR) on February 12, 2021.² The IACHR report derives from the on-site visit to Brazil on November 5 to 12, 2018, as part of the IACHR's ongoing monitoring of the human rights situation in the Americas and according to Article 106 of the Charter of the Organization of American States (OAS).

2. The objective of the on-site visit was to perform a broad diagnostic assessment of the human rights situation. Given the country's size and the individual characteristics of each region and of the federal states, the Commission focused on specific groups and topics associated with historical discrimination and structural inequality.

3. As a result of the visit, the Commission published the Brazil report, which included the following chapters: historical discrimination and socio-economic discrimination as factors causing structural inequality; other groups at special risk; citizen security; impunity; democratic institutions and human rights; and freedom of expression and information. These chapters contain a detailed analysis of the extreme inequality and vulnerability faced by certain specific population groups in Brazil identified as victims of historical discrimination to which they have always been subjected. The report also contains a chapter with conclusions and recommendations.

4. In the report, the Commission observed that despite being under the rule of law and having a democratic system and human rights institutions, Brazil faces structural challenges related to social exclusion and land access, which give rise to cycles of inequality and extreme poverty. The report further indicated that this situation exposes vulnerable people to the violence perpetrated by criminal organizations like militias and drug trafficking rings as well as groups engaged in human trafficking and other modern forms of slavery. In addition, the IACHR observed that these challenges especially affect people of African descent, women, quilombola communities, indigenous peoples, campesinos and rural workers, street people, and people living in slums or outlying areas.³

¹ Chapter not approved by Commissioners Carlos Bernal Pulido and Stuardo Ralón Orellana, with a partial reasoned vote by Commissioner Carlos Bernal. The partial reasoned vote is found at the end of this chapter.

² IACHR, Press release 50/21 - IACHR Publishes Report on Human Rights Situation in Brazil and Highlights Impacts of Historical Processes of Discrimination and Structural Inequality. Washington, D.C., March 11, 2021.

³ IACHR, [Situation of human rights in Brazil](#), pars. 4-11.

5. The Commission also indicated that these challenges adversely affect citizen security and noted that while extreme inequality does drive increased violence against vulnerable people, the State has designed and implemented security policies based on violent, punitive, institutional action by a militarized police force, resulting in grave human rights abuses. In this context, the Commission also analyzed the role of judicial authorities in implementing these policies.

6. The Commission also recognized that the poverty and extreme poverty faced by some population groups make it more difficult for them to access justice fully and effectively, which impedes their enjoyment of their rights and puts them at a disadvantage compared to the rest of the population, as a result of more frequent exposure to crime and institutional violence. Specifically, the IACHR found that the country's security policies incorporate racial profiling practices that make people of African descent and residents of marginal neighborhoods more vulnerable to arbitrary detention and abuse. Along these lines, the IACHR indicated that Brazil faces structural and historical racial discrimination that drives inequality and the exclusion of Afro-descendants. Specifically, the Commission is profoundly concerned about the prevalence of Afro-descendants in the prison system, noting that they make up over 65% of the country's prison population. This statistic demonstrates that racial discrimination and the security policies, which incorporate racial profiling, render people of African descent and residents of marginal neighborhoods more vulnerable to arbitrary detention and abuse. This is especially notable in detention facilities, prisons, socio-educational units, and therapeutic communities, which are often overcrowded and become institutional settings that allow and tolerate torture and other cruel, inhuman, and degrading treatment.

7. In its report, the IACHR also took note of the high level of impunity in cases of institutional violence, indicating that the justice system has not made any progress on investigations, convictions, or reparation for victims in most of these cases. The IACHR indicated that this state of impunity resembles what occurred with the crimes committed during the civil-military dictatorship. Although the report acknowledged the progress made by the truth commissions on cases of torture and forced disappearances, it stressed that most of these cases remain unpunished.

8. In the country report, the IACHR also observed an increase in the number of threats made by the authorities to the lives of journalists and media workers, especially after the national elections in 2018. Similarly, people with diverse sexual orientations, gender identities and/or expressions, and sexual characteristics have also experienced an increase in hate crimes targeting them.

9. At the institutional level, the Commission performed a diagnostic assessment of several initiatives designed to guarantee and promote respect for human rights in Brazil, like establishing mechanisms to prevent and fight torture and strengthening prosecutors' offices and national human rights institutions. It also welcomed the implementation of public policies designed, at the time, to reduce structural inequality and advance the fight against racism and historical discrimination, including income transfer and land and housing access programs, as well as policies designed to enable Afro-descendants and indigenous persons to access the university system.

10. The IACHR concluded the report with 89 recommendations for Brazil to consolidate a system for promoting and protecting human rights, which is in line with the country's commitments to the international sphere. It also advised Brazil to implement actions to address structural problems, like the weakening of democratic forums.

B. Human rights situation in Brazil after publication of the country report

11. After publishing the country report in February 2021, the Commission has continued to track the human rights situation in Brazil on an ongoing basis through several different mechanisms, including monitoring, precautionary measures, press releases, hearings, etc.

12. In 2022, in Chapter V of the Annual Report, the Commission noted that the problems and challenges identified in the Brazil country report persisted and escalated during the October 2022 electoral process.⁴ Accordingly, the Commission expressed concern over the acts of violence motivated by the political context, hate speech, and discrimination against political leaders. Against this backdrop, it called on Brazil to prevent violence by implementing protection and security measures during the elections and to move forward with appropriate investigations into these acts.⁵

13. In turn, the IACHR Office of the Special Rapporteur for Freedom of Expression (SRFOE) called on election authorities, political parties, and persons holding or aspiring to hold elected office in Brazil to protect public debate and uphold human rights in accordance with their responsibilities to the exercise of the right to freedom of expression. At the time, the SRFOE indicated that it had learned of several stigmatizing statements and verbal attacks made by political leaders against the press and human rights defenders. It also received information on speeches that included unverified content, would cast doubt on the electoral process and democratic institutions, and could exacerbate or foment discrimination and violence. In some cases, these speeches sought to challenge the enforcement of judicial decisions and would encourage disregard for election results without providing clear supporting evidence.⁶

14. In September 2022, the Commission welcomed the special measures adopted by Brazilian State institutions to guarantee fair and free elections on the October 2 election day. It also called on the State to make the utmost efforts to prevent and combat any acts of intolerance that could result in political violence.⁷ The IACHR recognizes that, despite the enormous tension that the democratic system in Brazil faced at that time, the country's robust democratic institutions and its rule of law ensured that democracy was upheld. However, in the post-election period, the Commission and the SRFOE observed increased violence and intolerance associated with the elections and urged the Brazilian State to ensure the safety of all people, to diligently investigate the acts, and to foster full respect for democracy and public debate.⁸

15. From August to December 2022, the Commission reported diverse assaults on the institutions and acts of violence in the federal capital, which it condemned as attacks on Brazilian democracy.⁹ Subsequently, on January 8, 2023, several acts of violence took place in Brasilia, as approximately 4,000 supporters of former president Jair Bolsonaro stormed and took over the headquarters of Congress, the executive branch, and the Federal Supreme Court (STF), calling for military intervention. In turn, the United Nations High Commissioner for Human Rights condemned the attack on the heart of Brazilian democracy and put forth that the violence was the culmination of the sustained misrepresentation of the facts, as well as the incitement to violence and hatred by political, social, and economic actors who have been feeding an atmosphere of mistrust, division, and destruction by denying the results of democratic elections.¹⁰ These acts were widely rejected nationally and internationally.

C. Follow-up report on recommendations

16. Given the foregoing, the Commission proposed preparing a second follow-up report on the recommendations in the country report. Accordingly, on August 8, 2023, the IACHR requested information from the State of Brazil on its compliance with those recommendations. The State submitted its replies on

⁴ IACHR, Annual Report 2022. [Chapter V - Brazil](#), April 20, 2022.

⁵ IACHR, Press release, [171/22 - IACHR asks Brazil to Prevent, Investigate, and Punish Violence in Its Upcoming Election Process](#), June 29, 2022.

⁶ IACHR, Press release, [R192/22 - Authorities and candidates for public office in Brazil are called upon to protect public debate and freedom of expression](#), August 30, 2022.

⁷ IACHR, Press Release, [219/22 - IACHR Calls on Brazil to Hold Peaceful Elections That Respect Representative Democracy and Human Rights](#), September 29, 2022.

⁸ IACHR, Press release, [266/22 - IACHR and its Special Rapporteurship for Freedom of Expression Reject Escalation of Tension, Intolerance, and Violence after Presidential Elections in Brazil](#), December 2, 2022.

⁹ IACHR, [Tweet]. <https://twitter.com/CIDH/status/1612195722149105665?cxt=HHwWgsDQ8fXd1d8sAAAA>, January 8, 2022.

¹⁰ UN News. *Asalto a la sede de los tres poderes en Brasil*. January 9, 2023.

September 6¹¹, 11¹², 12¹³, and 14¹⁴ and on October 6, 2023¹⁵. The Commission thanks the State for the information it provided, the relevant parts of which are explained herein.

17. The IACHR also asked the country's civil society organizations to provide information on the progress made on compliance with the country report recommendations and on challenges thereto. The Commission thanks the organizations for the information provided in response to its questionnaire. The relevant parts of this information were also included in this follow-up report.¹⁶

18. To prepare this report, the IACHR took into account the information it gathered when monitoring the overall human rights situation in the country and during public hearings; inputs from the precautionary measure mechanism and the requests for information made according to Article 41 of the American Convention on Human Rights (hereinafter the American Convention); information produced by United Nations agencies; information available from other public sources; and the decisions and recommendations made by specialized international organizations, etc.

19. On November 22, 2023, the Commission sent the State a copy of the preliminary draft of this report, in keeping with Article 59(10) of the Rules of Procedure and asked it to submit its observations. On December 20, 2023, the Commission received the State's observations and comments¹⁷, the relevant parts of which were incorporated into this final text. The IACHR approved the final report on December 29, 2023.

20. This follow-up report on recommendations is divided into three sections: (i) Introduction; (ii) Follow-up on the country report recommendations, covering the following thematic pillars: the institutional underpinning of human rights; economic, social, cultural, and environmental rights (ESCRs); citizen security; access to justice; persons of African descent; indigenous peoples and traditional quilombola communities; women; children and adolescents; lesbians, gays, bisexuals, trans and intersex persons (LGBTI); persons with disabilities; persons deprived of liberty; human rights defenders; human trafficking; forced internal displacement; human mobility migration, asylum, and statelessness; and memory, truth, and justice; and (iii) a section that sets out the IACHR's conclusions on the progress made in and challenges to fulfillment of the country report recommendations as a whole.

21. To study the country's degree of compliance with or implementation of the recommendations, the Commission considered the measures adopted by the State during the year 2023 and the current human rights context and analyzed the main advancements in and challenges to effective fulfillment. Compliance with the recommendations was evaluated as per the General Guidelines on the Follow-up of Recommendations and Decisions of the IACHR, published in September 2019.¹⁸

22. This report presents the text of each recommendation and a summary of the information that the IACHR learned in 2022. It then describes the information received by the State this year, as well as the

¹¹ Federative Republic of the State of Brazil, [Questionnaire to follow up on the recommendations of the Report on the situation of human rights in Brazil](#), September 6, 2023.

¹² Federative Republic of the State of Brazil, [Additional information of the State's responses to the follow-up questionnaire on the recommendations of the Report on the Situation of Human Rights in Brazil](#), September 11, 2023.

¹³ Federative Republic of the State of Brazil, [Additional information of the State's responses to the follow-up questionnaire on the recommendations of the Report on the Situation of Human Rights in Brazil](#), September 12, 2023.

¹⁴ Federative Republic of the State of Brazil, [Additional information of the State's responses to the follow-up questionnaire on the recommendations of the Report on the Situation of Human Rights in Brazil](#), September 14, 2023.

¹⁵ Federative Republic of the State of Brazil, [Contributions from the Brazilian State to the preparation of the Annual Report of the Inter-American Commission on Human Rights](#), October 6, 2023.

¹⁶ The following organizations sent information to the IACHR: Interamerican Association for Environmental Defense (AIDA), Centro de Defesa da Criança e do Adolescente (Center for the Defense of Children and Adolescents, CEDECA Ceará), Conectas Direitos Humanos (Conectas Human Rights), Vladimir Herzog Institute, Justiça Global (Global Justice), the Rio de Janeiro State Mechanism for Preventing and Combating Torture (MEPCT/RJ), and Terra de Direitos (Land of Rights).

¹⁷ Federative Republic of the State of Brazil, [State observations on the draft report – chapter V of the Annual Report “the human rights situation in Brazil”](#), December 20, 2023.

¹⁸ IACHR, [General Guidelines on the Follow-up of Recommendations and Decisions of the Inter-American Commission on Human Rights](#), OEA/Ser.L/V/II.173 Doc. 177, September 30, 2019.

information provided by civil society and publicly available information. Subsequently, it analyzes the State's level of compliance with the recommendation and addresses the progress made and challenges to compliance. Each section concludes with the IACHR's advice for the State on the measures it needs to take to implement the recommendation or guidance on the information it should report for the IACHR to determine its progress on doing so.

23. Below, the Commission considers and analyzes each of the recommendations made in the Brazil report.

II. FOLLOW-UP ON RECOMMENDATIONS

A. The Institutional Underpinning of Human Rights

Recommendation No. 1. Strengthen the State and autonomous bodies responsible for formulating, implementing, and appraising public policies with human rights focus and geared to guaranteeing the rights of the most vulnerable groups. In particular:

- a. Restore the comprehensive budget appropriation for the Ministry of Women, the Family, and Human Rights, according priority to the portfolios for promoting the rights of at-risk and/or vulnerable groups and pay special heed to bolstering the structure and budget of the Program to Protect Human Rights Defenders, thereby guaranteeing implementation of effective and efficacious protection measures.
- b. Allocate a specific budget appropriation for both the Federal Public Defender's Office and state Public Defenders' Offices. Organizational and managerial autonomy is a key factor for guaranteeing institutional independence and enhancing full and free access to justice for vulnerable groups.
- c. Provide all the resources and functional independence needed to operate both the National Mechanism to Prevent and Combat Torture and the corresponding state mechanism, as established in the Optional Protocol to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

24. Regarding sections "a" and "b" of the recommendation, in 2022, the State expressed its commitment to the institutional underpinning of human rights.¹⁹ However, the Commission also observed that the State reduced the budgets of the Ministry of Women, the Family, and Human Rights, the Ministry of Education, and the Ministry of Labor and Social Security. It also noted the budget cuts that impacted indigenous and quilombola peoples, especially on issues related to their lands.²⁰ Accordingly, the Commission asked the State to guarantee the budget allocation for the Ministry of Women, the Family, and Human Rights and the Public Defender's Office.²¹

25. Concerning section "c," in 2022, the Commission expressed its concern over the measures involving the National System to Prevent and Combat Torture (SNPCT), made up of the National Mechanism to Prevent and Combat Torture and the National Committee to Prevent and Combat Torture. The IACHR learned about the reassignment of posts from these bodies and about the decision that participation in them would be considered an "important but unpaid public service." Despite the corrective actions taken by the State, the Commission observed obstacles to National Mechanism to Prevent and Combat Torture operations, such as the cancellation of meetings and the dismantling of policies over the past 4 years, noting that out of 27 states, only 5 had implemented mechanisms to prevent torture. Accordingly, it invited the State to implement local mechanisms in the remaining states.²²

¹⁹ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 26.

²⁰ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 28.

²¹ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 30.

²² IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 45.

Information on compliance

26. This year, the State highlighted that it had resumed prioritizing public policies on human rights and forums for social participation, with the adoption of democracy-strengthening measures based on the Third National Human Rights Plan. In this regard, it reported that it had revoked regulations that weakened the legal framework for guaranteeing human rights in connection with the environmental agenda, the control of arms, and migration, as well as other issues, and reaffirmed the State's commitment to developing, implementing, and monitoring evidence-based public policies.²³

27. The State explained how the extinguished Ministry of Women, the Family, and Human Rights functions would be distributed among the new ministries created by the new administration. It also indicated that Ordinance 11,341/2023 created the Ministry of Women's Affairs, the Ministry for Racial Equality, the Ministry of Indigenous Peoples (MPI), and the Ministry of Human Rights and Citizenship (MDHC). Furthermore, the State also presented the budget allocation for each body and their thematic and specialized departments.²⁴

28. The State also highlighted its integration and expansion of human rights information systems and the construction of mechanisms for evaluation and monitoring by the National Human Rights Observatory (ObservaDH), established in the second half of 2023. The State informed the IACHR that the Observatory's purpose is to disseminate and analyze strategic information about human rights in Brazil, providing evidence for planning, monitoring, and evaluating public policies on human rights at the federal, state, and municipal levels. It further indicated that this tool is a virtual, public-access platform whose target audience comprises public managers, journalists, academics, and civil society organizations. The Observatory's responsibilities include: (i) identifying and presenting human rights indicators; (ii) informing, strengthening, and supporting society; (iii) developing and disclosing analyses, evaluations, and research; (iv) promoting the dissemination of information, indicators, and research; and (v) developing tools and materials to support education on human rights. Lastly, the State explained that the ObservaDH indicators cover three aspects: (i) structures and institutions focused on protecting rights; (ii) processes and efforts addressing how governments act to meet demands for promoting and protecting rights; and (iii) social, economic, political, and environmental outcomes and conditions, to measure the levels of compliance with and violation of rights.²⁵

29. Specifically concerning section "a" of the recommendation, the State informed the IACHR of the Program for the Protection of Human Rights Defenders, Media Workers, and Environmentalists (PPDDH), coordinated by the MDHC, which seeks to protect individuals committed to defending human rights who face dangers or threats due to their work. The State highlighted that the PPDDH derives from the National Policy on Protecting Human Rights Defenders (PNPDDH) and is executed at both the national and state levels. According to the State, the Program establishes clear processes and criteria for admitting cases, entailing several stages, including technical analysis and evaluation by a Deliberative Council. The PPDDH operates through agreements with states that have established programs; in other federal units, defenders are assisted by a technical team through collaboration with a civil society organization.²⁶ In addition, the "Sales Pimenta" Technical Working Group has been set up to develop, in dialogue with civil society and other relevant stakeholders, proposals for a national plan and bill to improve the protection of human rights defenders, media workers, and environmentalists throughout the country.²⁷

²³ State of Brazil, Note No. 407 of October 5, 2023. Response to the consultation questionnaire.

²⁴ State of Brazil, Notes 359 of September 12, 2023, and 407 of October 5, 2023. Response to the consultation questionnaire.

²⁵ State of Brazil, Note No. 407 of October 5, 2023. Response to the consultation questionnaire.

²⁶ The State reports that the following federal states currently have protection programs: Pará, Amazonas, Maranhão, Ceará, Paraíba, Pernambuco, Bahia, Minas Gerais, Rio de Janeiro, Rio Grande do Sul, and Mato Grosso. State of Brazil, Note No. 407 of October 5, 2023. Response to the consultation questionnaire.

²⁷ State of Brazil, Note No. 407 of October 5, 2023. Response to the consultation questionnaire; Inter-American Court of Human Rights. Case of Sales Pimenta v. Brazil. Preliminary Objections, Merits, Reparations and Costs. Judgment of June 30, 2022. Series C No. 454. This case addresses the State's responsibility for the situation of impunity surrounding the events related to the death of Gabriel Sales Pimenta, attorney for the Marabá Rural Workers Union. Due to the nature of Mr. Sales Pimenta's work, he received several death threats, which prompted him to seek State protection on multiple occasions at the Public Security Department in Belém, in the state of Pará. He

30. As for section “b” of the recommendation, in 2023, the State indicated that the Federal Public Defender’s Office (DPU) follows the general rule that allows for increasing expenditure up to the inflation rate reached the year before the budget year. It noted that from 2022 to 2023, the DPU budget increased by almost R\$65 million, with 40 additional spots for defenders since 2019. The State mentioned that the DPU must continue to expand if it is to perform its constitutional duties of defending the most vulnerable groups at federal courts. Lastly, the State indicated that the approval of the new Brazilian tax system in August 2023 made the rules on this issue more flexible compared to the prior system.²⁸

31. Lastly, regarding section “c” of the recommendation, in 2023, the State again mentioned the bodies that form the SNPCT and explained that state-level mechanisms and committees also exist with the same purpose. That said, although the State highlighted the fundamental role of these bodies in combating human rights violations and prison violence and described their makeup and functions, it did not provide up-to-date information on their actions.²⁹

32. In turn, civil society organizations informed the IACHR that the State budget had allocated R\$514,600 to guarantee the operation of the National Mechanism to Prevent and Combat Torture, the largest amount ever allocated to this mechanism according to data up to 2018. The civil society organizations indicated that R\$440,300 of this amount had been spent by September of this year (85.6% of the allowance).³⁰ They also pointed out that, according to public information, the states of Rondônia, Maranhão, Paraíba, Pernambuco, Alagoas, Sergipe, Mato Grosso do Sul, Espírito Santo, and Rio de Janeiro are the only ones that have mechanisms in place to combat torture. Furthermore, according to a survey performed in 2022, only the Paraíba, Pernambuco, Rio de Janeiro, Rondônia, Pará, and Roraima mechanisms are operational (the others have been established but are not operational).³¹

33. As for the DPU’s actions and operation, the Commission learned from an investigation performed by the DPU itself that currently, Brazil has one federal public defender for approximately every 331,000 inhabitants of the country. According to the investigation, if only the at-risk population is considered, the ratio would be one federal public defender for every 291,000 inhabitants with a household income of up to three minimum wages. Also, as per the investigation, the Commission learned that the region of the country most affected by the shortage of public defenders is the one that includes the states of São Paulo and Mato Grosso do Sul, with one defender for every 405,000 inhabitants.³²

Analysis and level of compliance with the recommendation

34. The Commission welcomes the information provided on creating the new ministries and the budget allocated to them and their departments as an effective demonstration of the State’s institutional commitment to promoting and protecting human rights. It also considers the establishment of ObservaDH to be a significant advancement since this observatory consolidates strategic data on the human rights situation in Brazil; provides essential evidence for planning, monitoring, and evaluating public policies at all levels of government, and fosters transparency and social participation in the process of developing, monitoring, and strengthening human rights policies.

was ultimately killed on July 18, 1982, against the backdrop of violence associated with demands for land and agrarian reform in Brazil. The Commission concluded that the investigation into the events associated with Mr. Gabriel Sales Pimenta’s death, which ended in 2006 with a decision that the statute of limitations had expired, was hobbled by failures of the State. Furthermore, the Commission established that the authorities did not act with due diligence or within a reasonable time frame. In 2008, Mr. Sales Pimenta’s mother sought compensation from the state of Pará for pain and suffering. The Commission also concluded that the State violated the victim’s family’s right to personal integrity, as well as Mr. Sales Pimenta’s right to freedom of association, since his defense of the rights of rural workers spurred the retaliation against him.

²⁸ State of Brazil, Note No. 359 of September 12, 2023. Response to the consultation questionnaire.

²⁹ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

³⁰ CEDECA Ceará. Response to the consultation questionnaire, September 2023.

³¹ Conectas Direitos Humanos. Response to the consultation questionnaire, September 2023.

³² DPU. [Pesquisa Nacional da Defensoria Pública 2022](#).

35. As for section “a” of the recommendation, the Commission is grateful for the updated information on the PNPDDH and congratulates the State for establishing the “Sales Pimenta” Technical Working Group to develop a national policy for protecting defenders. Along these lines, the Commission emphasizes the importance of the State having a far-reaching program for protecting defenders throughout all of Brazil’s regions and of implementing the policy to effectively protect their lives and personal integrity so they can do their jobs free of violence and threats.

36. Given the above and considering the executive branch’s new structure regarding the institutional underpinning of human rights, the founding of ObservaDH as a tool for monitoring and evaluating public policy implementation, and the information provided by the State on the PNPDDH, the Commission determines that compliance with section “a” of the recommendation has progressed to **partial**.

37. As for section “b” on the DPU, the Commission is concerned by the information showing the number of defenders in the country to be far lower than is needed to effectively guarantee and protect the human rights of all people. The Commission emphasizes that it is essential for all people, especially those who are more vulnerable and at social risk, to have access to public defenders who provide high-quality, timely services as a way to ensure access to justice. In view of the above, the Commission determines that the country’s compliance with this recommendation is still **pending**.

38. Lastly, about section “c,” the Commission underscores that the mechanisms’ work to prevent and combat torture is essential for the country to protect the basic rights of persons deprived of liberty and to comply with its international obligations on the deprivation of liberty, whether temporary or after an actual conviction. Given this, the Commission considers the allocation of funds for 2023 to be a positive measure, but since the State did not provide specific information on compliance with this recommendation, it determines that compliance is still **pending**.

Measures and information to make progress on fulfilling the recommendation

39. To steer the State towards full compliance with section “a,” the IACHR reiterates the importance of continuing to strengthen the bodies working to protect and defend human rights. The Commission also emphasizes that it is essential for the State to make efforts to strengthen its national policy on protecting defenders and to continue reporting the measures adopted to that end.

40. Concerning section “b,” the Commission highlights the importance of continuing to increase the budget and the number of public defenders to serve the entire population, especially persons at risk and located far from the state capitals. Therefore, the State needs to guarantee adequate financing for the DPU, as the State itself notes. The staff increase is a positive step, but it is fundamental for the State to monitor effective implementation and increase the DPU budget.

41. Lastly, concerning section “c,” the IACHR stresses the importance of strengthening and ensuring the operation of the SNPCT bodies. Furthermore, the IACHR considers it essential for the State to adopt specific measures to ensure that all states have state-level mechanisms in place for preventing and combating torture, with the resources needed for operation.

Recommendation No. 2. Ratify the following Conventions:

- a. Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity;
- b. Inter-American Convention against All Forms of Discrimination and Intolerance.

42. In 2022, the State did not provide information on the actions taken to ratify these two conventions. Accordingly, the Commission underscored that compliance with the recommendation will only be achieved with ratification of these international instruments.³³

Information on compliance

43. The State did not provide information on ratification of the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity in 2023, either. However, it affirmed that it is trying to ratify the Inter-American Convention against All Forms of Discrimination and Intolerance. Along these lines, the MDHC, Ministry of Women's Affairs, Ministry for Racial Equality, and the MPI directed a note to the President of the Republic to be sent to the National Congress, in which they stressed the importance of ratification.³⁴

44. The State also reported that it intends to ratify the Inter-American Convention on Protecting the Human Rights of Older Persons.³⁵

Analysis and level of compliance with the recommendation

45. Despite this initiative, given the State's failure to effectively ratify these instruments, the IACHR determines that compliance with this recommendation is **pending**.

Measures and information to make progress on fulfilling the recommendation

46. To steer the implementation of this recommendation, the Commission emphasizes that compliance will only be achieved with the ratification of the aforementioned international instruments. To evaluate progress on implementation, the IACHR invites the State to report information on the steps being carried out by the executive and legislative branches.

B. Economic, social, cultural, and environmental rights

Recommendation No. 3. Establish a coordinated fiscal policy that can redistribute the wealth needed to overcome equality gaps, correct market shortcomings, and make the investments needed to fulfill human rights, especially economic, social, and cultural rights.

a. Revise legislation and other legal provisions that withdraw or curtail funds for policies relating to economic, social, and cultural rights.

b. Install technical committees to evaluate fiscal projections, drawing on objective analyses by fiscal and budget experts from the best schools in the country before drafting amendments in accordance with the principles of proactive transparency, timely information, and citizen participation.

c. Establish channels for social participation in the processes of drawing up and adopting fiscal laws and policies, especially when the adoption of those instruments could entail violating the principle that there must be no backsliding when it comes to human rights.

47. The State did not submit information to the IACHR on compliance with this recommendation for the 2022 follow-up report.³⁶ However, the Commission did mention the *Bolsa Familia* and *Auxilio Emergencial* programs, the latter of which was implemented starting in 2020, designed to provide financial

³³ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 47.

³⁴ State of Brazil, Notes 359 of September 12, 2023, and 407 of October 5, 2023. Response to the consultation questionnaire.

³⁵ State of Brazil, Note No. 407 of October 5, 2023. Response to the consultation questionnaire.

³⁶ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 48.

assistance to families that were especially affected by the COVID-19 pandemic. Notably, the Commission also pointed out that these programs did not shrink the existing social gaps in real terms.³⁷

48. The IACHR also expressed concern over the 2022 decrease in resources for public policies targeting indigenous and quilombola peoples and spotlighted measures that could end up reverting economic, social, cultural, and environmental rights, such as the bill that would regulate the tapping of minerals, water, and organic resources on indigenous reservations; and the deforestation of the Amazon rainforest, which reached its second-highest level of the past 13 years. Lastly, the Commission invited the State to mobilize as many resources as possible to ensure the effective exercise of economic, social, cultural, and environmental rights to refrain from adopting regressive policies, and to implement applicable accountability mechanisms.³⁸

Information on compliance

49. In 2023, the State informed the IACHR that it had adopted several measures to allocate as many resources as possible to guarantee economic, social, cultural, and environmental rights and to reduce inequalities. These measures included implementing the new *Bolsa Familia* program, established by Law 14,601/2023, to guarantee basic income for poor families and apply public policies, strengthening families' access to basic rights like health, education, and social assistance.³⁹

50. The State also reported on its implementation of the Single Registry for the federal government's social programs (in Portuguese, *Cadastro Único*) as an instrument for identifying and recording disaggregated, qualitative data on the socioeconomic status of low-income families for their inclusion in the government's federal, state, and municipal social programs. The State reported that, at present, over 30 federal welfare programs use the Single Registry to grant benefits, and that as of July 2023, 42,533,652 families were registered, for a total of 95,709,593 persons.⁴⁰

51. The State also reported that with Ordinance 871/2023, the Ministry of Social Development and Assistance, Family, and the Fight against Hunger (MDS) launched the Program to Urgently Reinforce the Single Registry in the Single Social Assistance System (PROCAD-SUAS). According to the State, this program aims to: (i) strengthen the institutional capacities of the municipalities, states, and federal district to fully implement the Single Registry in the SUAS; (ii) update and adjust the entries with inconsistencies to ensure the social programs that use the Single Registry can serve the people who need it most; (iii) prioritize inclusion in and the updating of the registry through an active search for families belonging to traditional and specific population groups, especially street persons, indigenous peoples, people with disabilities, older adults, and child laborers. To carry out the program, the MDS transferred R\$199.5 million to the municipalities, as reported by the State.⁴¹

52. The State also informed the IACHR that in 2023, it spearheaded new strategies against deforestation, which led to a (i) 42.5% decrease in deforestation alerts in the first seven months of the year compared to the same period of the prior year; (ii) 173% increase in notifications of flora-related offenses, compared to the average of the past four years; (iii) 123% increase in embargoes compared to the average of the same period in the past four years; (v) 107% increase in the number of seizure warnings issued, compared to the average of the same period for the past four years.⁴²

53. In addition, regarding its actions to foster access and enjoyment of cultural rights, the State informed the IACHR that, starting in January 2023, the Ministry of Culture had relaunched the implementation

³⁷ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 48-57.

³⁸ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 48-57.

³⁹ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

⁴⁰ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

⁴¹ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

⁴² State of Brazil, Note No. 367 of September 14, 2023. Response to the consultation questionnaire.

of policies and mechanisms to promote culture, like the Paulo Gustavo Law, the Aldir Blanc National Policy to Promote Culture, and the National Program to Support Culture.⁴³

54. In turn, civil society informed the IACHR that, in August 2023, Brazil approved the “sustainable tax system,” known as the New Tax Framework (Complementary Bill 93/2023), a mechanism to control the public debt that replaces the prior tax system, known as the Expenditure Ceiling (Constitutional Amendment 95/16), and which seeks to contain government borrowing and guarantee socioeconomic growth. The civil society organizations indicated that this change in the tax system would be a step forward, as it would make the rules more flexible and would allow spending to increase above inflation, between 0.6% and 2.5%, depending on the increase in revenue. Despite this flexibility, they warned that maintaining a fiscal rule, even with several limitations on spending and after years of defunding public policies, would not be enough to overcome the setbacks caused by the expenditure ceiling and other fiscal austerity policies.⁴⁴

Analysis and level of compliance with the recommendation

55. The IACHR appreciates the information reported by the State on implementing the new *Bolsa Familia* program, the Single Registry for federal government social programs, and PROCAD-SUAS. The Commission finds these measures to be relevant for the implementation, integration, and coordination of social programs and public policies to strengthen the exercise and access to economic, social, cultural, and environmental rights and reduce inequalities.

56. Because of the measures adopted, but without losing sight of the fact that they are all still in the initial stage of development, the IACHR determines the level of compliance with recommendation 3, section “a” to be **partial**.

57. On the other hand, the Commission also underscores that it does not have sufficient up-to-date information to evaluate the State’s level of compliance with sections “b” and “c” of the recommendation (the establishment of technical committees to evaluate fiscal projections and the establishment of channels for social participation in the processes of drawing up tax laws and policies, respectively). Therefore, the IACHR considers compliance with these parts of the recommendation to be **pending**.

Measures and information to make progress on fulfilling the recommendation

58. To steer compliance with this recommendation, the IACHR invites the State to review the existing legislation that takes resources away from policies on economic, social, cultural, and environmental rights or limits such resources and to report on the measures implemented along these lines. The State must also provide and mobilize as many resources as possible to ensure the effective exercise of economic, social, cultural, and environmental rights and to reduce inequality. At the same time, the IACHR reiterates that when the State adopts policies and measures and passes legal regulations on this issue, it must comply with the duty of ensuring the further advancement of these rights and prohibit backsliding. In addition, the IACHR invites the State to implement accountability mechanisms on how the available resources have been mobilized to progressively ensure the full realization of economic, social, cultural, and environmental rights.

59. The IACHR also invites the State to submit specific, up-to-date information on the adopted tax policy measures, as well as the measures to establish technical committees to evaluate fiscal projections and to establish channels for social participation in drawing up and approving recommended tax laws and policies.

Recommendation No. 4. Develop a mechanism for coordination among the three federative branches of government to guarantee the effective incorporation into domestic law and practice of international human

⁴³ State of Brazil, Note No. 359 of September 12, 2023. Response to the consultation questionnaire.

⁴⁴ CEDECA Ceará. Response to the consultation questionnaire, September 2023.

rights standards, in relation to both the adoption of positive measures by the State and the abstaining from actions aimed to protect human rights.

60. The State did not submit information to the IACHR on compliance with this recommendation for the 2022 Brazil follow-up report.⁴⁵

Information on compliance

61. In 2023, the State informed the IACHR of the existence of the Inter-American Court of Human Rights Decisions and Deliberations Follow-up and Supervision Unit attached to the National Justice Council and created by National Justice Council Resolution 364/2021. The State indicated that this unit focuses on establishing a framework for the Council's work to establish a legal culture of human rights in the national judiciary, especially for the implementation of the American Convention on Human Rights standards and enforcement of the judgments, provisional measures, and advisory opinions handed down by the Inter-American Court of Human Rights. The State also reported that one of the unit's jobs is to suggest proposals and observations to the public authorities on administrative, legislative, judicial, or other kinds of measures needed to enforce the decisions of the Inter-American Court of Human Rights.⁴⁶ In turn, the Commission notes that since 2023, the unit's functions, as reported by the State, include following up on IACHR decisions.⁴⁷

62. The State also reported that Ministerial Order 431/2023 created the Human Rights Disputes Division within the Ministry of Foreign Affairs to coordinate the actions of the Brazilian State for enforcing international human rights standards. It also indicated that this unit is responsible for coordinating, together with other competent bodies, the State's defense in international disputes and its representation at international courts and related bodies, among other tasks.⁴⁸

63. In its observations to this report, the State added that, in a cooperative effort with the federated states, the MDHC established the Permanent Forum of National Administrators, whose first meeting was held on May 23, 2023. This initiative included the creation of the National Network for Implementing Decisions made by International Human Rights Systems (RNID/SIDH) to guarantee enforcement of the decisions made by international human rights bodies. The RNID/SIDH encourages the federated states to designate specialized communications hubs to improve data collection and implement decisions and recommendations of the inter-American system. Furthermore, the State explained that it also seeks to foster dialogue and collaboration among the MDHC and the Secretariats of State for Human Rights in the federated states, increase enforcement of international human rights judgments, and provide training on human rights for public managers.⁴⁹

64. Based on the public information available, the Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights (REDESCA) observes that the National Council of the Public Prosecutor's Office (CNMP) approved the creation of the National Standing Committee for Following Up on Implementation of the Decisions of the Inter-American Human Rights System Bodies in Resolution 262/2023. This committee's job is to monitor and supervise the measures adopted by the Public Prosecutor's Office to ensure that the public authorities comply with the decisions of the Inter-American Court of Human Rights and the IACHR, as well as to process the complaints and procedures of the Public Prosecutor's Office related to decisions of the inter-American system bodies.⁵⁰ The CNMP also approved Recommendation 96/2023, which recommends that all Public Prosecutor's Office branches and units comply with international human rights treaties, conventions, and protocols, the recommendations of the Inter-American Commission on Human Rights, and the case law of

⁴⁵ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 58.

⁴⁶ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

⁴⁷ National Justice Council, [CNJ atua para implementar decisões do Sistema Interamericano de Direitos Humanos](#), May 16, 2023.

⁴⁸ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

⁴⁹ State of Brazil, Note No. 505 of December 21, 2023. Comments on document draft.

⁵⁰ CNMP, [Resolução que institui comitê de monitoramento de decisões do Sistema Interamericano de Direitos Humanos é publicada](#), May 31, 2023.

the Inter-American Court of Human Rights, prioritizing, in short, the cases involving IACHR recommendations and Inter-American Court of Human Rights judgments.⁵¹

Analysis and level of compliance with the recommendation

65. The IACHR thanks the State for the information it has provided and notes that the existence of the National Justice Council Inter-American Court of Human Rights Decisions and Deliberations Follow-up and Supervision Unit and the CNMP National Standing Committee for Following Up on Implementation of the Decisions of the Inter-American Human Rights System Bodies, as well as the creation of the Ministry of Foreign Affairs Human Rights Disputes Division, constitute important measures for effectively incorporating international human rights standards into the State. Along those lines, the Commission observes that although these are significant mechanisms within the scope of the State's areas of responsibility, in this case of the judicial and executive branches, the information provided does not enable the Commission to verify how, strictly speaking, they ensure coordination among the three federative branches as was called for in the recommendation, especially the legislative branch. In view of this, the Commission determines that the country's level of compliance with this recommendation has progressed to **partial**.

Measures and information to make progress on fulfilling the recommendation

66. To steer compliance with this recommendation, the State must develop a mechanism for coordination among the three federative branches, strictly speaking, to ensure that international human rights standards are effectively incorporated within the country.

Recommendation No. 5. Develop, implement, and finance state systems for gathering accurate and disaggregated data, and statistical and qualitative information regarding the human rights situation of persons of African descent and traditional *quilombola* communities, indigenous peoples, LGBTI persons, as well as other at-risk and/or vulnerable groups, in order to create and implement appropriate laws and public policies for addressing needs and overcoming the specific hurdles those groups face. In particular, ensure that disaggregated data are collected from a variety of public and private institutions, especially those working in the following sectors: health, education, access to work, justice, social protection, and so on.

67. In 2022, the State did not submit information to the IACHR on compliance with this recommendation.⁵² However, the IACHR stressed the importance of implementing policies on collecting and analyzing statistical data on human rights, especially economic, social, cultural, and environmental rights, which affect persons and groups whose rights have historically been violated. The Commission also underscored the need for data to analyze compliance with and progress on the rights being monitored. It also expressed its concern over the limits on access to information resulting from the State's failure to update official pages and due to the decree, that makes many of the State's expenditures confidential, violating the process of access to information, transparency, and the fight against corruption.⁵³

Information on compliance

68. In 2023, the State informed the IACHR that, in order to respect the population's way of life and sociocultural organizations, the Single Registry has separate registration processes for the traditional and specific population groups, which are organized or unorganized groups identified by specific sociocultural, economic, or situational characteristics and that require different registration strategies. The State further indicated that, in addition to being poor, like the other families included in the Single Registry, the families in

⁵¹ CNMP, [CNMP recomenda que o Ministério Público brasileiro observe tratados, convenções e protocolos internacionais de direitos humanos](#), March 1, 2023; Diário Eletrônico do CNMP, [Recomendação Nº 96 de 28 de fevereiro de 2023](#), Caderno Processual, Issue 36 available on February 28, 2023, published on March 1, 2023.

⁵² IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 59.

⁵³ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 60-64.

these groups are subject to potential social invisibility due to their differences in ethnicity, race, way of life, access to public services, and/or other specific situations.⁵⁴

69. Similarly, the State mentioned that the Single Registry follows a set of guidelines that ensure these families are included properly and, therefore, that they are considered for the public policies on social protection. The State indicated that these guidelines make it possible to identify families belonging to fifteen different traditional and specific population groups. The State submitted a table listing the groups and the number of registered families, updated in August 2023: total number of families (4,576,747); family farmers (2,640,749); artisanal fishers (421,905); recyclable materials collectors (377,496); quilombolas (303,575); indigenous (250,281); living on the street (214,366); living in settlements (208,452); riverine (198,295); extractivists (64,048); living in encampments (54,760); relatives of incarcerated individuals (37,157); Romani (17,982); persons affected by development projects or initiatives (16,591); Terreiro communities (followers of traditional African-Brazilian religions) (10,206); beneficiaries of the National Rural Real Estate Loan Program⁵⁵ (4,978).⁵⁶

70. The State also highlighted that one of the PROCAD-SUAS objectives is to promote the active search for traditional and specific population group families in order to include them in the Registry, prioritizing the registration and identification of at-risk and/or vulnerable population groups. Accordingly, the Single Registry data will facilitate the development and improvement of appropriate public policies to meet the needs of these groups and help them overcome the specific obstacles they face.⁵⁷

71. The State informed the Commission that the population census of 2022, like previous censuses, collected data on persons of African descent—and that it was the first census to also collect data on traditional quilombola communities and indigenous populations. Moreover, the State reported that, as a result, it had begun to include these groups in the national statistics system, thereby giving the system the potential to generate accurate, disaggregated data that will be fundamental for assessing their human rights situation and for planning public policies to better address their complaints and meet their needs. Lastly, the State indicated that the preliminary census results show there to be 1,327,802 quilombola persons (0.65% of the total population) and 1,693,535 indigenous persons (0.83% of the total population) in the country. However, the State also stressed that more detailed data remains to be published.⁵⁸

72. The State also noted that LGBTIQ+ persons were not included in the 2022 population census but that they are on the agenda of a technical cooperation agreement between the MDHC and the Brazilian Institute of Geography and Statistics, whose objective is to improve data-gathering tools and to incorporate questions on sexual orientation and gender identity into the questionnaires for various surveys. Furthermore, the State reported that the MDHC had included revising the federal government's official administrative registries as an objective in its strategic planning for 2023. The State indicated that this registry would focus on equity by including questions and forms that consider diversity and focus on improving data collection on older persons, persons with disabilities, LGBTIQ+ persons, and the street population.⁵⁹

73. Lastly, in its observations to this report, the State mentioned the establishment of the National Human Rights Observatory (ObservaDH) through the MDHC. The State indicated that this project, managed by the Executive Secretariat and its Department for Coordinating Indicators and Evidence, seeks to disseminate and analyze strategic information to monitor the situation of human rights in Brazil. The State explained that this measure will use an online platform to plan, monitor, and evaluate federal, state, and municipal public policies. It also indicated that the Observatory will target public managers, civil society organizations, journalists, researchers, and students and will focus on: (i) identifying and presenting human rights indicators and informing and empowering society; (ii) developing and disseminating analyses and studies; (iii) fostering

⁵⁴ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

⁵⁵ In Portuguese: Programa Nacional de Crédito Fundiário.

⁵⁶ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

⁵⁷ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

⁵⁸ State of Brazil, Note No. 359 of September 12, 2023. Response to the consultation questionnaire.

⁵⁹ State of Brazil, Note No. 359 of September 12, 2023. Response to the consultation questionnaire.

the disclosure of information that promotes human rights and citizenship; and (iv) developing educational tools to strengthen diversity and equity in human rights. The State also notes that ObservaDH will focus on constructing indicators by mapping existing data and promoting interagency collaboration to fill in potential holes in the data.⁶⁰

Analysis and level of compliance with the recommendation

74. The IACHR is grateful for the information provided by the State on the implementation of separate Single Registry (*Cadastro Único*) registration processes for the traditional and specific population groups, and notes that these processes are important for collecting precise, disaggregated data and qualitative, statistical information on the human rights situation of at-risk and/or vulnerable groups, to develop and implement appropriate laws and public policies to satisfy their needs and help them overcome the specific obstacles they face. The IACHR also takes note of the initiatives to include data collection on traditional quilombola communities and indigenous populations in the population census and to include and improve the compilation of data on older persons, persons with disabilities, LGBTIQ+ persons, and the homeless population.

75. In particular, the IACHR hails the creation of ObservaDH as an important measure for complying with this recommendation and as an essential tool for disseminating and analyzing strategic information to monitor the situation of human rights in Brazil. The IACHR expects this tool to serve as a foundation for developing and implementing public policies on human rights.

76. In view of the measures reported by the State and the level of development of the initiatives discussed, the Commission determines that the country's level of compliance with this recommendation has improved to **partial**.

Measures and information to make progress on fulfilling the recommendation

77. To steer the State towards making further progress on complying with this recommendation, the IACHR invites it to report on the implementation of systems for collecting data on LGBTIQ+ persons and to provide data on the implementation of ObservaDH as an important measure for compliance. As for the at-risk and/or vulnerable groups that were already considered, the State must include qualitative information on their human rights situations in order to plan public policies that will better meet their demands and needs.

Recommendation No. 6. Design, implement, and finance comprehensive housing policies aimed at both reducing the current dire shortages and improving socio-economic equality from an ethnic/racial and gender perspective. Such policies must take into account the physical characteristics of the territory, the infrastructure in place, and the availability of equipment and basic services, as well as the interests of economic agents and the organic ties that populations establish with the breeding ground where their daily lives play out.

78. For Chapter V of the Annual Report 2022, the State informed the Commission about two housing programs designed to guarantee the right to housing for persons living on the streets. First, the State reported on the *Projeto Moradia Primeiro*, based on the homeless aid approach known internationally as Housing First and whose primary objective is to ensure that homeless individuals and families can access safe, short-term housing integrated into the community. Second, it reported the launch of the National Housing Plan, a strategy for the National Housing Policy for the next two decades, which is still to be implemented.⁶¹ The IACHR highlighted the efforts made to address the housing crisis, and indicated that, in order for the State to make progress on compliance, it needs to enact additional measures to provide comprehensive, timely services

⁶⁰ State of Brazil, Note No. 505 of December 21, 2023. Comments on document draft.

⁶¹ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 66-73.

for vulnerable persons and groups; produce disaggregated data on the street population; and increase the budget for public policies on housing.⁶²

Information on compliance

79. In 2023, the State informed the IACHR that it plans to draw up a proposal for changing the country's approach to and methodology for serving the homeless population, in which government action will focus on housing, work, and emancipation. With this change, the country would transition away from the welfare-based model, which it now uses, towards a system adapted to Brazil's current circumstances and based on the Housing First model. The State also reported that government plans were being discussed to increase access to housing, including the *Minha Casa, Minha Vida* [My House, My Life] program, to help vulnerable groups purchase homes.⁶³

80. As indicated in the observations and conclusions from its on-site visit to Brazil in June 2023, REDESCA noted the large number of people living on the street, looking for food in the trash, and standing in line to receive the food handed out by various agencies and organizations. It also heard complaints about the extreme vulnerability of the people living on the street as well as testimonies of violence, personal searches, destruction of personal goods, and the "normalization" of Black people living on the street.⁶⁴ REDESCA also highlighted the interplay among climate change, racism, and housing access and the call to include young people in the government housing programs.⁶⁵

81. On the other hand, REDESCA also congratulated Brazil for expanding civil society participation by decree of the federal executive branch to open up the Intersectoral Committee on the National Policy for the Street Population to the street population's social movements, with gender and ethnic/racial parity; and through the Federal Supreme Court ruling that federated entities must adopt various measures to help the homeless population, which prohibited taking their goods and belongings by force, and disallowed the mandatory relocation and transportation of homeless persons and the use of hostile architecture, among other actions.⁶⁶ This decision was confirmed by the court sitting en banc.⁶⁷

82. According to public information, the IACHR learned of the report "Street population: diagnostic assessment based on the data and information available in Federal government systems and administrative records," in compliance with the Federal Supreme Court decision. This report analyzes the homeless population and proposes initiatives to construct public policies.⁶⁸ The IACHR also learned that the My House, My Life program interim measure was converted into Law 14,620/2023, which maintained the points mentioned by the Brazilian government in its response, like prioritizing care for socially at-risk or vulnerable and homeless persons.⁶⁹

Analysis and level of compliance with the recommendation

83. The IACHR thanks the State for the information it provided and takes note of the proposals to foster actions and policies to guarantee the right to decent housing. However, the Commission notes that the initiatives mentioned are still in the preliminary stages. In view thereof, the IACHR determines that compliance with this recommendation continues to be **pending**.

⁶² IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 66-73.

⁶³ State of Brazil, Note No. 359 of September 12, 2023. Response to the consultation questionnaire.

⁶⁴ REDESCA, [Observaciones finales y recomendaciones de REDESCA tras su visita a Brasil](#), August 2023, par. 41.

⁶⁵ REDESCA, [Observaciones finales y recomendaciones de REDESCA tras su visita a Brasil](#), August 2023, pars. 42-43.

⁶⁶ REDESCA, [Observaciones finales y recomendaciones de REDESCA tras su visita a Brasil](#), August 2023, par. 44.

⁶⁷ Federal Supreme Court, [Plenário referenda decisão sobre atendimento a população de rua](#), August 22, 2023.

⁶⁸ MDHC, [MDHC lança relatório sobre pessoas em situação de rua no Brasil: estudo indica que 1 em cada mil brasileiros não tem moradia](#), September 14, 2023.

⁶⁹ Office of the President of the Republic, [Law 14.620 of July 13, 2023](#), July 14, 2023.

Measures and information to make progress on fulfilling the recommendation

84. To steer compliance with this recommendation, the IACHR invites the State to submit relevant, up-to-date, and precise information on its financing and implementation of the comprehensive housing policies. Along these lines, the Commission reminds the State that the measures adopted must address the issue using an intersectional approach that considers poverty, extreme poverty, and the additional vulnerabilities caused by other exclusionary processes. Likewise, the Commission invites the State to earmark, and submit information on, budgetary allocations sufficient to provide a comprehensive response to the housing crisis.

C. Citizen security

Recommendation No. 7. Amend the protocols and guidelines for local, state, and federal law enforcement agencies to ensure they meet international standards with regard to:

- a. Permissible use of force in accordance with the principles of legality, proportionality, and absolute necessity.
- b. Exceptions in which lethal force is authorized based on objective criteria.
- c. Tactics for reducing tensions and the use of non-lethal weapons.
- d. Prohibition of torture and of cruel, inhuman, or degrading treatment or punishment.
- e. In protest situations, respect for, and facilitation of, exercise of the freedom of assembly, apart from containment protocols, techniques for handling situations, the use of non-lethal weapons.

85. For the 2022 follow-up report, the State affirmed that the Ministry of Justice and Public Security (MJSP) was taking public security measures, to reduce violent deaths, promote citizenship, and addressing all forms of violence against women and other vulnerable groups. The IACHR recognized that the number of persons with a firearm registration certificate had increased by 474% in the previous four years.⁷⁰ Accordingly, it underscored the country's duty to ensure compliance with standards on the use of force, to reduce police violence and the number of police killings. It likewise stressed the importance of amending the protocols and regulations on the use of force to bring them into line with international standards.⁷¹

86. As for section "e" of the recommendation, the IACHR specified that the State had not reported any efforts to amend or review local or federal protocols and guidelines. It also mentioned various regulations, policies, and government actions that would restrict public demonstrations and access to information in certain contexts. Lastly, it invited the State to strengthen its protocols and guidelines for local, state, and federal police agencies, and to align them with human rights standards.⁷²

Information on compliance

87. In 2023, the State did not provide specific information on compliance with this recommendation.⁷³

88. In turn, the IACHR learned that the United Nations Committee against Torture had expressed concern over the ongoing use of excessive force in Brazil against persons of African descent. Specifically, the Committee mentioned the use of lethal force by law enforcement and military officials in connection with security operations to combat organized crime, and addressed the grave human rights violations, including extrajudicial executions, torture, sexual violence and beatings, perpetrated mostly against Afro-Brazilians during raids in favelas.⁷⁴

⁷⁰ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 74-76.

⁷¹ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 78-82.

⁷² IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 78-82.

⁷³ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 77.

⁷⁴ United Nations, [Brasil debe poner fin al uso de la fuerza excesiva y Colombia redoblar esfuerzos para erradicar la violencia](#), May 12, 2023.

89. Along these lines, according to information published by the Rio de Janeiro state Public Defender's Office, 453 complaints of torture and mistreatment were registered from January to May 2023. The report, which covered 1,506 complaints of torture and mistreatment registered between January 2022 and May 2023, also identified important characteristics of the victims and the situations they faced. Notably, 85% of these individuals asserted that there had been some kind of aggression; of them, 82.4% reported having suffered physical aggression, 7.2% psychological, and 10.4%, both types.⁷⁵

90. Lastly, according to public information, in view of the increasing number of violent deaths in police operations, the Federal Public Prosecutor's Office (MPF) recommended that state governors and secretaries of public security create action plans with measures to reduce the number of intentional violent deaths, ensuring social participation in constructing public security policies. The MPF underscores that the guidelines established by the Federal Supreme Court in the *Ação de Descumprimento de Preceito Fundamental* (Action for Failure to Comply with a Fundamental Precept) (ADPF) No. 635 (ADPF 635 o ADPF Favelas),⁷⁶ and by the Inter-American Court of Human Rights in the Case of Favela Nova Brasília,⁷⁷ must be followed.

Analysis and level of compliance with the recommendation

91. On August 8, 2023, the IACHR condemned the violent death of at least 16 people in police raids in Brazil. On this occasion, the IACHR reiterated what it had indicated in its country report and stressed that police violence in Brazil responds to the context of systemic racial discrimination, in which law enforcement conducts raids in socioeconomically vulnerable areas with high concentrations of young people and persons of African descent and does not adhere to international human rights standards.⁷⁸

92. The IACHR finds that, per public information and its ongoing monitoring of Brazil, the State has not complied with this recommendation.

93. The Commission reiterates the importance of receiving official information from the State in order to appropriately follow up on the recommendations. Without it, the Commission must rely on public information and/or data from civil society organizations, independent agencies, and international organizations for its monitoring work. In this instance, given the lack of information provided by the State and based on concerning secondary data, the Commission observes that the high level of violence used in police operations, especially in areas that are more socially vulnerable, continues to intensify. The IACHR is also extremely concerned by the information showing the relationship between security agents' productivity and compensation and the lethal nature of the raids they carry out. In view of this, the Commission determines that the country's compliance with the entire recommendation is **pending**.

Measures and information to make progress on fulfilling the recommendation

94. To steer compliance with this recommendation, the IACHR invites the State to provide up-to-date information on the country's adjustment of the protocols governing law enforcement agencies' activities. The Commission stresses that it is crucial for the protocols to clearly establish criteria for the use of force, in line with the principles of legality, proportionality, and absolute necessity. The Commission also emphasizes that the circumstances in which the use of lethal force is authorized must be clearly defined, based on objective criteria aligned with international standards. Furthermore, for protest situations, the protocols

⁷⁵ Rio de Janeiro State Public Defender's Office, *4o relatório sobre os registros de casos de tortura e outros tratamentos ou penas cruéis, desumanos ou degradantes*, June 24, 2023.

⁷⁶ ADPF 635 is a citizen initiative to address police violence in Rio de Janeiro. It was filed with the Federal Supreme Court in November 2019 by the Brazilian Socialist Party. Broadly, the petition challenges two state government decrees that regulate Rio de Janeiro's security policy and calls for recognition of the grave human rights violations committed by the police forces in the state's favelas, as well as for implementation of specific measures to reduce fatality rates and guarantee justice for victims. Conectas Direitos Humanos, [ADPF Favelas Case: understand, in 5 points, the case in the Supreme Court to reduce police lethality in Rio de Janeiro](#), February 1, 2022.

⁷⁷ Agência Brasil (Brazil's national public news agency), [Rio: MPF recomenda redução de mortes violentas causadas por policiais](#), August 23, 2023.

⁷⁸ IACHR, [IACHR Condemns the Violent Deaths of at Least 16 People in Police Operations in Brazil](#), August 8, 2023.

must ensure respect for the right to freedom of assembly and include appropriate containment and engagement techniques.

Recommendation No. 8. Adopt whatever measures are needed to exhaustively examine and amend the protocols and guidelines used by local, state, and federal agencies, making sure that the use of racial profiling and other explicit or implicit discriminatory practices on grounds of ethnic/racial or national origin or other grounds are expressly punished.

95. In 2022, the State informed the IACHR of several measures it had adopted to promote ethnic/racial equality, especially its training of police officers and detention center staff.⁷⁹ The IACHR reiterated what it had mentioned in the country report on the structural discrimination and institutional racism that Afro-descendants have faced throughout history and noted with particular concern the systemic violence perpetrated by State agents. Furthermore, the IACHR urged the State to provide information on the measures it has adopted to exhaustively amend protocols and guidelines at all levels to ensure that discriminatory practices, whether explicit or implicit, are punished.⁸⁰

Information on compliance

96. In 2023, the State reported that a working group made up of justice system and civil society specialists had been formed under the National Justice Council, and that it had published a resolution establishing guidelines for identifying individuals in criminal proceedings and processes, to prevent misidentification. Pursuant to these guidelines, all identification proceedings must be taped. Furthermore, an investigation must find indications that an individual took part in the crime before he/she is subjected to the identification proceeding. The resolution also calls for the victim, witnesses, and individuals being investigated or prosecuted to declare their race/color in the process. According to the State, these measures are designed to minimize factors that drive structural racism and criminal justice profiling.⁸¹

97. The State also informed the IACHR that the Federal Supreme Court is hearing the case of Habeas Corpus No. 208,240, which argues the unconstitutionality of racial profiling and the concept of “reasonable suspicion” in the context of a case of an Afro-descendent victim of a racist police intervention. In addition, the State also highlighted its adoption of the National System for Promoting Racial Equality, an integrated, decentralized system designed to combat racism and promote racial equality in the country.⁸²

98. Lastly, the State mentioned that in March 2023, it launched PRONASCI 2, a national citizen security program coordinated by the MJSP. According to the State, this program aims to improve public security through cooperation among the federal government, states, the Federal District, and the municipalities, with the additional involvement of families and the community. The program focuses on preventing, controlling, and curbing crime, and promotes human rights, peace culture, disarmament, and the fight against prejudice. The priority groups include young people ages 15 to 24, vulnerable people, victims of violence, and people living in urban areas with high crime rates, with the program emphasizing the fight against organized crime.⁸³

Analysis and level of compliance with the recommendation

99. The Commission salutes the National Justice Council’s establishment of guidelines for identifying people in criminal proceedings to prevent misidentification, since as noted above, persons of African descent are often victims of multiple, aggravated forms of discrimination, especially when their ethnic/racial origin intersects with other factors like disabilities, sexual orientation, socioeconomic origin, etc. The IACHR also welcomes the information provided on the Habeas Corpus No. 208,240 case brought to argue

⁷⁹ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 92-93.

⁸⁰ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 92-93.

⁸¹ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

⁸² State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

⁸³ State of Brazil, Note No. 430 of October 20, 2023. Response to the consultation questionnaire.

the unconstitutionality of racial profiling, especially due to the high number of persons of African descent who are victims of police operations and are placed in State custody. Accordingly, the IACHR determines that compliance with this recommendation has improved to **partial**.

Measures and information to make progress on fulfilling the recommendation

100. To move towards implementation of this recommendation, the State must continue to take measures to exhaustively amend protocols and guidelines at all levels, to ensure that discriminatory practices, whether explicit or implicit, are punished. These measures may entail issuing applicable regulations or amending existing ones to introduce explicit penalties.

Recommendation No. 9. Take all necessary measures to prevent violence against LGBTI persons, as well as to investigate and punish such violence with all due diligence, regardless of whether it is perpetrated in a family setting, within the community, or in the public sphere, including educational and health establishments.

101. In 2022, the IACHR took note of the decision made by the Supreme Court of Justice to recognize that the Maria da Penha Law on preventing domestic and family violence against women is also applicable to trans women.⁸⁴ At the same time, the IACHR also highlighted its concern over the dismantling of State institutions in charge of protecting and defending the rights of LGBTI persons, which translated into an increase in acts of violence against this population group. Accordingly, the Commission invited the State to adopt measures designed to prevent and punish violence against LGBTI persons, emphasizing the need to apply the principle of due diligence and to report the results obtained.⁸⁵

Information on compliance

102. This year, the Commission did not receive information from the State on measures taken to foster compliance with the recommendation.

103. However, the Commission did learn that the Federal Supreme Court decided in August 2023 that acts of homophobia and transphobia would be prosecuted as racial insults. Information published by the same court in 2019 showed that it acknowledged the National Congress's failure to classify discrimination based on gender identity or sexual orientation as a crime. The IACHR also learned that, according to the Court, homophobia and transphobia should be classified as crimes under the Law against Racism.⁸⁶

Analysis and level of compliance with the recommendation

104. The Commission appreciates the progress made in the Federal Supreme Court case law, but emphasizes that based on information published by civil society organizations, Brazil continues to be the country with the highest rate in the world of murders of LGBTI persons, with one violent death every 34 hours.⁸⁷ Given the lack of specific information provided by the State on its compliance with this recommendation, the IACHR determines that compliance is still **pending**.

Measures and information to make progress on fulfilling the recommendation

105. To move towards compliance with this recommendation, the State will have to implement measures to prevent and punish violence against LGBTI persons, emphasizing the need to apply the principle

⁸⁴ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 98.

⁸⁵ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 98-101.

⁸⁶ Federal Supreme Court, [STF equipara ofensas contra pessoas LGBTQIAPN+ a crime de injúria racial](#), August 22, 2023.

⁸⁷ Agência de notícias da AIDS, [Brasil continua sendo o País que mais mata pessoas LGBT's no mundo, revela estudo do Grupo Gay da Bahia](#), January 21, 2023.

of due diligence. These measures may consist of: publishing laws that prohibit discrimination based on sexual orientation, gender identity, and gender expression in all spheres of life, including education, health care, and the public sphere; establishing support services for victims of anti-LGBTI violence, to include psychological counselling, legal assistance, and safe houses; keeping a record of incidents of anti-LGBTI violence and discrimination; and ensuring that these cases are adequately investigated and the perpetrators are brought to justice; training law enforcement forces on LGBTI issues; and fostering intolerance of police violence based on sexual orientation or gender identity.

Recommendation No. 10. Enforce federal legislation with a view to requiring proper training for law enforcement agents and agencies at the local level, as well as for justice operators (including judges, prosecutors, public defenders, and other state and federal court personnel), in human rights obligations regarding non-discrimination and combating implicit prejudice, along with other kinds of training to get rid of discrimination.

106. In 2022, the State did not provide specific information on compliance with this recommendation.⁸⁸ Even so, the Commission recalled the importance of implementing federal regulatory measures requiring law enforcement agents and agencies to receive training on human rights and the topics listed in the recommendation.⁸⁹

Information on compliance

107. This year, the State highlighted the activities carried out by the National Justice Council Unit for Monitoring and Supervision of the Decisions and Deliberations of the Inter-American Court of Human Rights, focused on disseminating inter-American human rights standards. It also highlighted the National Judiciary Covenant for Human Rights, which promotes a culture of human rights in the judiciary. The State also mentioned including the human rights discipline in all public competitions for entry into a career in all levels of the judiciary, emphasizing the inter-American system, adherence to conventions, and the Federal Supreme Court case law, in the terms of the human rights treaties.⁹⁰

Analysis and level of compliance with the recommendation

108. The Commission welcomes the initiatives adopted by the National Justice Council and underscores the importance of disseminating and promoting inter-American human rights standards in educating the individuals who make up the judiciary. The information submitted stands out as a sign of Brazil's commitment to promoting a culture of human rights and to implementing these standards in legal cases in the country. The Commission appreciates that including the human rights discipline in public competitions for entry into a career in the judiciary is a major step towards ensuring that future judges will be well-versed in human rights issues and familiar with the inter-American system and the relevant precedents. Consequently, the IACHR considers the State's compliance with this recommendation to be **partial**.

Measures and information to make progress on fulfilling the recommendation

109. To steer the implementation of this recommendation, the Commission reminds the State of the importance of implementing federal regulatory measures that will require law enforcement agents and agencies to receive training on human rights and the subjects indicated in the recommendation. Accordingly, the compliance measures adopted must consider all the public servants to which this recommendation refers, and, furthermore, provide for training these individuals on issues like nondiscrimination and the fight against implicit prejudices and discrimination in general.

⁸⁸ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 102.

⁸⁹ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 103.

⁹⁰ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

Recommendation No. 11. Prioritize the allocation of funds to intelligence actions needed to fight organized crime, criminal gangs, and militias, rather than to armed clashes with them. In particular, strive to track down actions by organized criminal groups, identifying their agents, above all by monitoring capital flows, business and financial transactions, movements of imports and exports triggered by them, and so on.

110. The State did not submit information to the IACHR on compliance with this recommendation for Chapter V of the IACHR 2022 Annual Report. Nonetheless, the IACHR highlighted the need for the State to prioritize the allocation of funds to bolster actions that foster intelligence on organized crime, criminal gangs, and militias.⁹¹

Information on compliance

111. In 2023, the State did not provide specific information on compliance with this recommendation. However, it did point out the National Campaign for Disarmament, which entails the voluntary surrender of arms as a way to prevent violence in the country. The State indicated that from January 1 to August 31, 2023, 7,506 firearms were surrendered, for a total value of R\$1,459,660.⁹²

Analysis and level of compliance with the recommendation

112. Given the lack of information, the Commission finds the State's compliance with this recommendation to be **pending**.

Measures and information to make progress on fulfilling the recommendation

113. The IACHR specifies that the State needs to prioritize the allocation of funds to bolster actions that foster intelligence on organized crime, criminal gangs, and militias, in the terms of the recommendation.

Recommendation No. 12. Adopt measures to revert the militarization of police institutions, including:

- Canceling programs that allow the purchase or transfer of military equipment and weapons for local police authorities.
- Federal government monitoring of the military weapons delivered to local police stations, and other measures to control the distribution of military arms; and
- Police training in the proper use of institutional (police) equipment.

114. The State did not send information on compliance with this recommendation to the IACHR for Chapter V of the 2022 Annual Report. Consequently, the IACHR invited the State to adopt the institution-building measures necessary to reverse the militarization of police departments, based on the standards indicated in the recommendation.⁹³

Information on compliance

115. The State did not provide specific information on compliance with this recommendation in 2023 either.⁹⁴

⁹¹ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 103.

⁹² State of Brazil, Note No. 430 of October 20, 2023. Response to the consultation questionnaire.

⁹³ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 103.

⁹⁴ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 102.

Analysis and level of compliance with the recommendation

116. Given the lack of information, the Commission finds the State's compliance with this recommendation to be **pending**.

Measures and information to make progress on fulfilling the recommendation

117. The IACHR invites the State to adopt the institution-building measures necessary to reverse the militarization of police departments, based on the standards indicated in the recommendation, especially with regard to transferring staff and equipment and controlling military weapons.

D. Access to justice

Recommendation No. 13. Guarantee appropriate, quick, and comprehensive reparation for all victims of police violence and their family members, including financial support, medical and psychological care, and measures to avoid revictimization.

118. In 2022, the State referred in general terms to the functions of each branch of the Republic with regard to access to justice. It also mentioned the National Strategy for Promoting Justice Policies, whose purpose was to foster interagency coordination among the MJSP and public and private organizations that directly or indirectly work to promote access to justice policies.⁹⁵ In turn, the Commission highlighted the State convictions of the perpetrators of the massacres at Unaí, Jacareí, Arcanjo, Outeiro, Via Show, and Assis, reiterating the importance of adopting measures to guarantee reparation for all victims of police violence, and for their family members.⁹⁶

Information on compliance

119. In 2023, the State indicated that in late 2022, the National Justice Council instituted the Citizen Security - Reduction of Lethal Police Violence Working Group in response to a decision made by the Federal Supreme Court in ADPF No. 635. According to the State, the Working Group is formed by judges, public defenders, prosecutors, security specialists, anthropologists, and members of civil society organizations and universities. Its mission is to study lethal police violence in the country. The State indicated that in March 2023, the Working Group submitted a report on lethal police violence in Rio de Janeiro. It also mentioned National Justice Council Resolution 253/2018, which establishes the judiciary's institutional policy for serving and supporting crime victims, to ensure they are provided with decent treatment and guidance; this policy also allocates resources to reparation for damages and staff training.⁹⁷

120. The State also highlighted its creation of the Secretariat for Access to Justice as an important framework for seeking to guarantee human rights in the sphere of justice and citizen security and explained that the Secretariat's work focuses on the country's historically vulnerable population. The State also indicated that the MJSP has been prioritizing the issue of reparation for victims of police violence and highlighted that it is receiving the Mothers of the Plaza de Mayo Movement and took action on the Genivaldo case, by dismissing the police officers involved.⁹⁸

121. In turn, information received from civil society organizations indicates that historically, access to justice for Brazil's most vulnerable groups has been gained through social movements' long, arduous battles. The organizations stated that although access to justice is a right guaranteed by the constitution, a large number

⁹⁵ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 104-106.

⁹⁶ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 107-109.

⁹⁷ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

⁹⁸ State of Brazil, Note No. 430 of October 20, 2023. Response to the consultation questionnaire.

of people who need justice are excluded from it. They also noted that civil society organizations' monitoring of cases of police brutality shows that in addition to the notorious obstacles faced in the investigation stages, the State has failed to implement public policies that would allegedly guarantee psychosocial and financial support for victims and their family members.⁹⁹

Analysis and level of compliance with the recommendation

122. According to the information provided, the State has made progress on structuring institutional measures to guarantee access to justice and address the concerning situation of lethal police violence. On the other hand, the State did not provide specific information on public policies that include financial support and medical and psychological assistance, as well as measures to prevent revictimization, for the victims of police brutality and their families. Given the lack of specific information provided by the State on compliance with this recommendation, the IACHR determines that compliance is still **pending**.

Measures and information to make progress on fulfilling the recommendation

123. For full compliance with the recommendation, the State will need to provide details on how it is deploying specific human and financial resources to guarantee appropriate, timely, and comprehensive reparation for the victims of police violence and their families. The IACHR also considers it important for the State to provide additional information on the judiciary's institutional policy with regard to the recommendation.

Recommendation No. 14. Establish independent mechanisms in cases involving police violence, that include participation by victims' next of kin, civil society representatives, ombudspersons, and other interested parties, in such a way as to ensure transparency in investigative and processing procedures, identification of potential obstacles to clarification of the facts, and the prosecution of perpetrators.

124. The State did not provide information on compliance with this recommendation for Chapter V of the 2022 Annual Report. Therefore, the Commission invited the State to establish independent mechanisms for cases of police violence to ensure transparent investigation, prosecution, and punishment processes, based on the parameters established in the recommendation.¹⁰⁰

Information on compliance

125. The State did not provide specific information on compliance with this recommendation in 2023 either.¹⁰¹

126. In turn, civil society organizations informed the IACHR that the Public Prosecutor's Office is the body responsible for the external control of police activity. They also indicated that civil or military police officers would continue to carry out the investigations that take place during the police investigation stage. They affirm that Brazil does not have an independent mechanism to guarantee transparency in all processes, and that the Public Prosecutor's Office neglects to control police activity.¹⁰²

127. The organizations also emphasized that, to a large extent, the justice system institutions lack effective operational protocols to ensure that cases of torture are investigated and racially discriminatory practices are taken into account. They indicated that the most common violations include delays in or the failure to perform forensic examinations, intimidation and agents' excessive use of force, lengthy illegal

⁹⁹ CEDECA Ceará. Response to the consultation questionnaire, September 2023.

¹⁰⁰ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 109.

¹⁰¹ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 104.

¹⁰² Conectas Direitos Humanos. Response to the consultation questionnaire, September 2023; Vladimir Herzog Institute. Response to the consultation questionnaire, September 2023.

isolation in unsanitary cubicles, and repeated acts of psychological and physical violence. In addition, the organizations stated that incarcerated women and girls also suffer violence specific to their gender and race, such as the violation of their right to maternity and sexual harassment.¹⁰³

Analysis and level of compliance with the recommendation

128. In view of the lack of information provided by the State and the information provided by civil society organizations, the IACHR determines that compliance with this recommendation is still **pending**.

Measures and information to make progress on fulfilling the recommendation

129. To steer the implementation of this recommendation, the IACHR invites the State to establish independent mechanisms in cases of police brutality to guarantee transparent investigation, prosecution, and punishment processes. The Public Prosecutor's Office needs to bolster its actions to oversee civil and military police conduct, and to thereby ensure that human rights are respected at all stages of the processes, including during investigations. The IACHR also considers it important for the State to report on the participation of the victims' next of kin, civil society representatives, Public Defender's Office representatives, and other stakeholders.

Recommendation No. 15. Adopt resolute measures to guarantee all women victims of violence and discrimination access to justice at every stage (denunciation, investigation, and judicial proceedings), including access to information in a language and socio-cultural presentation they can understand, with trained personnel to assist them, and appropriate legal counseling.

Information on compliance

130. In 2023, the State did not provide specific information on compliance with this recommendation.¹⁰⁴

131. According to National Justice Council data published in the press, from January to July 2023, 254,440 protection measures were granted throughout the country. Data from the São Paulo Court of Justice show that 43,139 were granted in the state from January to June this year, a 17.4% increase over the 36,718 granted last year. Likewise, according to the Judicial Observatory of Violence against Women in Rio de Janeiro, 19,838 protection measures were granted in that state, an 11.7% increase over the 17,753 granted in the first half of last year.¹⁰⁵

132. The IACHR also takes note of the amendment of Article 19 of the Maria da Penha Law, approved on April 19, 2023, which provides for emergency protection measures and establishes that the law is applicable regardless of the cause or motive behind the acts of violence or the subject's status as perpetrator or victim.¹⁰⁶

133. Notably, civil society organizations informed the IACHR that a concerning level of impunity persists in Brazil, exemplified by emblematic cases like the assassination of Councilwoman Marielle Franco, which jeopardized women's participation in politics. The organizations affirmed that any increase in women's political participation must be backed by specific actions to ensure they are included and protected. They indicate that this issue deepened with the recent murder of Bernadete Pacífico, quilombola leader and human

¹⁰³ CEDECA Ceará. Response to the consultation questionnaire, September 2023.

¹⁰⁴ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 104.

¹⁰⁵ CNN Brasil, [2023 tem aumento de medidas protetivas concedidas a mulheres em SP e RJ](#), August 2, 2023.

¹⁰⁶ Official Gazette of the Union, [Law 14,550](#), April 19, 2023.

rights defender who, despite having reported threats and being included in the State protection program since 2017, became a victim of the country's systemic gender violence.¹⁰⁷

Analysis and level of compliance with the recommendation

134. The Commission finds the lack of information from the State on compliance with this recommendation to be regrettable, and notes with concern the data from the National Justice Council and other judicial bodies disclosed in the press. The IACHR observes that more protective measures are being granted nationwide, including in key states like São Paulo and Rio de Janeiro; this could indicate that the country is making progress on recognizing and addressing the problem of violence against women. Furthermore, the recent amendment of Article 19 of the Maria da Penha Law, which provides for emergency protective measures, is a positive sign that the country is moving in the right direction to tackle this issue. Given this context, and despite the legislative and judicial advancements noted, the IACHR determines that compliance with this recommendation is still **pending**.

Measures and information to make progress on fulfilling the recommendation

135. The IACHR underscores that in order for Brazil to fully comply with this recommendation, it needs to establish and strengthen specialized units within the police force, prosecutor's office, and judiciary that will only handle cases of violence and discrimination against women. These units must be staffed by individuals trained in the gender perspective and human rights. In addition, the Commission considers it essential to have specific, disaggregated data on the complaints and outcomes.

Recommendation No. 16. Decriminalize offenses against honor/reputation - contempt (*desacato*), calumny, defamation, and insult - and convert them in the case of government officials or cases involving the public interest - into civil suits, in accordance with international standards and best practices in this field.

136. In 2022, the State did not send information on compliance with this recommendation. However, the Commission did learn about several proposed amendments to the law designed to decriminalize contempt, calumny, defamation, and insult, which are currently in the legislative process. It also warned about the use of the judicial system to discourage journalism and to prohibit or stop the disclosure of certain information in the public interest, even before publication. Therefore, the Commission asked the State to make progress on the initiatives to decriminalize the aforementioned offenses and to change their legal classification.¹⁰⁸

Information on compliance

137. In 2023, the State did not provide specific information on compliance with this recommendation.¹⁰⁹

Analysis and level of compliance with the recommendation

138. Concerning Brazilian laws on crimes against honor, the Commission and the SRFOE have deemed that the decriminalization of the crimes of contempt, calumny, defamation, and insult, especially in cases involving public servants or matters of public interest, and allowing for resolution in civil suits, would help protect freedom of expression and human rights in the democracy, in line with international good practices and regulations on freedom of expression. However, as the IACHR and the SRFOE have established, the laws in force in Brazil have been used to intimidate and punish journalists and individuals who are critical of the government, especially in the political sphere. Accordingly, the decision to settle, in civil suits, the

¹⁰⁷ Conectas Direitos Humanos. Response to the consultation questionnaire, September 2023.

¹⁰⁸ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 110-118.

¹⁰⁹ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 104.

aforementioned actions considered crimes associated with freedom of expression would prevent the potential abuse of the criminal justice system for repression. This measure would foster the climate of open public debate needed in democracies while promoting greater participation and public discussion due to the reduced risk of severe criminal sanctions for such offenses. Lastly, the IACHR and the SRFOE explained that this modification would align with the protection and guarantee of human rights, especially the rights to information and freedom of expression.

139. Without prejudice to the foregoing, the IACHR observes that in May 2023, the Federal Senate plenary sent a bill proposing to increase penalties for the crimes of calumny, defamation, and insult for discussion in the Committee on the Constitution, Justice, and Citizenship, where it could be voted on definitively, without the Senate plenary needing to re-evaluate it. Therefore, the IACHR determines that compliance with this recommendation is still **pending**.

Measures and information to make progress on fulfilling the recommendation

140. The State must review its criminal legislation to eliminate or decriminalize crimes against honor to comply with the recommendation. In addition, the IACHR stresses the importance of implementing education and training programs for judges, prosecutors, and law enforcement agents on the importance of freedom of expression and the inter-American standards thereon.

E. Persons of African descent

Recommendation No. 17. Design, implement, and finance state systems for gathering accurate and disaggregated data, and statistical and qualitative information, regarding the human rights situation of persons of African descent at the various levels of the federation and in areas such as health, education, judicial institutions, and others, in order to create and implement intersectional laws and appropriate public policies for addressing needs and overcoming the specific hurdles those persons face.

141. In 2022, the State informed the IACHR of measures that were being implemented to verify the percentage of persons of African descent in the states' Public Prosecutor's Offices and reported the use of affirmative actions to ensure spots in these offices. The IACHR emphasized that it did not have information on the actions taken to gather accurate, disaggregated data and qualitative statistical information that would provide an account of the human rights situation of the Afro-descendent population. It further stressed that such data is fundamental to identifying the human rights situation of the Afro-descendent population, in order to establish appropriate, comprehensive, and intersectional public policies and laws that will foster and guarantee the human rights of persons of African descent.¹¹⁰

Information on compliance

142. In 2023, the State mentioned that a working group on racial equality policies in the judiciary had been formed under the National Justice Council. This working group is primarily made up of Afro-descendent judges, and it discusses and proposes actions to combat racism in the Brazilian legal system. The State indicated that after multiple meetings, the Group had presented a report with meaningful proposals focused on transforming the institutional culture around racial issues and combating the structural racism in the judiciary. Of special note was group's investigation entitled "Black Women and Men in the Judiciary," which showed that the percentage of judges that are of African descent had increased from 6.7% in 2007 to 21% between 2019 and 2020. The State also noted that the National Judiciary Forum for Racial Equity (FONAER) was created in 2023, to guarantee racial equality in legal proceedings, and that the National Judiciary Covenant for Racial Equity, with which the judiciary commits to complying with racial equality standards and decisions,

¹¹⁰ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 119-122.

was launched in 2022. The State also asserted that from 1999 to 2023, 74.27% of the 14,924 court cases addressing crimes of racism and racial discrimination resulted in convictions.¹¹¹

143. In 2023, the State also highlighted its plan, together with the General Accounting Office of the Union, to include a commitment in the Sixth Brazilian Action Plan for Open Government to create a national IT system to form a database on Brazil's racial affirmative action policies. This database will integrate with other local systems and with data available in open format for public consultation.¹¹²

144. The State also mentioned the Open Government Partnership, an international initiative to foster and disseminate policies on government transparency, access to public information, and social participation. To join this partnership, countries submit national action plans to strengthen transparency, combat corruption, etc. The State reported that Brazil's proposal will focus on monitoring and evaluating affirmative action policies, covering issues like the inclusion of Afro-Brazilian history in school curricula and policies on quotas in education and public service. This initiative indicates that Brazil seeks to further the discussion of racial affirmative action policies and strengthen citizen participation in building them.

145. Lastly, the State pointed out that it had established a working group to develop a proposal for the Black Youth Alive Plan, which seeks to reduce violence and vulnerabilities affecting young Afro-descendants and to tackle structural racism. It indicated that it is developing an index to measure levels of vulnerability in the young Black population and to evaluate the impact of public policies. Lastly, the State also noted that national studies and data that focus on specific population groups exist, but in some cases only have registries for traditional communities.¹¹³

146. In turn, the IACHR learned that, according to the Brazilian Institute of Geography and Statistics, 55.9% of Brazil's total population of 212.7 million identifies as Black (both dark- and light-skinned). Furthermore, civil society affirms that the Brazilian Forum on Public Security Yearbook shows that despite constituting over half of the population, Black people are the primary victims of police violence, and furthermore, 72% of murder victims in the country are Black. The Yearbook figures also highlight that the young, Black prison population is disproportionately high, and accounts for the majority of victims of violent deaths.¹¹⁴

147. Civil society organizations also informed the IACHR that the Ministry for Racial Equality, whose budget was initially set at R\$91 million and then raised to R\$109.9 million for 2023, is one of the smallest departments in the current federal government. The organizations consider the country's efforts made to address racism to be minimal, given the vulnerability and violence that the Black population experienced historically and continues to face on a daily basis in Brazil.¹¹⁵

Analysis and level of compliance with the recommendation

148. Notwithstanding the progress made and measures implemented by the State, the Commission has identified critical areas that the country still needs to address in order to comply with the recommendation. Although the State has launched initiatives like the Working Group on Racial Equality Policies and FONAE, undertaken investigations like Black Women and Men in the Judiciary, and introduced the National Judiciary Covenant for Racial Equity, major gaps still persist in the availability of disaggregated data and qualitative statistics that would make it possible to perform an in-depth, exhaustive diagnostic assessment of the human rights situation of the Afro-descendent population. While the joint initiative with the General Accounting Office of the Union to create a national IT system and the inclusion of commitments in the Sixth Brazilian Action Plan for Open Government are positive steps in the right direction, they are still in their initial stages.

¹¹¹ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

¹¹² State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

¹¹³ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

¹¹⁴ CEDECA Ceará. Response to the consultation questionnaire, September 2023.

¹¹⁵ CEDECA Ceará. Response to the consultation questionnaire, September 2023.

149. Civil society stresses the prevalence of racial discrimination and violence in diverse spheres, highlighting the urgent need to strengthen mechanisms for monitoring, evaluating, and creating effective, intersectional public policies that will address the root causes behind the multiple forms of discrimination and violence that disproportionately affect the Afro-descendent population. Given the foregoing, and acknowledging the efforts and advancements made by the State without losing sight of the challenges that still remain, the Commission considers the State to have **partially complied** with this recommendation.

Measures and information to make progress on fulfilling the recommendation

150. To help the State fully comply with this recommendation, the Commission stresses the importance of expanding data collection and disaggregated statistics to all relevant spheres, not just the Public Prosecutor's Office and the judiciary. The Commission also indicates that it is essential for the State to guarantee adequate financing for the Ministry for Racial Equality and the other bodies in charge of combating racism and promoting racial equality.

Recommendation No. 18. Adopt special policies and affirmative actions to guarantee the enjoyment and exercise of the rights and fundamental freedoms of the persons or groups who are victims of racism, racial discrimination, and related intolerance, with a view to promoting equitable conditions for equal opportunities, and actions that foster the inclusion and advancement of those persons or groups. Affirmative actions should have a special focus on education and the labor market and be conducive not only to those persons' entry into the job market, but to their staying in it, as well.

151. In 2022, the State reported an increase in the number of candidates in and winners of the 2022 elections who were of African descent, thanks to policies implemented to support them. In the labor sphere, the IACHR took note of certain improvements, but indicated that Afro-descendants continue to face challenges to inclusion and wage equity. In education, the State carried out initiatives to include Afro-Brazilian history and culture in the curriculum and provide financial assistance to Afro-descendent students. At the time, it also highlighted its concern over gender equality and specific programs for women of African descent.¹¹⁶

Information on compliance

152. In 2023, the State informed the IACHR of the creation of the Interministerial Working Group to Develop the National Affirmative Actions Program, coordinated by the Ministry for Racial Equality and intended to promote equality of opportunity for persons of African descent, indigenous people, persons with disabilities, and women. The State noted that the creation of the National Program is open for civil society participation online.¹¹⁷

153. With regard to education, the State mentioned the launch of the Beatriz Nascimento Women in Science Program, as an initiative of the Ministry for Racial Equality in association with the National Council for Scientific Development, MPI, and Ministry of Women's Affairs, which will offer 45 doctorate and post-doctorate scholarships abroad to Afro-descendent, quilombola, indigenous, and Romani women, as well as language courses. The State explained that the Program is part of a broad public policy that aims to promote the presence of these groups of women at universities, and to foster their continuity there.

154. The State also cited the *Caminhos amefricanos* (American-African Paths) south-south exchange program, which aims to foster the exchange of experiences and knowledge in countries in the global south, for Afro-descendent and quilombola teachers and high-level students, with African and African diaspora countries.¹¹⁸ The State also highlighted the November 13, 2023, approval of Law 14,723/2023, which amended

¹¹⁶ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 123-129.

¹¹⁷ [Participa + Brasil](#) is a platform of the Office of the President of the Republic that promotes online participation in public policies. On September 25, 2023, 650 public consultations were made through 225,821 contributions received; State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

¹¹⁸ State of Brazil, Note No. 407 of October 5, 2023. Response to the consultation questionnaire.

Law 12,711/2012 governing entry into the country's federal public universities. According to the State, this law increases the probability that Afro-descendent, quilombola, and indigenous people will be accepted to university, and establishes that the Ministry of Education must disclose annual reports on the quota program data, among other measures.¹¹⁹

155. Lastly, with regard to the labor sphere, the State informed the IACHR that some affirmative actions are being implemented to ensure that persons of African descent can exercise and enjoy their fundamental freedoms. These laws notably include:

Ordinance 11,430/2023, which regulates the law on public bidding to guarantee that a minimum of 8% of publicly contracted positions will go to women victims of domestic violence, prioritizing women of African descent;

Ordinance 11,443/2023, which stipulates a target of a minimum of 30% of positions in the public administration going to persons of African descent by December 2025;

Law 14,553/2023, which amends the Racial Equality Statute to establish procedures and criteria for collecting data on racial and ethnic distribution in the labor market;

Renewal of the Law on Quotas in the Public Service (Law 12,990/2014), with the collaboration of several ministries, since the original law's ten-year term expires next June. According to the information provided by the State, this law establishes that 20% of vacancies in public competitions for positions in the federal public administration and related agencies must be reserved for Black people;

The Protocol of Intentions with the Rio Branco Institute, which was renewed this year to bolster the Diplomatic Vocation Scholarship Award (*Bolsa-Prêmio Vocação para a Diplomacia*) program, offering 30 scholarships to persons of African descent so they can prepare for the competition for admission to the diplomatic career track;

The collaboration with the Office of the Attorney General of the Republic (*Advocacia-Geral da União*) for the Black Careers in Public Defense program (*Trajetórias Negras na Advocacia Pública*), which seeks to promote racial equity in public legal representation in Brazil;

The protocol agreed upon by the Council for Sustainable Social and Economic Development and the Ministry for Racial Equality to promote policies that foster inclusion of the Afro-descendent population in formal jobs. This initiative focuses on creating diverse work environments and counteracting inequalities, especially in the informal sphere;

The protocol signed by the Bank of Brazil and the Ministry for Racial Equality to promote the inclusion of Afro-descendent young people and women in occupational, cultural, and entrepreneurial spheres, and to foster ethnic and gender diversity in leadership positions. This initiative aims to have a social impact, by prioritizing vulnerable sectors like Black women;

The protocol signed by the *Caixa Econômica Federal* public bank and the Ministry for Racial Equality to foster inclusive corporate climates, by promoting respect for and an appreciation of diversity at work and combating prejudices.¹²⁰

156. In its response to the IACHR, the State highlighted that on January 11, 2023, the President of the Republic enacted the new law that equates racial slurs with the crime of racism. This law stipulates that the

¹¹⁹ State of Brazil, Note No. 505 of December 21, 2023. Comments on document draft.

¹²⁰ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

penalty for racial insult can range from two to five years of imprisonment. According to the State, Congress approved the text of the law in December of last year, and racial insult is now included in the Criminal Code as racism, in the Anti-Racism Law, which also created the crime of collective racial insult.¹²¹

157. Lastly, the State indicated that it had created the Working Group to Combat Religious Racism, whose purpose is to produce a diagnostic assessment of religious racism against traditional communities of African origin, and to promote policies to combat violence and guarantee religious freedom. Notably, March 21, 2023, was established as the National Day of Traditions of African Roots and Candomblé Nations, as a way to publicize and ensure respect for these traditions.¹²²

Analysis and level of compliance with the recommendation

158. The Commission notes that the State has made meaningful efforts to adopt affirmative actions and policies to address the challenges facing the Afro-descendent population. Along these lines, the Commission considers that these affirmative actions and programs promote equality of opportunity for historically marginalized groups, and it highlights the Brazilian State's efforts to address inequalities and foster the inclusion of vulnerable groups, which is fundamental for respect for human rights and equality in society. Accordingly, the Commission appreciates the information on the enactment of the new law that equates racial slurs with the crime of racism, reinforcing the importance of combating racial discrimination in the country, and establishes harsher penalties for those crimes. The Commission also welcomes the State's initiatives to combat religious racism. Given the foregoing, the Commission considers that the State has progressed to **substantial partial compliance** with this recommendation.

Measures and information to make progress on fulfilling the recommendation

159. To guide Brazil towards full compliance with this recommendation, the Commission invites the State to continue to strengthen its affirmative actions to ensure they will guarantee that the persons and groups victimized by racism, racial discrimination, and related intolerance can enjoy and exercise their fundamental rights and liberties. In addition, the Commission suggests that the State report measures such as programs that promote the inclusion of students of African descent and from indigenous and marginalized groups at all educational levels; policies to hire and promote persons of African descent and from indigenous and marginalized groups in the public and private sectors; and monitoring and evaluation systems to measure the progress of the affirmative actions and ensure they are positively impacting equality of conditions and the progress of marginalized persons and groups, etc.

Recommendation No. 19. Bolster policies to reduce crime that pursue a comprehensive and intersectional approach, addressing factors associated with ethnic/racial origin and which heighten the risk of violent death, including poverty, sexual orientation and identity, and/or gender expression.

160. In Chapter V of the 2022 Annual Report, the State reported that the MJSP was acting on the citizen security pillar to reduce violence and lethal violence but did not provide specific information on compliance with this recommendation.¹²³ In turn, the Commission reiterated the need to prevent and eradicate acts of institutional violence linked to patterns of racial discrimination against persons of African descent, addressing factors associated with ethnic/racial origin that increase the risk of violent death. In particular, the Commission pointed out the importance of amending the protocols and guidelines used by local, state, and federal agencies, to ensure that the use of racial profiling and other explicit or implicit discriminatory practices is expressly punished.¹²⁴

¹²¹ State of Brazil, Note No. 407 of October 5, 2023. Response to the consultation questionnaire.

¹²² State of Brazil, Note No. 407 of October 5, 2023. Response to the consultation questionnaire.

¹²³ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 133-139.

¹²⁴ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 133-139.

Information on compliance

161. In 2023, the State informed that Commission that, to address the Black movement's historic concern over the high homicide rate of Afro-descendent young people ages 15 to 29, the federal government plans to launch the Black Youth Alive Plan. According to the State, this plan seeks to ensure that public policies focus on the most violent areas where young Afro-descendants are the most vulnerable, to reduce the rates of violence involving this group. The State also cited Ordinance 11,444/2023, which created an interministerial working group to create the aforementioned Plan. It indicated that during the development of the Plan, "participative motorcades" were held in all of the state capitals to collect the demands of the young Afro-descendent population.¹²⁵

162. The State also pointed out the training courses it held for agents of the Federal Highway Police, on antidiscrimination law and racism in the profession's human rights discipline.¹²⁶

163. In turn, the Commission learned that, according to the Brazilian Forum on Public Security's 2023 Annual Report, 76.5% of persons who suffered violent deaths in Brazil were Afro-descendants. Along the same lines, persons of African descent are also the primary victims of violence caused by police brutality (83.1% of the total number of victims of police operations).¹²⁷

Analysis and level of compliance with the recommendation

164. The data presented above reveals the concerning circumstances in Brazil surrounding violence and its interaction with ethnic/racial factors. The lack of specific data on how these policies effectively address intersectional factors, like poverty, sexual orientation, and gender identity, along with ethnic/racial origin, in reducing rates of violence, is alarming.

165. According to the statistics, 76.5% of persons who suffered violent deaths and 83.1% of victims of police violence were Afro-descendants in 2023. Clearly, this crisis calls for more focused, strategic attention from the State. Therefore, the IACHR determines that compliance with this recommendation continues to be **pending**.

Measures and information to make progress on fulfilling the recommendation

166. To steer compliance with this recommendation, the Commission respectfully asks the State to continue reporting the policies it implements to reduce crime with a comprehensive, intersectional approach that addresses factors related to ethnic/racial origin that exacerbate the risk of violent death. These factors include, for example, poverty, sexual orientation, and gender identity. The State must also ensure that these policies are developed with a comprehensive, intersectional approach that will positively impact crime reduction.

F. Indigenous peoples and traditional quilombola communities

Recommendation No. 20. Build the institutional capacities of the bodies responsible for drawing up social and territorial policies relating to indigenous and quilombola peoples, including the National Colonization and Agrarian Reform Institute (INCRA) and the National Foundation for the Indigenous (FUNAI), and endow them with both resources and financial execution capacity.

167. In 2022, the State did not provide information on compliance with this recommendation. Even so, the Commission expressed concern over dismantling the legal frameworks and institutions that advocate

¹²⁵ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

¹²⁶ State of Brazil, Note No. 430 of October 20, 2023. Response to the consultation questionnaire.

¹²⁷ Brazilian Forum on Public Security, [17 Brazilian Yearbook of Public Security 2023](#).

for the rights of indigenous peoples. In addition, there are reports that the capacities of national agencies like the National Foundation for the Indigenous (FUNAI) and the Brazilian Institute of the Environment and Renewable Natural Resources (IBAMA) have been gradually reduced over the past few years, leaving indigenous and quilombola peoples without services and assistance. Consequently, the IACHR urged the State to strengthen and ensure the long-term continuity and stability of the institutions that ensure the protection of indigenous and quilombola persons.¹²⁸

Information on compliance

168. In 2023, the State informed the Commission that in order to strengthen FUNAI, the MPI and the Ministry of Management and Innovation are holding dialogues with it.¹²⁹ Likewise, among the measures taken, the State highlights the authorization of a public competition to fill 502 positions and the adoption of a one-time provision of R\$146.7 million for the FUNAI budget.¹³⁰ As for the National Colonization and Agrarian Reform Institute (INCRA), the State highlighted the resources forecasted for hiring, via public competition, 742 persons.¹³¹

169. With regard to the regularization of quilombola lands, the State highlighted the *Programa Aquilomba Brasil* initiative (Ordinance 11,447/2023) established at the Ministry for Racial Equality in coordination with the Ministry of Agrarian Development and Family Farming (MDAAF), to guarantee access to the land and territory. The State reported that the National Plan for Quilombola Land Titling was developed to create a national agenda for land titling, establishing criteria for prioritizing the backlogged processes open with the INCRA. The State also reported that it had created a Procurement Alternatives Group under the MDAAF/INCRA to expand the capacity for obtaining land through the execution of debts with public banks, regularization of public lands, and enforcement of judgments against slave-labor properties.¹³²

170. On land use, the State cited Ordinance 11,688/2023, resuming the Technical Chamber on Land Use, which focuses on prioritizing public policies on conservation and social use of the land. According to the State, the new legislation aims to recognize the right of indigenous peoples and quilombola communities over lands they traditionally occupy, and to guarantee the conservation and sustainable use of natural resources.¹³³

171. In this respect, the State emphasized that, over the years, it has been consolidating the policy of recognizing territories traditionally occupied by indigenous peoples and quilombola communities, except for in 2019 and 2022 when the recognition processes and policies focused on these groups were halted. According to the State, in an effort to tackle the backlog that has built up over the past few years, in 2023 it created a task force to resume the land titling processes. This year alone, 3,723 families benefited, in Minas Gerais, Sergipe, Bahia, Espírito Santo, Mato Grosso, Pernambuco, and Roraima. Lastly, the State spotlighted its guarantee that quilombola groups would participate in this work with the federal government.¹³⁴

Analysis and level of compliance with the recommendation

172. Based on the information received, the Commission considers that the measures adopted are geared towards building FUNAI's and INCRA's institutional capacities, as recommended. The Commission salutes the major initiatives adopted by the State to make progress on working through the backlog of processes open with the INCRA and to expand the capacity for obtaining land, as indicated. The actions taken with a view to guaranteeing land rights for quilombola communities, especially the creation of a task force, demonstrate the State's intention to confirm the rights of these communities.

¹²⁸ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 140-144.

¹²⁹ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

¹³⁰ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

¹³¹ State of Brazil, Note No. 407 of October 5, 2023. Response to the consultation questionnaire.

¹³² State of Brazil, Note No. 407 of October 5, 2023. Response to the consultation questionnaire.

¹³³ State of Brazil, Note No. 407 of October 5, 2023. Response to the consultation questionnaire.

¹³⁴ State of Brazil, Note No. 407 of October 5, 2023. Response to the consultation questionnaire.

173. In view of the foregoing, the IACHR considers that the measures adopted on titling indigenous and quilombola lands constitute progress in compliance with this recommendation, and therefore, it determines that compliance with this recommendation has advanced to **partial**.

Measures and information to make progress on fulfilling the recommendation

174. To steer compliance with this recommendation, the IACHR invites the State to continue implementing measures to institutionally strengthen the agencies responsible for regularizing and titling indigenous and quilombola lands in Brazil, guaranteeing the continuity of their work and the stability of their material and human resources.

Recommendation No. 21. Mainstream an intercultural approach in government development policies that includes recognition and incorporation of the economic and social development plans pursued by indigenous peoples in their respective ancestral territories.

175. For the follow-up report published in Chapter V of the 2022 Annual Report, the IACHR had noted the State's information on projects executed by the National Secretariat on Policies for Promoting Racial Equality to promote entrepreneurship and family farming in traditional communities. Nevertheless, the IACHR also observed that the policies for serving indigenous peoples were being weakened, due to budget cuts.¹³⁵ The IACHR therefore invited the State to report on how the programs adopted to date recognize and incorporate the indigenous peoples' own priorities and plan for development in the different spheres, guaranteeing their right to self-determination.¹³⁶

Information on compliance

176. In 2023, the State reported that establishing the Ministry of Indigenous Peoples (MPI) in January 2023 represented a significant step towards incorporating indigenous perspectives in the Brazilian government's social and development policies. According to the State, the creation of this ministry leads to an intercultural approach in preparing economic and social development plans and initiatives. In order to maintain an ongoing dialogue with various Brazilian government bodies, the MPI participates in diverse Brazilian deliberative bodies, such as the National Council for Sustainable Rural Development, National Housing Council and the My House, My Life program, the National Council on Drug Policy, the National Council on the Rights of Children and Adolescents, etc. The State also indicated that the National Council on Indigenist Policy was established within the MPI in April 2023, as a deliberative advisory body in charge of developing and supervising implementation of the public policies targeting indigenous peoples. Representatives of various ministries, indigenous organizations, and civil society organizations participate in this Council.

177. The State also informed the IACHR that the federal government participated in the Yanomami and Yekuana Leadership Forum, held in July 2023, to present a project to monitor mercury pollution on Yanomami indigenous lands, in compliance with the Territorial and Environmental Management Plan Consultation Protocol.

178. Lastly, in the education sphere, the State emphasized that the Secretariat for Continuing Education, Youth and Adult Literacy, Diversity, and Inclusion has been developing programs to provide support for building indigenous schools and improving their infrastructure, by fostering the water supply, basic sanitation, food, transportation, and small renovations, as well as programs to support early and continuing education offerings for teachers.¹³⁷

¹³⁵ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 143.

¹³⁶ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 147.

¹³⁷ State of Brazil, Note No. 407 of October 5, 2023. Response to the consultation questionnaire.

Analysis and level of compliance with the recommendation

179. As indicated above, the Commission considers the creation of the MPI to be a major step forward in terms of the institutional underpinning of human rights and, consequently, for protecting the rights of Brazil's indigenous peoples. Along these lines, the IACHR appreciates the creation of a deliberative advisory body that will address indigenous issues within the scope of the federal executive branch and welcomes the education policies focused on indigenous persons. In view of the above, the Commission considers these findings to move compliance with this recommendation to **partial**.

Measures and information to make progress on fulfilling the recommendation

180. To steer compliance with this recommendation, the Commission reminds the State of the importance of continuing to strengthen the institutional underpinning of human rights, specifically, the institutions responsible for guaranteeing the rights of indigenous peoples in Brazil, by applying an intercultural approach and taking into account their priorities in creating and implementing public policies.

Recommendation No. 22. Adopt legislative, administrative, or other necessary measures to carry out, within a reasonable period of time, consultation with indigenous peoples and quilombola tribal communities to obtain their free, prior, and informed consent to policies, projects, and actions, including projects for the exploitation of natural resources that affect them, in accordance with international human rights standards and with the full participation of those peoples and communities. Accordingly, take measures to reconcile the consultation and consent protocols executed by the indigenous and quilombola peoples.

181. The State did not provide the IACHR with information on compliance with this recommendation for Chapter V of the 2022 Annual Report.¹³⁸ Nonetheless, the IACHR reiterated its concern over various bills that could entail setbacks for the human rights of indigenous peoples in Brazil, by allowing or easing the requirements for mining, energy, and other projects on indigenous lands; restricting the demarcation of indigenous lands; and even disregarding International Labour Organization Convention 169 on Indigenous and Tribal Peoples. These concerns were also brought up by civil society and indigenous peoples' organizations during the IACHR 185th Period of Sessions.¹³⁹

Information on compliance

182. In 2023, the State informed the Commission that the National Indigenous Territorial and Environmental Management Policy Management Committee, created in 2012, had been reinstated. The State specified that this is a governance body with social participation, in which the main demands and proposals are discussed in light of the government's new indigenous policy, which has important structures led by representatives of the indigenous peoples.¹⁴⁰

183. The State reported that IBAMA participates in the environmental licensing processes to prevent, mitigate, and/or offset the socioenvironmental impacts of entrepreneurial projects. In the evaluation process, three types of impacts are assessed: physical, biotic, and socioeconomic. In each specific case, IBAMA takes actions to assess the impacts, including, for example, public hearings and technical meetings, where the communities impacted by the enterprises can be heard. The State specified that it aims to pay particular attention to the more vulnerable populations, like the indigenous peoples and quilombola communities. It indicated that, in these cases, IBAMA consults FUNAI and INCRA when indigenous peoples or quilombola communities, respectively, are adversely affected. The State further noted that in cases of projects or initiatives in which human rights violations are verified, IBAMA orders the developer to complete environmental

¹³⁸ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 148.

¹³⁹ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 149.

¹⁴⁰ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

education and social communication programs, in which they are clearly informed of the rights of the impacted individuals.¹⁴¹

Analysis and level of compliance with the recommendation

184. The Commission welcomes the 2023 resumption of the Brazilian Policy for Territorial and Environmental Management of Indigenous Lands and the measures adopted by IBAMA in the environmental licensing processes, especially in cases in which indigenous and quilombola persons are impacted. It underscores that, based on relevant consolidated inter-American precedent, the indigenous and quilombola persons affected by a project or initiative must be involved at all stages of the licensing process, through culturally appropriate proceedings, and furthermore, they must give their free, prior, and informed consent for the construction.¹⁴²

185. Given the need for a process that offers broad guarantees for protecting the rights of indigenous and quilombola persons in environmental licensing and based on the applicable information provided by the State, the IACHR considers State compliance with this recommendation to be **pending**.

Measures and information to make progress on fulfilling the recommendation

186. To steer compliance with this recommendation, the IACHR reiterates the indications it made in the 2022 Annual Report, in which it considered it necessary to have information on the measures adopted by the State to implement the right to consultation and for the consultation and consent protocols developed by the indigenous peoples and quilombola communities to be standardized and aligned with inter-American standards on the matter. The Commission underscores that execution of these consultation protocols and other similar initiatives is based on the right of indigenous and tribal peoples to decide how they wish to exercise ownership of their rights, in connection with their own free self-determination. Accordingly, the IACHR invites the State to take these proposals and initiatives into consideration, as part of a broad, inclusive dialogue with these population groups, in connection with the guarantee of the right to consultation and free, prior, and informed consent.

Recommendation No. 23. Revise the regulations governing the granting of environmental permits or licenses, in such a way as to guarantee that the State complies with its international obligations to consult indigenous and quilombola peoples to obtain their free, prior, and informed consent before taking steps that may impair their rights.

187. The State did not submit information to the IACHR on compliance with this recommendation for the 2022 follow-up report.¹⁴³ However, the Commission reported that it had learned of the publication of a normative instruction signed by IBAMA and FUNAI in December 2022 that allows logging on indigenous lands by indigenous organizations as well as nonindigenous persons through mixed organizations. This measure was not consulted with the representatives of the indigenous peoples. The IACHR also indicated that allowing mixed agencies to manage these lands would violate the indigenous peoples' exclusive use of the soils, rivers, and lakes on their lands.¹⁴⁴

Information on compliance

188. In 2023, the State informed the IACHR that the MPI had made contact with the indigenous peoples for them to participate in the prior, free, and informed consent process for projects that are ongoing or being prepared, including the: (i) renewal of the Belo Monte hydropower station operating license; (ii) environmental license for the BR 319 highway; (iii) Ferrogrão railroad (EF-170); (iv) contracts to sell

¹⁴¹ State of Brazil, Note No. 407 of October 5, 2023. Response to the consultation questionnaire.

¹⁴² Inter-American Court of Human Rights. [Cuadernillo de Jurisprudencia de la Corte Interamericana de Derechos Humanos No. 11 – Pueblos Indígenas y Tribales](#), pars. 133-134.

¹⁴³ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 151-152.

¹⁴⁴ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 151-152.

carbon credits on indigenous lands; (v) Biodiversity Action Plan; and (vi) environmental license for the BR 242 highway.¹⁴⁵

189. Despite the prior measures reported, civil society organizations informed the IACHR that the Brazilian State continues to adopt measures that negate the right to consultation and aim to facilitate the authorization of development projects that will have socioenvironmental impacts.¹⁴⁶ They indicate that the Belo Monte and Belo Sun cases show that the Brazilian environmental bodies have not adopted effective protection measures nor guaranteed indigenous peoples their right to be consulted during the environmental licensing process.¹⁴⁷ They also affirm that the Federal Senate is studying Draft Law 2159/2021, which allows the concession of environmental licenses, even when the activities under review will affect demarcated indigenous lands, areas titled to remaining quilombola communities, and areas home to isolated indigenous peoples, without the indigenous and quilombola peoples having participated or been consulted in the process.¹⁴⁸

Analysis and level of compliance with the recommendation

190. The Commission welcomes the information on the MPI's work to promote consultation processes. At the same time, it emphasizes that it has not received specific, up-to-date information on these ongoing environmental licensing processes for development projects that will directly affect indigenous peoples. Furthermore, it is concerned about the information it has received from civil society on the adoption of measures that do not entail holding consultations. Therefore, the IACHR considers compliance with this recommendation to be **pending**.

Measures and information to make progress on fulfilling the recommendation

191. To steer compliance with this recommendation, the Commission respectfully suggests that the State provide information on how environmental licensing regulations have been reviewed to ensure they adhere to international obligations and standards on consultation and consent, before adopting measures that could impair rights.

Recommendation No. 24. Adopt all necessary measures to implement or strengthen systems for oversight and control over exploration, extractive, and development activities in a manner consistent with international human rights obligations.

192. In 2022, the State did not provide any information on compliance with this recommendation.¹⁴⁹ The IACHR reiterated its concern over the reported social, cultural, and environmental impacts of several mining, hydropower, and other types of projects that have affected indigenous territories, as reflected in its Brazil report. It also stressed the need to have information on the systems for supervising and controlling these types of activities, and on the outcomes thereof.¹⁵⁰

¹⁴⁵ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

¹⁴⁶ Interamerican Association for Environmental Defense. Response to the consultation questionnaire, September 15, 2023.

¹⁴⁷ According to the Interamerican Association for Environmental Defense, for over 10 years, the Belo Monte hydroelectric power plant has been authorized in the environmental licensing process without the peoples directly impacted by these measures being guaranteed their right to consultation; these measures continue to cause harm to indigenous and riverine peoples and violate their human rights. Interamerican Association for Environmental Defense. Response to the consultation questionnaire, September 15, 2023. The Canadian Belo Sun Mining Corporation's Volta Grande project is the country's largest open-pit gold mine. This company did not respect the right of indigenous peoples and other affected traditional communities to free, prior, and informed consent, and did not submit an environmental impact study on the indigenous communities that live outside the demarcated indigenous lands. Interamerican Association for Environmental Defense. Response to the consultation questionnaire, September 15, 2023.

¹⁴⁸ Interamerican Association for Environmental Defense. Response to the consultation questionnaire, September 15, 2023.

¹⁴⁹ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 154.

¹⁵⁰ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 155.

Information on compliance

193. In 2023, the State informed the Commission that the IBAMA and other public bodies had intensified their inspections in indigenous lands. From January 1 to August 24, 458 inspections were carried out, 223 notifications were issued, R\$66,404,225 in fines were levied in notices of violation, 219 seizures and 144 demolitions were carried out, and 72 indigenous lands were inspected. The State also highlighted the evictions of nonindigenous persons, the fight against mining on the Yanomami indigenous land, and its “environmental diagnostic assessment” in seven indigenous lands, in compliance with ADPF No. 709.¹⁵¹

194. The State described its efforts to defend indigenous territorial and environmental rights through intersectoral coordination via the Interministerial Committee for the Removal of Intruders on Indigenous Lands (*Comitê Interministerial de Desintrusão de Terras Indígenas*), under the MPI. As for the licensing and environmental impact assessment processes, the State affirmed that IBAMA determines if projects comply with the socioenvironmental programs designed to mitigate their impacts, taking human rights into account.¹⁵²

195. For the Ministry for Racial Equality, this recommendation is directly related to the environmental racism that impacts the Afro-descendent populations, especially quilombola and peripheral communities, who are adversely affected by and face outsize consequences from the environmental impacts of real estate development and/or disasters. The State underscores that the National System for Promoting Racial Equality includes elements that can help address the ramifications of these circumstances.¹⁵³

196. On the other hand, civil society organizations affirm that the Belo Monte and Belo Sun cases show that the Brazilian State has not adopted effective measures to comply with its human rights due diligence obligations for extractive and development activities, especially when private companies carry out such activities. They indicate that the Brazilian State has not implemented measures to strengthen oversight bodies and procedures and that its conduct has been regressive, insofar as it has maintained legal regulations that make it easier to grant licenses, and has officially aligned itself, through its agencies, in support of technically questionable projects that entail grave risks of impacting traditional peoples.¹⁵⁴

Analysis and level of compliance with the recommendation

197. The Commission appreciates the increase in inspections on indigenous lands by IBAMA and other agencies, the adoption of specific measures like the eviction of nonindigenous people from indigenous lands, the fight against mining in specific areas, and the performance of environmental diagnostic assessments. It also considers the establishment of the Interministerial Committee for the Removal of Intruders on Indigenous Lands to be a step forward that reinforces intergovernmental actions. As noted by the Ministry for Racial Equality, Afro-descendent communities are disproportionately affected by extraction and exploration activities, which suggests that the State’s approach may not be broad or inclusive enough. In view of this, the Commission considers that the State has progressed to **partial compliance** with this recommendation.

Measures and information to make progress on fulfilling the recommendation

198. With a view to steering compliance with this recommendation, the IACHR invites the State to continue making progress on its compliance measures and to report specifically on the scope of the supervision and control systems for these types of activities. The IACHR also invites the State to provide information on the

¹⁵¹ State of Brazil, Note No. 367 of September 14, 2023. Response to the consultation questionnaire.

¹⁵² The State indicated that when impacts on indigenous or quilombola peoples are identified in environmental licensing processes, the agencies responsible (FUNAI and INCRA) activate their procedures. IBAMA also participates, ordering the project leader to complete a social communication and environmental education program, in which the rights of the impacted individuals must be clearly explained. State of Brazil, Note No. 367 of September 14, 2023. Response to the consultation questionnaire.

¹⁵³ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

¹⁵⁴ Interamerican Association for Environmental Defense. Response to the consultation questionnaire, September 15, 2023.

results obtained from these systems and on how they have been useful for safeguarding the human rights of the indigenous peoples affected, in practice, by such activities.

Recommendation No. 25. Guarantee access to justice and reparation for violations of the human rights of indigenous and quilombola peoples committed in connection with natural resource mining (extractive), exploration, and exploitation activities.

199. In the most recent follow-up report to the Brazil Country Report, the IACHR took note of the lack of information provided by the State, and reiterated its concern over how the tapping of natural resources impacts the rights of indigenous peoples and affects their lands, cultures, and sacred sites, as well as its concern over the threats to indigenous peoples' lives and integrity derived from the social unrest caused by these activities.¹⁵⁵

Information on compliance

200. In 2023, the State informed the Commission that National Justice Council Resolution 489 updated the makeup and name of the specialized forum for following indigenous cases in the judiciary (*Fórum Nacional do Poder Judiciário para Monitoramento e Efetividade das Demandas Relacionadas aos Povos Indígenas* (FONEPI)).¹⁵⁶ The State indicates that it is FONEPI's responsibility to facilitate the listing of lawsuits involving indigenous persons and communities; monitor the progress of these lawsuits; propose, to the National Justice Council, implementation of specific measures and improvement of procedures; organize training sessions for representatives of the judiciary and other public authorities; and perform studies, etc.¹⁵⁷

201. Along these lines, the State highlighted the creation, through National Justice Council Resolution 490, of FONAER, responsible for making it possible to implement and modernize routines, organize, specialize, and structure the competent judiciary bodies to ensure racial equity.¹⁵⁸

202. As part of the United Nations International Decade of Indigenous Languages (2022-2032), the State highlighted the launch, by the judiciary and the National Justice Council, of the first Brazilian Constitution translated into an indigenous language (Nheengatu). The document was translated by a group of 15 bilingual indigenous persons from the Alto Rio Negro and Médio Tapajós regions.¹⁵⁹

203. The State also highlighted the establishment of the Cooperative Traveling Justice Program in the Legal Amazon, whose purpose is to expand the actions of the judiciary and other government institutions in the Amazon, a region in which it is difficult to move between certain areas and municipalities. According to the State, this program has three separate areas of action (environmental, access to justice and citizenship, and data collection), and it makes it possible for complaints in areas with a scant State presence and high volume of legal disputes to be settled in a single lawsuit. The State reported that, in July 2023, during the first round of the program, approximately 700 persons were served and were able to resolve labor, environmental, and pension issues, as well as to obtain documents and medical and dental services.¹⁶⁰

204. The State added that it had created the Conflict Prevention General Coordinating Office, which proposed to establish an interministerial working group on access to justice and citizen security in preventing violence in conflicts in the countryside and city.¹⁶¹

¹⁵⁵ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 158.

¹⁵⁶ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

¹⁵⁷ State of Brazil, Note No. 407 of October 5, 2023. Response to the consultation questionnaire.

¹⁵⁸ State of Brazil, Note No. 407 of October 5, 2023. Response to the consultation questionnaire.

¹⁵⁹ State of Brazil, Note No. 407 of October 5, 2023. Response to the consultation questionnaire.

¹⁶⁰ State of Brazil, Note No. 407 of October 5, 2023. Response to the consultation questionnaire.

¹⁶¹ State of Brazil, Note No. 430 of October 20, 2023. Response to the consultation questionnaire.

205. Lastly, the State specified that, on May 10, 2023, the federal government sent Message 209/2023 to the National Congress, regarding delivery of the text of the Regional Agreement on Access to Information, Public Participation, and Access to Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), signed in New York on September 27, 2018. The State also highlighted the creation of the Sales Pimenta Technical Working Group, responsible for various actions associated with the national protection program for defenders.¹⁶²

Analysis and level of compliance with the recommendation

206. The Commission salutes the State's creation of FONEPI and FONAER as initiatives to promote indigenous peoples' access to justice as well as racial equity in the judiciary. It also considers the publication of the indigenous language translation of the Federal Constitution to be an essential way to enable indigenous peoples to access the State's most important regulatory document. Nevertheless, the Commission emphasizes that it did not receive specific, concrete information on access to justice and reparation for indigenous and quilombola peoples who are victims of extractive activities and the tapping of natural resources. In view of this, the IACHR considers compliance with this recommendation to still be **pending**.

Measures and information to make progress on fulfilling the recommendation

207. To steer compliance with this recommendation, the IACHR invites the State to submit relevant, up-to-date, accurate information on the measures adopted to guarantee indigenous and quilombola peoples access to justice and reparation for the violations of their human rights, specifically in the context of activities to extract and tap natural resources. These measures may consist of institution building, public policy actions, or adopting regulations that foster programs to promote access to justice and reparation, as well as specific cases in which both rights are guaranteed.

Recommendation No. 26. Investigate, punish, and make reparation for threats, attacks, and violence against members of indigenous and quilombola peoples perpetrated by State or private sector agents in connection with actions to defend the environment or in other contexts, including the "Caarapó Massacre" case and other cases mentioned in this Report.

208. In 2022, the IACHR did not receive information from the State on investigations into the cases mentioned in the Report.¹⁶³ The IACHR reaffirmed that it remained especially concerned about the threats and violence that indigenous peoples face when they defend the environment or make territorial claims, and it spoke out against the increase in violence perpetrated against these populations in connection with the general elections in the country.¹⁶⁴

Information on compliance

209. In 2023, the State clarified that the MPI does not have the authority to investigate, prosecute, or punish the individuals responsible for the acts of violence against indigenous peoples, nor to indemnify the victims.

210. It also highlighted the creation of the Coordinating Office for Promoting Indigenous Transitional Justice under the MPI's Department for Coordinating and Promoting Indigenous Rights, which has been promoting discussion on reviving the proposal to create the National Indigenous Truth Commission in

¹⁶² State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

¹⁶³ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 161.

¹⁶⁴ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 160-164.

Brazil, to foster the investigation of human rights violations against indigenous peoples and reparation for them.¹⁶⁵

Analysis and level of compliance with the recommendation

211. The Commission congratulates the State for its intention to set up a National Indigenous Truth Commission. However, it emphasizes that it has not received specific information on the measures adopted to investigate, prosecute, and punish the individuals responsible for violating the human rights of the indigenous and quilombola peoples, as recommended. Therefore, the IACHR determines that State compliance with this recommendation continues to be **pending**.

Measures and information to make progress on fulfilling the recommendation

212. To steer compliance with this recommendation, the IACHR needs the State to provide specific information on the measures it has adopted to investigate, punish, and make reparation for the acts specified in the recommendation, as well as on the outcomes of those measures over time.

Recommendation No. 27. Take resolute steps to put an end to the impunity surrounding human rights violations committed in connection with illegal businesses or activities against indigenous and quilombola peoples, by conducting exhaustive and independent investigations, ensuring that the perpetrators and instigators are punished, and making reparation to the individual and collective victims.

213. The State did not provide the IACHR with information on compliance with this recommendation for Chapter V of the 2022 Annual Report.¹⁶⁶ However, the IACHR addressed the extremely serious nature of the circumstances faced by indigenous peoples resulting from the infringement of their rights due to illegal mining, deforestation, the loss of their ancestral territories, increased violence around their settlements, the killing of their populations, violence against indigenous women and girls, and impunity in cases of human rights violations. The IACHR also insisted that it needed information on measures to investigate, punish, and make reparation for human rights violations resulting from these illegal activities.¹⁶⁷

Information on compliance

214. In 2023, the State informed the Commission that Draft Law 3025/2023 had been submitted to Congress. This bill stipulates regulations to control the origin, purchase, sale, and transportation of gold throughout the country. The State further indicated that this bill aims to reformulate the rules governing the trade and transportation of gold, by proposing to eliminate the presumption of good faith in the verification of the metal's origin, and to make electronic invoices mandatory in buy and sell transactions, among other measures.¹⁶⁸

Analysis and level of compliance with the recommendation

215. With regard to the issue of impunity addressed in the recommendation, the IACHR took note, in a press release, of the creation of a joint working group on implementation of Precautionary-Measure MC-449-22 in favor of Bruno Araújo Pereira, Dom Phillips, and 11 members of the Union of Indigenous Peoples of the Javari Valley (UNIVAJA). The working group is the result of a joint proposal by the State of Brazil, the beneficiaries, and their representatives, and was agreed upon at a working meeting

¹⁶⁵ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

¹⁶⁶ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 166.

¹⁶⁷ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 166-170.

¹⁶⁸ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

held with the parties on July 31, 2023.¹⁶⁹ The IACHR will support and supervise the joint working group's work as a way to fulfill the aforementioned precautionary measure.

216. The Commission welcomes the aforementioned investigation strategies geared towards coordinated progress on cases of human rights violations committed against the indigenous and quilombola peoples in connection with businesses or illegal activities. Accordingly, the IACHR determines that the State's compliance with this recommendation is **partial**.

Measures and information to make progress on fulfilling the recommendation

217. To move towards full compliance with this recommendation, the State must inform the Commission of the systematic measures it adopts to put an end to impunity for human rights violations committed against indigenous peoples. Accordingly, the IACHR invites the State to report the results obtained from these investigations, the punishments imposed, and the individual and collective outcomes thereof.

Recommendation No. 28. Adopt whatever measures are needed to revise and amend provisions, court orders, and guidelines (including the Timeframe and Suspension of Security [*Marco Temporal e Suspensão da Segurança*] thesis) that are incompatible with international standards and obligations regarding the rights of indigenous peoples to their lands, territories, and natural resources, as well as other human rights of indigenous peoples.

218. In 2022, the State did not submit information to the IACHR on compliance with this recommendation.¹⁷⁰ The IACHR reiterated the existing contradiction between the timeframe or "cutoff date" thesis and international and inter-American human rights standards on indigenous peoples' collective property, as well as with inter-American case law on the indigenous and tribal peoples' intrinsic connection with their lands.¹⁷¹ It also emphasized the importance of resuming the case of the Xokleng people's territorial claim before the Federal Supreme Court, which will serve as a precedent for deciding hundreds of land demarcation lawsuits and the applicability of the cutoff date thesis.¹⁷²

Information on compliance

219. In 2023, the State sent the Commission information from the MPI affirming that Draft Law 2903/2023, currently being processed by the Federal Senate, is not expected to be passed.¹⁷³ The State reported that this bill is designed to make Article 231 of the Federal Constitution operative, to provide for the recognition, demarcation, use, and management of indigenous lands.¹⁷⁴

220. The IACHR learned that in September 2023, the Federal Supreme Court sitting en banc ruled that the demarcation of indigenous lands did not depend on if the communities had been living in or disputing the area on the date on which the Federal Constitution of 1988 was enacted, thereby rejecting the "cutoff date" thesis.¹⁷⁵ That said, the Commission also notes with concern that the Federal Senate has approved the bill that takes up this issue once again (Draft Law 2903/2023) and would extensively modify the country's legislation

¹⁶⁹ IACHR. Press release. [Brazil: IACHR reports creation of the Joint Working Group on implementation of precautionary measures in favor of Bruno Araújo, Dom Phillips, and members of UNIVAIA](#), August 11, 2023.

¹⁷⁰ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 171.

¹⁷¹ Inter-American Court of Human Rights. Case of the Yakye Axa Indigenous Community v. Paraguay. Merits, Reparations, and Costs. Judgment of June 17, 2005. Series C No. 125; Inter-American Court of Human Rights. Case of the Mayagna (Sumo) Awas Tingni Community v. Nicaragua. Merits, Reparations, and Costs. Judgment of August 31, 2001. Series C No. 79.

¹⁷² IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 171-172.

¹⁷³ According to information from the Brazil Indigenous Peoples' Association (*Associação dos Povos Indígenas do Brasil*, APIB), this bill would make the cutoff date thesis into law. It would also authorize anyone to question the indigenous land demarcation process, even for lands that have already been demarcated, and would therefore encourage illegal landholding. APIB, [Senado aprova PL do Marco Temporal. Apib cobra veto de Lula e STF encerra julgamento](#), September 27, 2023.

¹⁷⁴ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

¹⁷⁵ Federal Supreme Court. News. [STF derruba tese do marco temporal para a demarcação de terras indígenas](#), September 21, 2023.

on the rights of indigenous peoples. According to the text of this bill, the indigenous lands that were not traditionally and productively occupied by indigenous peoples would no longer be considered demarcated. The bill will now be passed to the President of the Republic, who will approve or veto it.¹⁷⁶

221. Lastly, the IACHR learned that civil society organizations consider compliance with the recommendation still pending since the “security suspension” mechanism remains in force in Brazil, hampering suits involving indigenous and other traditional peoples.¹⁷⁷

Analysis and level of compliance with the recommendation

222. In May 2023, the IACHR reiterated, in a press release, its concern over the Federal Supreme Court’s potential recognition of the “cutoff date” legal thesis. The Commission reaffirmed that the application of this thesis contravenes universal and inter-American human rights standards and jeopardizes the very existence of indigenous and tribal peoples in Brazil. It further reiterated that the State must consider the innumerable cases in which indigenous and tribal peoples were forcibly displaced from their territories due to the actions of private individuals or to State initiatives, and for that reason were not occupying those lands in 1988. The Commission also indicated that the displacements that took place after 1988 must also be taken into account, as must the fact the communities resettled in other territories, which, according to the thesis, would not be recognized either.¹⁷⁸

223. The Commission salutes the Federal Supreme Court decision rejecting the “cutoff date” thesis but is highly concerned about the Federal Senate’s approval of Draft Law 2903/2023 and reaffirms that the application of this thesis violates the protection of Brazil’s indigenous peoples. In view of the progress made by the judiciary, as well as the setback in the legislative branch, the Commission considers compliance with this recommendation to remain **pending**.

Measures and information to make progress on fulfilling the recommendation

224. To steer compliance with this recommendation, the IACHR reiterates its call on the State to adopt the measures necessary to review and amend provisions in legal orders and guidelines that threaten indigenous peoples’ human rights, like the security suspension and the “cutoff date” thesis.

Recommendation No. 29. Expedite finalization of the application for delimitation, demarcation, and titling of the traditional lands and territories of indigenous and tribal peoples in accordance with applicable international human rights standards.

225. For the 2022 follow-up report, the IACHR noted the information provided by the State indicating that in 2021, the CNMP approved a resolution on the Public Prosecutor’s Office’s extrajudicial actions with traditional peoples and communities.¹⁷⁹ The IACHR also indicated that it had continued to receive information about the lack of progress on the demarcation of indigenous lands, as since 2019 no indigenous lands had been demarcated and around 109 land areas remained in the initial study stage.¹⁸⁰

¹⁷⁶ Brazil, Federal Senate, [Encaminhado à sanção, marco temporal muda legislação relacionada aos direitos indígenas](#), October 2, 2023.

¹⁷⁷ In the case of the Belo Monte hydroelectric power plant, the security suspension represents an obstacle to the implementation of legal decisions that require changes to the hydrograph measure and aim to mitigate the power plant’s impacts, and thus hinders access to justice. Interamerican Association for Environmental Defense. Response to the consultation questionnaire, September 15, 2023.

¹⁷⁸ IACHR. Press release. [Brasil: preocupa a CIDH tesis jurídica “marco temporal” que pondría en riesgo derechos de pueblos indígenas](#), May 31, 2023.

¹⁷⁹ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 174.

¹⁸⁰ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 176.

Information on compliance

226. In 2023, the State informed the IACHR that the prevailing interpretation is that the MPI is responsible for monitoring the indigenous land demarcation process, even though such monitoring is not included in the regulated stages and regardless of the current stage of the process, since monitoring falls within the mandate of defending and managing the indigenous territories, under the terms of the Federal Constitution and Law 14,600/2023. As reported by the State, even though recognition and demarcation are both handled by the MJSP, the administrative process is still started by the indigenous authority (FUNAI), linked with the MPI.¹⁸¹

227. In this respect, the State highlighted the Federal Supreme Court's decision in ADPF No. 828, which enforced decisions to reinstate possession conditional on mediation processes, in divisions specifically established to that end at each of the country's courts of justice. The State alleges that in order to comply with this guideline, it established mediation departments in various ministries involved in the matter, namely the Bureau for Promoting Access to Justice (at the MJSP), Department of Mediation and Settlement of Indigenous Territorial Disputes (MPI), and Department of Mediation and Settlement of Agricultural Disputes (Ministry of Agricultural Development and Family Farming). It is the MSJP's job to develop national public policies on preventing and mediating these disputes and to coordinate interministerial actions to handle complex conflicts. Among their duties, the other ministries are responsible for intervening in specific cases and for working towards a consensual solution. Lastly, the State mentioned that in cases in which repossession may be inevitable, these government agencies will guarantee that human rights standards are enforced and adhered to.¹⁸²

228. Among the actions taken to address the crisis of the Yanomami people, the State highlighted the official approval of six indigenous territories: Avá-Canoeiro (Goiás), Rio dos Índios (Rio Grande do Sul), Tremembé (Ceará), Arara do Rio Amônia (Acre), Uneiuxi (Amazonas), and Kariri Xocó (Alagoas).¹⁸³

229. On February 27, 2023, the IACHR issued Resolution 10/2023, which granted precautionary measures for members of the traditional Afro-descendent quilombola people of the Boa Hora III/Marmorana Quilombola Territory in Maranhão, after finding their rights to be at risk of irreparable harm due to the disputes with landowners over the land-titling process.¹⁸⁴

230. On April 24, 2023, the IACHR issued Resolution 25/2023, which granted precautionary measures for members of the Pataxó indigenous people located in the Barra Velha and Comexatibá indigenous lands in the state of Bahia, Brazil, in connection with disputes over the determination of the territory. In the resolution, the Commission positively assessed the measures adopted by the State to respond to the danger, and to address the root cause of the territorial dispute. However, it noted that the Pataxó beneficiaries were still vulnerable and at risk despite these measures.¹⁸⁵

231. During the 186th Period of Sessions in March 2023, the IACHR held a public hearing on Case 12,781 - Indigenous peoples in Raposa Serra do Sol v. Brazil, which addressed the State's responsibility for the human rights violations committed against the Ingaricó, Macuxi, Patamona, Taurepang, and Wapichana indigenous peoples due to delays in the demarcation and titling processes for their ancestral territory (the Raposa Serra do Sol territory), as well as to demarcation and titling proceedings that allegedly failed to comply with the applicable international standards.¹⁸⁶

¹⁸¹ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

¹⁸² State of Brazil, Note No. 407 of October 5, 2023. Response to the consultation questionnaire.

¹⁸³ State of Brazil, Note No. 407 of October 5, 2023. Response to the consultation questionnaire.

¹⁸⁴ IACHR, [Resolution 10/2023, Precautionary Measure No. 938-22, Members of the Boa Hora III/Marmorana Quilombola Territory, located in the rural area of Alto Alegre do Maranhão, in the State of Maranhão regarding Brazil](#), February 21, 2023.

¹⁸⁵ IACHR, [Resolution 25/2023, Precautionary Measure No. 61-23, Members of the Pataxó Indigenous People located in the Barra Velha and Comexatibá Indigenous Lands in the state of Bahia regarding Brazil](#), April 24, 2023.

¹⁸⁶ IACHR, [Summaries of Public Hearings, Annex to Press Release 41/23 - 186th Period of Sessions](#), March 6-10, 2023.

Analysis and level of compliance with the recommendation

232. The Commission thanks the State for the information it provided. Nevertheless, given the circumstances in the country that can be observed through the precautionary measure resolutions granted and the aforementioned public hearing, the Commission finds that compliance with this recommendation is still **pending**.

Measures and information to make progress on fulfilling the recommendation

233. To steer compliance with this recommendation, the IACHR invites the State to submit relevant, up-to-date, and accurate information on the actions taken to streamline the decisions indicated.

Recommendation No. 30. In consultation and coordination with the indigenous and tribal peoples, guarantee their right to health, based on an inter-cultural, gender, and intergenerational solidarity approach, taking into consideration traditional healing practices and medicines.

234. In 2022, the IACHR took note of the information provided by the State on several technical-cooperation agreements among the National Secretariat on Policies for Promoting Racial Equality, the Ministry of Health, and academic institutions to promote equity in health for vulnerable populations and to train health professionals who treat indigenous and quilombola populations.¹⁸⁷ However, it also strongly condemned the fact that, according to available sources, 99 Yanomami children ages 1 to 4 died in 2022 due to the advancement of illegal mining in the Roraima region, most of them malnourished with pneumonia and digestive problems.¹⁸⁸

Information on compliance

235. In 2023, the State reported that the Indigenous Health Policy Coordinating Office had been established along with the MPI, to subsidize and support the indigenous health policy implemented by the Indigenous Healthcare Subsystem, in coordination with FUNAI and the Special Secretariat for Indigenous Health (SESAI), a department of the Ministry of Health and responsible for implementation. In this context, the State indicated that the MPI had held an ongoing dialogue with SESAI and FUNAI on matters of indigenous health, including mental health; they have discussed creating an interministerial committee to develop an initiative to guarantee differentiated psychological care for indigenous peoples, in order to bring down, as far as possible, the high rates of suicide and other mental illnesses afflicting urban indigenous communities. The State also reported that the MPI forms part of the Working Group to Organize the Special Indigenous Health Districts, a decentralized management unit of the Indigenous Healthcare Subsystem, and that it is helping to draft a proposal to establish the Indigenous Peoples' Pharmacy through an MPI/Ministry of Health partnership.¹⁸⁹

236. The State also reported that SESAI is holding workshops and meetings with a technical group of indigenous researchers, universities, and indigenous health workers to improve and institutionalize the program. The State affirmed that there are meetings with indigenous specialists like midwives and shamans, and that workshops cover topics like handling medicinal plants and preparing traditional products like medicinal syrups, salves, and soaps. Lastly, according to the State, a total of R\$1,658,456 were made available in 2023 for the execution of actions to strengthen indigenous medicine.¹⁹⁰

¹⁸⁷ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 179.

¹⁸⁸ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 180.

¹⁸⁹ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

¹⁹⁰ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

Analysis and level of compliance with the recommendation

237. On February 8, 2023, the IACHR and its REDESCA expressed their consternation over the grave humanitarian crisis that killed 570 Yanomami children and was provoked by ethnic/racial discrimination; and they call on the State to make the utmost efforts to ensure the survival of this population.¹⁹¹

238. Despite the challenges, the Commission appreciates the State's initiatives, especially under SESAI, to guarantee the right to health based on an intercultural, gender, and intergenerational solidarity approach that considers traditional medicine and healing practices. Due to the high rates of suicide and other mental illnesses, it is especially important to develop public health policies for indigenous peoples' mental health. In view of the above, the Commission considers the State to have progressed to **partial compliance** with this recommendation.

Measures and information to make progress on fulfilling the recommendation

239. To steer compliance with this recommendation, the IACHR needs information on how government health programs have helped close gaps in health care coverage for indigenous peoples in different regions, and on the efforts made by the State to consult and coordinate with them on the design and execution of public policies, programs, and other measures adopted to guarantee the right to health, and to ensure inclusion of an intercultural, gender, and intergenerational solidarity approach.

Recommendation No. 31. Strengthen measures to protect indigenous peoples living in voluntary isolation and in initial contact, while striving to protect their health, lifestyles, and territories. Based on the precaution principle, develop public policies and actions to guarantee the survival of these peoples.

240. The IACHR did not receive up-to-date information from the State on compliance with this recommendation for the 2022 follow-up report.¹⁹² The Commission expressed its concern over the vulnerability of the indigenous peoples living in voluntary isolation and in initial contact due to the presence of external persons and activities, including illegal mining and logging, in the territories where they live, and to the effects thereof on their physical and cultural survival and their heightened risk of infection with diseases. The IACHR also took note of FUNAI's inadequate response towards adopting protective measures for these peoples and resolving the requests submitted in a reasonable time frame.¹⁹³

Information on compliance

241. In 2023, the State informed the Commission that it had created the Department of Protection for Isolated and Recently Contacted Indigenous Peoples, within the MPI. This Department aims to develop and coordinate public policies to protect the health, ways of life, and territories of these indigenous peoples, with support from the FUNAI General Coordinating Office for Isolated and Recently Contacted Indigenous Peoples, which has also been restructured and strengthened under the new administration.¹⁹⁴

¹⁹¹ REDESCA and the IACHR underscore that the Yanomami's people's hunger and extreme food insecurity are directly associated with the ethnic/racial discrimination that enables illegal miners to invade their land. IACHR. Press release. [IACHR and Its Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights Stress That Brazil Must Ensure the Survival of the Yanomami People](#), February 8, 2023.

¹⁹² IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 183.

¹⁹³ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 184 and 185.

¹⁹⁴ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

242. Also, in 2023, the State informed the IACHR that the National Situation Division, created by the Presidential Office and coordinated by the MPI, holds biweekly meetings to look for interagency solutions to diverse situations involving various recently contacted and isolated peoples.¹⁹⁵

Analysis and level of compliance with the recommendation

243. The Commission appreciates the information provided by the State on its efforts to protect indigenous peoples in isolation and initial contact. At the same time, it calls attention to the lack of specific information on the measures being adopted to that end, for which reason it considers the State's compliance with the recommendation to remain **pending**.

Measures and information to make progress on fulfilling the recommendation

244. To ensure compliance with this recommendation, the Commission respectfully asks the State to send updated information on the compliance measures for the two components of this recommendation: protection measures for these peoples, with a special emphasis on safeguarding their health, ways of life, and lands, and the adoption of public policies and other measures to ensure their physical and cultural survival through the precaution principle.

G. Women

Recommendation No. 32. Prevent and condemn all forms of violence and discrimination against women and girls, including refraining from any gender-based violent or discriminatory act or practice, and guaranteeing that all public servants, including authorities, agents, and institutions abide by this obligation.

245. In 2022, the State reported that it had adopted various laws and measures that establish policies to combat violence against women. Nonetheless, the IACHR warned that Brazil's alarming figures on violence against women persist, especially for femicides, sexual violence, and domestic violence. Most victims are women of African descent, young women, and/or poor women.¹⁹⁶ At the time, the Commission asked the State to provide information on the measures in place to prevent gender-based discrimination and to ensure that public servants and institutions adhere to these obligations.¹⁹⁷

Information on compliance

246. In 2023, the State reported various measures focused on women. First, it highlighted the creation of the Ministry of Women's Affairs, the country's first, as an important framework for policies for women in Brazil. It further indicated that Brazil had withdrawn from the Geneva Consensus Declaration on Promoting Women's Health and Strengthening the Family, due to its limited understanding of sexual and reproductive rights and the idea of family. In its place, the State noted, Brazil had signed the Santiago Commitment, a regional instrument to respond to the COVID-19 crisis with gender equality, as well as the Inter-American Commission of Women's Declaration of Panama, which seeks to build bridges for a new social and economic pact led by women.¹⁹⁸

247. The State also reported that the Ministry of Women's Affairs proposed three actions for the Multiyear Plan 2024-2027: (i) "Equality of decision-making and power for women," focused on bolstering

¹⁹⁵ These measures derive from the Federal Supreme Court decision (ADPF 709/2020) that reiterated the order to remove all illegal mining from the Yanomami, Karipuna, Uru-Eu-Wau-Wau, Kayapó, Arariboia, Mundurucu, and Trinchiera Bacajá indigenous lands as a measure to protect the indigenous peoples during the COVID-19 pandemic, based on a request for measures submitted by APIB. State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

¹⁹⁶ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 189-192.

¹⁹⁷ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 189-192.

¹⁹⁸ State of Brazil, Note No. 407 of October 5, 2023. Response to the consultation questionnaire.

women's participation in spaces of power and decision-making, seeking gender parity; (ii) "Women, living without violence," to combat all forms of violence against women based on gender, class, race, and ethnicity, in the public and private spheres, through the development, implementation, and assessment of crosscutting, intersectional policies; and (iii) "Women's political and economic autonomy," whose main pillar is the promotion of wage equality and equal occupational and care rights, in the productive and reproductive work spheres.¹⁹⁹

248. The State also explained that an interministerial working group had been formed to draft a National Policy on Care, due to the high burden of unpaid care work that hampers women's educational and professional careers. The State added that it is working to develop a National Plan for Wage, Remuneration, and Workplace Equality among Men and Women, also through an interministerial working group. In 2023, the National Congress approved a bill that makes wage equality mandatory for men and women doing the same job. This bill is pending presidential approval.²⁰⁰

249. The State reported that it is taking action to advocate for gender parity in the federal government's deliberative and participative bodies, through a resolution of the General Secretariat of the Office of the President of the Republic. Also in 2023, the National Forum of Women's Policy Agencies, instituted by the Ministry of Women's Affairs, was created to reformulate and reorganize the federal government's relationship with women's policy agencies. The purpose of this forum is to strengthen and benefit the specialized actions and services targeting women in the country's various regions.²⁰¹

250. The State also highlighted the creation of the National Program to Prevent and Combat Sexual Harassment and Other Crimes against Sexual Dignity and Sexual Violence, which targets the public administration and private companies that provide public services. This program has three objectives: (i) prevent and combat sexual harassment; (ii) train public servants; and (iii) implement and disseminate educational campaigns on actions that constitute harassment and sexual violence, for public servants and society at large. The State also reported that it intends to ratify International Labour Organization (ILO) Convention 190, which establishes a global framework for preventing and eradicating workplace violence and harassment, in both the public and private sectors.²⁰²

251. The State emphasized that in 2023, an interministerial working group was created to prepare a National Policy to Combat Political Violence against Women. The function of this working group is to perform diagnostic assessments of the political violence against women by collecting data, formulating studies, and mapping and consolidating the stories and experiences of women who have lived through such violence. The State underscored that gender-based political violence is not restricted to violence against women in the political domain in the strict sense, but also includes violence against women with a visible presence in the public sphere as influencers, journalists, activists, human rights defenders, etc. Along these lines, the State reported its creation of the Observatory of Violence against Journalists and Media Workers, formed by researchers, jurists, and representatives of agencies that defend freedom of expression and of the press. The Observatory's objective is to monitor cases of violence against this group of people, support investigations, and maintain a database of indicators on violence. The Observatory has various working groups, including one on gender violence. Lastly, the State highlighted the submission of a bill to institute the National Marielle Franco Day to Combat Political Violence based on Gender and Race.²⁰³

252. With regard to the collection and organization of data on violence against women, the State reported that it had established the National System of Services for Women in Situations of Violence (ELA System), an online platform for registering the care and referrals provided by the public care network for women facing violence. The ELA System will make it possible to create a qualified database able to generate

¹⁹⁹ State of Brazil, Note No. 407 of October 5, 2023. Response to the consultation questionnaire.

²⁰⁰ State of Brazil, Note No. 407 of October 5, 2023. Response to the consultation questionnaire.

²⁰¹ State of Brazil, Note No. 407 of October 5, 2023. Response to the consultation questionnaire.

²⁰² State of Brazil, Note No. 407 of October 5, 2023. Response to the consultation questionnaire.

²⁰³ State of Brazil, Note No. 407 of October 5, 2023. Response to the consultation questionnaire.

statistics that will make it possible to monitor and evaluate public policies for combating violence against women.²⁰⁴

253. Along these lines, the State highlighted the establishment of the Women Living Without Violence Program, which has the following pillars: (i) structuring the Women's Assistance Hotline (*Ligue 180*); (ii) combating femicide; (iii) implementing and strengthening the Brazilian Women's Houses; (iv) providing humane assistance for women victims of violence that does not revictimize them; (v) strengthening the service and mobile care networks; and (vi) combating the various forms of sexual violence. According to the State, the Program's main objective is to bring together and expand the existing public services that target women in situations of violence, by coordinating specialized care in the healthcare sphere, public security, justice, the social welfare network, and the promotion of financial autonomy, while providing comprehensive protection for women.²⁰⁵

254. The State specified that the Program currently has 7 established Brazilian Women's Houses, is setting up 9 more in the capitals and 2 in the country's interior and renovating another 19 as Reference Centers for Brazilian Women. In addition, the State highlighted the existence of a technical cooperation agreement between the Ministry of Justice and Public Security and the Ministry of Women's Affairs to build 40 more Houses.²⁰⁶

255. The State indicated that it is working to improve and expand the 24/7 hotline for assisting women, *Ligue 180*, adding WhatsApp as an option for contacting the support services. This improvement process ensures effective, high-quality services are accessible to all women who need them.²⁰⁷

Analysis and level of compliance with the recommendation

256. The Commission salutes the many actions reported by the State and considers the adoption of measures to combat and prevent violence and discrimination against women in Brazil to be essential to guaranteeing women's fundamental rights, bolstering their participation in society, and ensuring they can live violence-free lives. In 2023, the Brazilian State took significant steps forward on this issue by creating the Ministry of Women's Affairs, the country's withdrawal from the Geneva Consensus, and its accession to the Santiago Commitment and Declaration of Panama, which advocate for women's rights in the region.

257. The Commission also welcomes the State's adoption of specific actions, like the ones included in the Multiyear Plan 2024-2027, whose pillars are gender equality, the elimination of all forms of violence against women, and the promotion of women's political and economic autonomy. The IACHR also recognizes the important measures taken, like developing the National Policy on Care, the bill on wage equality, and the National Program to Prevent and Combat Sexual Harassment. Creating working groups, observatories, and systems like the ELA System are fundamental to gathering data, and programs like Women Living Without Violence are essential to guaranteeing protection and comprehensive care for women. These initiatives are vital to building a fair, equitable society that is free from violence for women in Brazil.

258. In view of the above, the Commission considers that the State has progressed to **substantial partial compliance** with this recommendation.

²⁰⁴ State of Brazil, Note No. 407 of October 5, 2023. Response to the consultation questionnaire.

²⁰⁵ State of Brazil, Note No. 407 of October 5, 2023. Response to the consultation questionnaire.

²⁰⁶ State of Brazil, Note No. 407 of October 5, 2023. Response to the consultation questionnaire.

²⁰⁷ State of Brazil, Note No. 407 of October 5, 2023. Response to the consultation questionnaire.

Measures and information to make progress on fulfilling the recommendation

259. To steer the State towards full compliance with this recommendation, the Commission invites it to continue to implement, strengthen, and report measures to prevent and combat violence against women and girls in Brazil.

Recommendation No. 33. Implement and reinforce measures with a gender perspective to comply with the duty to act with due diligence to prevent, punish, and eradicate violence and discrimination against women, including concrete efforts to comply with the obligations to prevent, investigate, punish, and make reparation for violations of the human rights of women and girls. This includes training and monitoring the authorities responsible for the investigation, including health services and judicial bodies.

260. For the 2022 follow-up report, the State reported various measures it had enacted to move towards compliance with the recommendations made by the IACHR in the Maria da Penha case, like the cycle of dialogues on the Maria da Penha Law, the establishment of the interagency working group for studying the case, the editing of national guidelines for investigating crimes with a gender perspective, and other measures taken to improve access to justice for women victims of gender-based and domestic violence.²⁰⁸ On the other hand, the IACHR mentioned obstacles reported by civil society regarding victims' failure to report violence against them, due to frequent institutional and legislative changes, as well as to threats. The IACHR also discussed information obtained from the United Nations that pointed out the existence of systemic obstacles to implementing a gender perspective in the investigation and prosecution of cases of femicide.²⁰⁹

Information on compliance

261. In 2023, the State informed the IACHR that the National Justice Council had adopted Resolution 492/2023, which establishes a protocol for prosecution with a gender perspective, in recognition of society's gender-based structural inequality, as well as parameters for prosecution that remove prejudices and stereotypes to prevent discrimination. According to the State, this resolution also institutes mandatory training of judges on issues of human rights, gender, race, and ethnicity, from an intersectional perspective, and creates the Committee for Monitoring and Training on Gender-Responsive Prosecution in the Judiciary, and the Committee to Foster Women's Institutional Participation in the Judiciary.²¹⁰

262. The State also reported that the National Justice Council established a standing policy to address all forms of violence against women, with the adoption of a specific protocol for assisting victims and taking complaints of violence against women that involve judges and judiciary employees.²¹¹

Analysis and level of compliance with the recommendation

263. The Commission praises the National Justice Council's initiatives to establish a protocol for gender-responsive prosecution, to mandate training for judges on human rights issues, and to adopt a specific care protocol for victims of gender violence. Along these lines, the Commission emphasizes that protocols like these must apply to other justice system workers as well, such as employees of the Office of the Public Prosecutor and police officers responsible for criminal investigation and prosecution.

264. Based on the concerning context of gender violence in Brazil, the Commission has established, together with the Brazilian state and the petitioners, a strategy for enhanced monitoring of compliance with the Maria de Penha case. Since 2022, various working meetings have been held to seek agreements on measures

²⁰⁸ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 198-202.

²⁰⁹ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 198-203.

²¹⁰ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

²¹¹ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

for implementing the recommendations made in the merits report that endorse structural changes around gender violence, in particular domestic violence, in Brazil. The Commission indicates that on May 16, 2023, it had the opportunity to meet with the parties in person in Brasilia as part of its strategy for enhanced monitoring of the case.

265. Therefore, the IACHR considers that the State's compliance with the recommendation continues to be **partial**.

Measures and information to make progress on fulfilling the recommendation

266. The Commission welcomes the information provided on the measures adopted by the National Justice Council to ensure that the members of the judiciary are prepared to try cases with a gender perspective. However, it also emphasizes the importance of having measures like these in place at all State agencies, including, for example, the Office of the Public Prosecutor and the police forces, responsible for investigating and submitting the complaints.

Recommendation No. 34. Investigate, try, and punish - with a gender perspective and as a priority - violations of the human rights of women and girls, especially femicides of trans women. Likewise, investigate with due diligence acts of violence against female human rights defenders and other groups at special risk mentioned in this Report.

267. The Commission did not have any specific information on compliance with this recommendation for Chapter V of the 2022 Annual Report.²¹² It indicated that the first part of this recommendation, on women and girls, had already been analyzed in prior monitoring reports. Therefore, it invited the State to provide information on the prosecution and punishment of femicides of trans women and violence against human rights defenders.²¹³

Information on compliance

268. In 2023, the State highlighted its revision of the National Plan to Combat Femicide through the construction of a National Covenant on Combating Femicide as a way to implement specific actions in consideration of the gender perspective and intersectionality, to strengthen measures to prevent all forms of discrimination, misogyny, and gender violence against women. According to the State, the Covenant's primary objective is to prevent the violent deaths of women resulting from gender inequality; it also seeks to guarantee the rights of women in situations of violence as well as access to justice for them and their families. The State indicated that the Covenant will be developed in coordination with UN Women and will be consolidated as a joint society/government effort to prevent and combat femicide, by promoting gender equality, justice, and the security of women throughout the country.²¹⁴

Analysis and level of compliance with the recommendation

269. The Commission welcomes the development of a National Covenant on Combating Femicide, especially because it proposes actions from an intersectional, gender perspective. This means that it addresses the problem from the perspective of gender-based discrimination and considers other forms of discrimination, like racial, socioeconomic, and cultural. For the IACHR, this broader understanding makes it possible for the country to address the many dimensions and underlying causes of femicide.

²¹² IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 208.

²¹³ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 208.

²¹⁴ State of Brazil, Note No. 407 of October 5, 2023. Response to the consultation questionnaire.

270. Due to the specific measure reported to combat femicide and all violence against women, the Commission determines that the State's compliance with the recommendation is still **partial**.

Measures and information to make progress on fulfilling the recommendation

271. The IACHR invites the State to provide specific information on the investigations being carried out on the acts listed in the recommendation, which include: violations of the human rights of women, girls, and adolescents, with a special emphasis on intersectionality, that is to say, trans, indigenous, and Afro-descendent women, and women with disabilities, among others. It also highlighted the importance of having information on human rights violations against human rights defenders. The IACHR considers that compliance with this recommendation will depend on the State adopting an institutional strategy to verify that these acts are being investigated with due diligence, and that these measures have led to effective prosecution and punishment.

Recommendation No. 35. Strengthen the institutional capacity of judicial bodies, such as the Public Prosecutor's Office (Ministério Público), police agencies, courts, and legal and forensic medicine units, by endowing them with financial, human, and training resources to enable them to fight the pattern of impunity surrounding proceedings relating to violence against women. In addition, step up enforcement of punishments and make headway with reparation projects through effective criminal investigations that avoid re-victimization and are subject to proper judicial monitoring.

272. For Chapter V of the 2022 Annual Report, the State reported that it had established an Office for the Defense of Women at all Public Prosecutor's Office branches and units, and that, since 2007, it has established 139 exclusive judicial units, 295 private treatment rooms, and 78 exclusive and 403 nonexclusive psychosocial sections to attend to women victims of family or domestic violence.²¹⁵ In turn, the Commission appreciated the measures taken by the State to expand and fortify specialized care for women experiencing domestic violence, and requested information on building institutional capacity in terms of financial resources and, in particular, the procurement of technical equipment to perform the necessary forensic tests for investigations.²¹⁶

Information on compliance

273. In 2023, the State told the Commission that gender equality is present in diverse actions adopted by the National Justice Council, citing affirmative actions that target members of the judiciary as well as the concern that judgments be gender-responsive. The State mentioned that, since 2023, a regulation has been in force to ensure gender parity on the examining committees that evaluate candidates for a career in the judiciary. Lastly, it reported the Office of the President of the National Justice Council's establishment of the National Office for the Defense of Women (*Ouvidoria Nacional da Mulher*), which seeks to receive and transmit, to the competent authorities, the complaints associated with legal proceedings on acts of violence against women; to accept information, suggestions, complaints, reports, and criticism of the legal proceedings on violence against women; and to help improve the National Judicial Policy to Combat Violence against Women.²¹⁷

Analysis and level of compliance with the recommendation

274. The Commission welcomes the information provided on the measures adopted by the National Justice Council to ensure that the judiciary members are prepared to try cases from a gender perspective. However, it also emphasizes the importance of having measures like these in place at all State agencies, including, for example, the Office of the Public Prosecutor, Public Defender's Offices, and the police

²¹⁵ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 210.

²¹⁶ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 210.

²¹⁷ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

forces. Given the aforementioned progress, but without losing sight of the challenges that still remain, the Commission considers the State to have **partially complied** with this recommendation.

Measures and information to make progress on fulfilling the recommendation

275. To steer compliance with this recommendation, the IACHR stresses the importance of the State adopting institution-building measures for all of the authorities mentioned in the recommendation. These measures should entail allocating financial, human, and training resources. The IACHR also invites the State to report on the provision of the technical teams mentioned in the recommendation to enhance the investigations of these acts.

Recommendation No. 36. Implement protocols with a gender perspective for crimes involving violence against women and develop transparent processes for overseeing their correct implementation.

276. In 2022, the State informed the IACHR of a recommendation made by the National Justice Council instructing the courts of justice in the states and Federal District to adopt the gender perspective in their judgments. It also mentioned the mandatory use of the National Risk Evaluation Form, in order to streamline protective interventions by improving coordination between the justice system and the protection network. Third, it reported the MJSP's publication of national guidelines for military police treatment of women subjected to domestic and family violence.²¹⁸ The Commission welcomed the measures adopted by the State, especially with regard to the dissemination of these documents. It also invited the State to provide information on the approved and updated protocols for investigating and prosecuting cases of violence against women, as well as the judiciary authorities' implementation thereof.²¹⁹

Information on compliance

277. In 2023, the State informed the Commission of the National Justice Council's adoption of Resolution 492/2023, which establishes a protocol for gender-responsive judging, as indicated in the previous recommendation.²²⁰

Analysis and level of compliance with the recommendation

278. The Commission welcomes the information on adopting a protocol for judging cases with a gender perspective. However, it finds the information provided by the State on approved and updated protocols for investigating and prosecuting cases of violence against women to be insufficient. Furthermore, it did not receive information on justice system authorities' effective implementation of these protocols, nor on the existing mechanisms for overseeing implementation. Therefore, the IACHR considers that compliance with this recommendation is still **pending**.

Measures and information to make progress on fulfilling the recommendation

279. To steer compliance with the recommendation, the Commission highlights the importance of the State, in addition to adopting protocols, providing information on the implementation thereof, as well as on the oversight mechanisms. Concerning the protocol adopted by the National Justice Council, the IACHR invites the State to report the topics covered, the authorities involved in its implementation, and the type of mechanisms planned to ensure proper implementation. The IACHR also asks the State to provide information on the adoption or application of other similar protocols that affect justice authorities.

²¹⁸ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 210.

²¹⁹ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 214.

²²⁰ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

Recommendation No. 37. Plan, develop, and implement educational initiatives, programs, and policies, from the formative, initial stages onwards, for all citizens, including children, addressing gender-based discrimination, with a view to getting rid of stereotypes about the inferiority of women and girls, promoting their rights to be free from violence and discrimination, advancing gender equality, and guaranteeing respect for the rights of all persons.

280. In the 2022 follow-up report to the Brazil country report, the State reported that it had instituted the training of education professionals and an annual week for combating violence against women in schools. It also reported the “Maria da Penha goes to school” project as a preventive educational measure and mentioned the creation of the Purple August (*Agosto Lilás*) initiative, which includes a group education component on the matter. The Commission also highlighted the school measures reported by the State. However, it also warned about the rates of gender violence against women and girls and invited the State to redouble its efforts to address and tackle the structural causes of this violence and combat gender-based discrimination.²²¹

Information on compliance

281. In 2023, the State did not provide the Commission with specific information on compliance with this recommendation.

Analysis and level of compliance with the recommendation

282. Given the lack of specific information provided by the State on its compliance with this recommendation, the IACHR determines that compliance is still **partial**.

Measures and information to make progress on fulfilling the recommendation

283. To guide the implementation of this recommendation, the Commission calls on the State to adopt additional compliance measures that could include, for example, public policies, advocacy campaigns on the culture of human rights, and educational campaigns to help eliminate stereotyped patterns of subordination and foster respect for women and girls as equals. Along these lines, the IACHR also suggests that the State consolidate information on the scope and content of the measures it has adopted, and the outcomes achieved with implementation. In line with the contents of the recommendation, the Commission also invites the State to provide information on the measures involving children.

Recommendation No. 38. Draft and implement culturally appropriate policies, with the participation of indigenous, *quilombola*, and traditional community women and girls, and applying an integral and holistic approach, for preventing, investigating, prosecuting, and making reparation for acts of violence and discrimination against them.

284. For 2022, the State informed the IACHR about promoting actions to foster the development of Black and *quilombola* women but acknowledged the persistent major challenges to the comprehensive inclusion of these women.²²² In contrast, the Commission warned that it needed information on the implementation of investigation, trial, and punishment policies, and in connection with them, on the differential approach adopted, the participation of indigenous and *quilombola* women and girls, and the results of the policies.²²³

²²¹ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 217.

²²² IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 219.

²²³ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 221.

Information on compliance

285. In 2023, the State reported that the Policies for Women Coordinating Office had been created within the MPI, and that it is responsible for institutional development and coordination to promote the rights of indigenous women. The State indicated that the Office's work is focused on access to justice and promoting empowerment and respect for indigenous women's sociocultural and territorial diversity. It also indicated that the Coordinating Office works on an ongoing basis with the Ministry of Women's Affairs, MJSP, and MDS, as well as with UN Women and civil society organizations.²²⁴ The MPI also planned the Women Guardians Project, executed in conjunction with the MJSP, Ministry of Women's Affairs, UN Women, and Open Society, to identify and empower indigenous women leaders, especially with regard to combating gender violence, and to develop mechanisms to shelter vulnerable indigenous women.²²⁵

Analysis and level of compliance with the recommendation

286. The Commission appreciates the initiatives associated with the adoption of culturally appropriate measures, with the participation of indigenous women and girls. However, it also takes note of the lack of information on similar measures adopted for women and girls from quilombola and traditional communities. In view of this, and without losing sight of the challenges that still remain, the Commission considers the State to have progressed to **partial compliance** with this recommendation.

Measures and information to make progress on fulfilling the recommendation

287. To steer implementation of this recommendation, the Commission invites the State to provide information on the public policies being carried out to ensure that the prevention, investigation, and punishment of acts of violence and discrimination committed against indigenous, quilombola, and traditional community women and girls, and reparation for these acts, are culturally appropriate. Furthermore, it is essential for the IACHR to know how the State ensures that women and girls will participate in developing these policies. The Commission also invites the State to provide information on how it ensures that the policies and actions are culturally appropriate not just in theory, but are also implemented in a respectful, sensitive way in practice.

Recommendation No. 39. Adopt comprehensive measures to respect and guarantee women's rights to sexual and reproductive health by, inter alia, reinforcing the availability and ongoing supply of essential services. In particular, guarantee access to high-quality maternal health care; safe access to contraception methods, including emergency contraception; voluntary interruption of pregnancy, when applicable, and access to true, uncensored information, in addition to the comprehensive education needed for women and girls to be able to take free and autonomous decisions.

288. The State did not provide information on compliance with this recommendation for Chapter V of the 2022 Annual Report.²²⁶ Nevertheless, the Commission expressed its concern over certain initiatives that constitute setbacks for women's sexual and reproductive rights. First, it spotlighted the obstacles to accessing voluntary termination of pregnancy in cases of rape, like revictimization by judicial and healthcare workers. Second, it emphasized the importance of ensuring that schools provide a comprehensive sexual education that promotes gender equality. Lastly, the Commission invited the State to provide information on equal healthcare for women and girls who need to terminate their pregnancies, as allowed under local law, and on women's and girls' access to safe emergency contraception and to true, uncensored information.²²⁷

²²⁴ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

²²⁵ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

²²⁶ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 222.

²²⁷ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 222.

Information on compliance

289. In 2023, the State affirmed that the Ministry of Health's priority is to guarantee broad, comprehensive care under the Single Healthcare System (SUS), especially with regard to women's health, with healthcare that respects women's unique characteristics at all stages of life. The State also indicated that the Ministry of Health promotes reproductive and family planning according to the National Policy on Comprehensive Women's Healthcare (PNAISM), which includes actions to disseminate information on contraception and conceiving, and to ensure that various methods of contraception are available for the reproductive-age population.²²⁸

290. The State also mentioned that it aims to reduce maternal deaths, which constitute a grave violation of women's human rights and are avoidable in 92% of cases. Along these lines, it mentioned the creation of the Program to Humanize Labor and Birth, the National Humanization Policy (*Humaniza SUS*), and the aforementioned PNAISM, which aim to guarantee women their right to experience a safe, dignified pregnancy, labor, and postpartum period.²²⁹

291. Along these lines, the State also indicated that the Ministry of Women's Affairs has been developing and planning diverse public policies focused on women's health and well-being. The Ministry of Women's Affairs also supports teen pregnancy prevention programs and is working to include the subject of women's sexual and reproductive rights in graduate courses for education professionals. The State also emphasized that the Ministry of Women's Affairs is seeking to help expand access to high-quality clinical and gynecological care for women in various circumstances, including women who live in the countryside, the forest, and on the streets, as well as women who are in jail. The Ministry of Women's Affairs also provides support for promoting menstrual dignity, and especially notes its creation of the Program to Protect and Promote Menstrual Dignity, which plans to distribute free sanitary pads in the SUS.²³⁰

292. Lastly, the State emphasized that guaranteeing the right to legal abortion in the cases provided for by law, especially cases of sexual violence, is one of the Brazilian government's fundamental jobs. Accordingly, the regulations, technical manuals, and other documents that cover this issue are being revised by federal bodies and other ministries, with a view to expanding the network of services that comply with the law, so as to prevent barriers to women's access to legal abortion in the cases provided for in the Criminal Code.²³¹

293. On the other hand, at the public hearing on reproductive rights and violence against women and girls in Brazil held during the IACHR 186th Period of Sessions, civil society organizations informed the IACHR of the systematic pattern of lack of access to the right to legal abortion in cases of sexual violence against girls, reflective of the widespread context of institutional violence, cultural racism, and intersectional discrimination. The organizations related the systematic violation of the sexual and reproductive rights of girls and women in the country; specifically, they pointed out the high maternal mortality rates, the harm to reproductive health caused by the indiscriminate use of agrochemicals in certain areas of the country, and the lack of access to legal abortion in cases of sexual violence, noting that the barriers are higher for girls and adolescents. They also indicated that these challenges disproportionately affect Afro-descendent, poor, and rural women and girls.²³²

Analysis and level of compliance with the recommendation

294. The Commission congratulates the State for its initiatives that further the issue of women's rights to sexual and reproductive health, such as the guarantee of broad, comprehensive care in the SUS and the implementation of the PNAISM and *Humaniza SUS*. At the same time, it underscores the data that illustrate

²²⁸ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

²²⁹ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

²³⁰ State of Brazil, Note No. 407 of October 5, 2023. Response to the consultation questionnaire.

²³¹ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

²³² IACHR, 186th Period of Sessions. Public hearing "[Reproductive rights and violence against women and girls in Brazil](#)," March 8, 2023.

the persistent, high rates of maternal mortality, harm to reproductive health from the excessive use of agrochemicals, and the obstruction of access to legal abortion, especially for girls and adolescents, which disproportionately affect Afro-descendent, poor, and rural women and girls. In recognition of the progress made, but without losing sight of the challenges that remain on this issue, the Commission determines that compliance with this recommendation has progressed to **partial**.

Measures and information to make progress on fulfilling the recommendation

295. To steer the implementation of this recommendation, the Commission invites the State to adopt a compliance strategy made up of various comprehensive measures to promote respect for and the guarantee of sexual and reproductive health for women and girls, especially highly vulnerable ones. Accordingly, the IACHR invites the State to make sure that this strategy takes into account the importance of coordinating actions to work towards achieving the objectives listed in the recommendation, namely, to guarantee: access to high-quality maternal healthcare; safe access to contraception methods, including emergency contraception; voluntary interruption of pregnancy, when applicable; and access to true, uncensored information; as well as the comprehensive education needed for women and girls to be able to make free and autonomous decisions.

H. Children and adolescents

Recommendation No. 40. Take all necessary steps to ensure that the exceptionality principle is applied to measures aimed at adolescents at odds with the law, particularly so that deprivation of liberty is used a last resort only, giving preference to open environment options for property-related and non-violent offenses. Accordingly, alternatives must be envisaged in proceedings so that their cases can be resolved through actions that promote the development of their personality and constructive reintegration into society.

296. The State did not provide information on compliance with this recommendation for the 2022 follow-up report. In turn, the Commission did note the drop in the adolescent incarceration rate but asked for information on the State's prioritization of alternative socio-educational measures and the use of incarceration as an exceptional measure.²³³

Information on compliance

297. In 2023, the State did not provide information to the IACHR on compliance measures for this recommendation.

298. However, civil society informed the Commission that, in order to ensure application of the principle of exceptionality, the State had established the National Socio-educational Services System through Law 12,594 of January 18, 2012. According to the civil society information, this law establishes that adolescents in conflict with the law will be subjected to the socio-educational measure most appropriate to the seriousness of the crime and their age, in line with the principle of exceptionality. The organizations also reported that some states of the country, like Ceará, are making progress on implementing alternatives to prosecution to resolve cases of adolescents at odds with the law, like conflict-mediation programs and restorative justice practices.²³⁴

Analysis and level of compliance with the recommendation

299. Considering the information and data available, the Commission warns that it does not have up-to-date information provided by the State on the compliance measures for this recommendation that would

²³³ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 228-231.

²³⁴ Cáritas Brasileira, Formulário de respostas ao questionário para seguimento das recomendações do relatório sobre a situação dos direitos humanos no Brasil, September 18, 2023.

allow it to verify that incarceration is only applied as an exceptional measure for adolescents in trouble with the law and that other socio-educational measures are prioritized. Therefore, the IACHR determines that compliance with this recommendation is still **pending**.

Measures and information to make progress on fulfilling the recommendation

300. To steer implementation of this recommendation, the Commission calls on the Brazilian State to adopt the institution-building measures needed to lower incarceration rates for adolescents in trouble with the law and to implement actions that will ensure detention is used as only as a last resort and for as short a time as possible.²³⁵ The IACHR also invites the State to provide specific information and data on the implementation of the alternatives to prosecution indicated by civil society.

Recommendation No. 41. Bring all adolescent “socio-educational” (correctional) facilities into line with international criteria and standards, particularly as regards architectural parameters that should serve the underlying purpose as well as comply with the highest safety, accommodation, educational, health, and social reintegration standards.

301. In 2022, the State had indicated that it was implementing the New Socio-education (*Novo Socio Educativo*) Project, which contains innovative proposals for care, management, and infrastructure geared towards a more efficient use of public funds while providing a satisfactory service that will guarantee adolescents’ enjoyment of the rights established in the Statute of the Child and Adolescent.²³⁶ The Commission called on the State to continue with its comprehensive improvements to the juvenile justice system in a timely, swift fashion, and to report information on the progress and outcomes of implementation of the new management project.²³⁷

Information on compliance

302. In its reports to the IACHR in 2023, the State did not present any updates on the *Novo Socio Educativo* project, but it did report the January 2023 publication of the new version of the Technical Guidance Manual for Completing the National Registry of Inspections in Socio-educational Units and Programs (CNIUPS) (Closed Environment). It also indicated that it would launch the CNIUPS Open Environment in September 2023. Similarly, the State explained that these documents will help improve judicial inspections, and thereby strengthen monitoring of the rights of adolescents deprived of liberty by the judiciary in the federal states and nationwide through the National Justice Council.²³⁸

Analysis and level of compliance with the recommendation

303. The IACHR takes note of the publication of the documents mentioned and recognizes that they will be useful for standardizing judicial inspections of adolescent detention centers and for producing data on the conditions at those centers. However, it also emphasizes that the State did not furnish specific data on the current conditions nor on a process to bring them into line with international standards. Accordingly, the IACHR reminds Brazil of the country’s strong position as guarantor of the rights of incarcerated adolescents, regardless of the type of facility where they are being held.²³⁹

²³⁵ IACHR, [Juvenile Justice and Human Rights in the Americas](#), OEA/Ser.L/V/II Doc. 78, July 13, 2011, par. 80.

²³⁶ State of Brazil, Note of December 9, 2023. Response to the consultation questionnaire.

²³⁷ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 232-235.

²³⁸ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

²³⁹ IACHR, [Juvenile Justice and Human Rights in the Americas](#), OEA/Ser. L./V/II. Doc. 78/11, July 3, 2011, pars. 440-442.

304. Based on the information analyzed in this section, especially the fact that the new technical guidance manual has not yet been paired with data on the units' adherence to international standards, the Commission considers that compliance with this recommendation remains **pending**.

Measures and information to make progress on fulfilling the recommendation

305. To steer compliance with this recommendation, the Commission calls on the State to continue with its comprehensive improvements to the juvenile justice system in a timely, swift fashion. In that sense, the IACHR invites the State to adopt a socio-educational proposal to ensure adolescent detention center facilities are adequate in terms of security, lodging, education, healthcare, and social reinsertion measures. The IACHR invites the State to, in addition to structuring this proposal, adopt the relevant measures to implement it effectively.

Recommendation No. 42. Adopt measures to allow and foster contact between the adolescents in those centers and their families and communities, by promoting geographical decentralization of the centers in such a way that those adolescents can serve their time in the same place or the center closest to their home or that of their parents or guardian, and friends.

306. In 2022, the State did not provide specific information on compliance with this recommendation in its report to the IACHR; however, the IACHR observed that, as part of the *Novo Socio Educativo* project, the State had proceeded with the diagnostic assessment of the system, including the construction requirements for new socio-educational centers. However, this project is still in the pilot stage and to date only in the state of Minas Gerais have new units been implemented. The IACHR also noted that Brazil has proceeded to establish the State System for Socio-educational Assistance "Vacancy Centers" as per National Justice Council Resolution 367/2021. By April 2022 only ten states in Brazil had implemented this centralized system for managing the units' capacities.²⁴⁰

Information on compliance

307. In 2023, the State informed the Commission of its progress on the State System for Socio-educational Assistance Vacancy Centers, as per National Justice Council Resolution 367/2021. The State explained that pursuant to the Resolution, these central placement offices can identify vacancies at the regional level, for the purposes of planning and territorial distribution in the socio-educational centers and decentralization, according to demand. The State affirmed that offices had already been set up in 19 states of the federation, through the United Nationals Development Programme and National Justice Council Joint Doing Justice program. Implementation is ongoing in the other states. In addition, the State reported the National Justice Council's promotion of "specialized hearings," designed to ensure that legal decisions on reassessment are made with the adolescents' and their families' input, in courts in 18 states and other federal units.

308. According to the information provided by civil society, in Brazil the Union, states, and municipalities are responsible for the territorial decentralization of child and adolescent detention centers. In addition to the central State, the states and municipalities have autonomy to make decisions regarding the territorial decentralization of these centers.²⁴¹

Analysis and level of compliance with the recommendation

309. The IACHR appreciates the information provided by the State on the progress being made on the vacancy/placement centers and its promotion of the specialized hearings. However, the Commission notes that the State has not provided specific data or information on how these measures have enabled or encouraged adolescents' contact with their families and communities, nor on how the territorial decentralization of the

²⁴⁰ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 236-237.

²⁴¹ Cáritas Brasileira. Response to the consultation questionnaire, September 18, 2023.

detention centers has helped ensure that the adolescents will serve their time in the center closest to their homes or families' residences.

310. In this sense, although the aforementioned placement offices may be a useful tool for combating overcrowding and making information available about vacancies at the different units, the IACHR notes that the State does not cite any specific measures adopted in 2023 to comply with the recommendation, nor does it provide information on how these vacancy centers are used to assign or transfer adolescents to the detention center closest to their or their families' homes. Based on the information analyzed, the Commission finds that State compliance with this recommendation is still **partial**.

Measures and information to make progress on fulfilling the recommendation

311. With a view to steering the implementation process for this recommendation, the IACHR invites Brazil's central State, states, and municipalities to develop measures to finalize the territorial decentralization of detention centers and to eliminate all barriers to achieving the adolescents' effective contact or relations with their families, caregivers, and communities. The IACHR also invites the State to report data on the progress made on these measures to ensure that the adolescents serve their time in the places specified in the recommendation.

Recommendation No. 43. Keep a record and conduct a serious, impartial, effective, and expeditious investigation of all complaints received regarding the way the juvenile justice system operates and reply to all such complaints. In cases in which violations of the rights of the child in such centers are confirmed, adopt measures in administrative, civil and/or criminal proceedings to punish those responsible; avoid a recurrence of what happened; and proceed to make appropriate reparation to the victims and their family members.

312. For the most recent follow-up report to the Brazil country report, the State did not provide data in its report to the IACHR. In response, the Commission stressed the importance of judicial authorities listening to the adolescents, pursuant to the Brazilian legal system, and invited the State to report its progress on consolidating a system for reporting, registering, and investigating complaints, to be implemented by the country's juvenile justice system facilities.²⁴²

Information on compliance

313. In 2023, the State informed the Commission of the Prison and Socio-educational System Monitoring and Inspection Groups under the federal courts. These Groups receive reports of irregularities found in the socio-educational system, and were established by National Justice Council Resolution 214/2015.²⁴³

314. Moreover, with regard to the mechanisms implemented by the State to register and receive complaints and reports, civil society informed the Commission that in addition to the National Justice Council, Public Prosecutor's Office, Public Defender's Offices, and *Ligue 100* hotline mechanisms, some states, like Minas Gerais, had Ombudsman's Offices that receive complaints on the operation of the juvenile justice system.²⁴⁴

Analysis and level of compliance with the recommendation

315. The IACHR appreciates the information provided by the State and the civil society organizations on the existing institutional mechanisms for registering and receiving complaints about the operation of the juvenile justice system. However, it also notes that the State did not provide concrete, specific

²⁴² IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 240-241.

²⁴³ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

²⁴⁴ Cáritas Brasileira. Response to the consultation questionnaire, September 18, 2023.

data on measures adopted in 2023 to comply with this recommendation, nor on the outcomes thereof. Therefore, based on the information analyzed, the Commission finds compliance with this recommendation to still be **pending**.

Measures and information to make progress on fulfilling the recommendation

316. To steer the process of implementing this recommendation, the IACHR invites the State to provide relevant, up-to-date information and specific data that will make it possible to verify compliance with the recommendation. Specifically, it invites the State to report on the implementation of the mechanisms it reported, the Monitoring and Inspection Groups, and the judicial inspection scores, and their results. Importantly, the State must ensure that these mechanisms are indeed accessible, simple, widely known to the adolescents, and designed with their needs and particularities in mind,²⁴⁵ for which reason the IACHR asks the State to provide information on the actions taken to those ends.

Recommendation No. 44. Establish a juvenile justice indicators system based on international models, designed to be periodically updated, and ensure public access to that information, which needs to contain, at a minimum, data on: (i) the total number of adolescents in “socio-educational” correctional facilities; (ii) a breakdown of the data by gender, ethnic/racial origin, migratory status, age, sexual orientation, identity and/or gender expression, and sexual characteristics, as well as any other characteristics that could trigger intersectional risks for the adolescents; and (iii) the number of adolescents per type of correctional regime, including the different forms of internment.

317. In 2022, the State did not provide data on this recommendation in its report to the IACHR. That said, the IACHR did note that the State had implemented the National Socio-educational Services System, but the data therefrom had not been updated since 2020 and is not publicly available. The IACHR also noted that the National Council of the Public Prosecutor’s Office’s Internment and Semi-open Socio-educational Overview informational tool contained up-to-date public information on the country’s internment and semi-open facilities, but not disaggregated data for each adolescent, as that is not the tool’s focus.²⁴⁶

Information on compliance

318. In 2023, the State informed the Commission that it has the databases from the State System for Socio-educational Treatment Vacancy Center, the Prison System Inspection and Monitoring Department, and the Socio-educational Measures Execution System. It also reported that the data from the CNIUPS (closed units) forms are being classified in a public, online database (*Plataforma Socioeducativa*), and that the launch of the CNIUPS forms for open socio-educational programs will make it possible to obtain information starting next year. The State also reported that this platform is currently being implemented, and that it will allow users to consult, in real time, the number and type of socio-educational measures applied and the adolescents’ profiles (age, gender, race, color, ethnicity, etc.).²⁴⁷

319. Moreover, according to information provided to the IACHR by civil society, the National Socio-educational Services System should perform annual surveys on juvenile justice. However, the IACHR learned that the most recent update took place in 2020, and before that, in 2017. Furthermore, the organizations told the Commission that surveys have been completed by managers of the socio-educational units and the municipalities directly involved in the socio-educational measures.²⁴⁸

²⁴⁵ IACHR, [The right of boys and girls to a family: Alternative care. Ending institutionalization in the Americas](#), OEA/Ser.L/V/II. Doc. 54/13, October 17, 2013, par. 404.

²⁴⁶ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 243-245.

²⁴⁷ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

²⁴⁸ Cáritas Brasileira. Response to the consultation questionnaire, September 18, 2023.

Analysis and level of compliance with the recommendation

320. The IACHR takes note of the measures taken and progress made by the State towards compliance with the recommendation. However, it also observes that, to date, the State had not provided information that would allow the IACHR to see and verify this data, updates to it, or the public access to it. Therefore, the IACHR determines that the State's compliance with the recommendation continues to be **partial**.

Measures and information to make progress on fulfilling the recommendation

321. To steer the implementation process, the IACHR invites the State to provide information, data, and links to the platforms that will allow it to verify the availability and comprehensive updating of the data mentioned and suggested in the recommendation. The IACHR underscores that the system of juvenile justice indicators must be comprehensively and regularly updated, and public access must be guaranteed. Likewise, the unified, automated data should minimize the risks of duplicated records and missing and/or erroneous information. Furthermore, the IACHR invites the State to ensure that the compilation methodology and the indicators in the registry include information on the alternative socio-educational measures handed down instead of internment, to make it possible to demonstrate the exceptional nature of internment measures as called for above.²⁴⁹

I. Lesbians, gays, bisexuals, trans and intersex (LGBTI) persons

Recommendation No. 45. Make - and properly fund - efforts to systematically compile and analyze official data on the prevalence and nature of violence and discrimination based on sexual orientation or where sexual characteristics vary in accordance with the binary masculine and feminine roles.

322. In 2022, the IACHR took note of the measures adopted by the State, such as the publication of the National Health Survey, which for the first time included questions on sexual orientation, and the inclusion of sexual orientation information in the population census.²⁵⁰ Accordingly, it invited the State to continue making progress on gathering and systematizing data, so that it can appropriately shape public policies and legislation on protecting the rights of LGBTI persons.²⁵¹

Information on compliance

323. In 2023, the State informed the IACHR of its creation of the National Secretariat for the Rights of LGBTQIA+ Persons under the MDHC, as a response to the historical demand from the LGBTQIA+ social movements for increased representation and inclusion in Brazilian public policies, as well as to their fundamental role in restoring democracy. The State explained that the Office for Promoting and Defending the Rights of LGBTIA+ Persons was established within this Secretariat, as the body responsible for coordinating actions on anti-violence policies, investigations, and evidence on public policies for LGBTI persons. The State also highlighted the creation of the General Coordinating Office for Promoting the Rights of LGBTIA+ Persons and the General Coordinating Office for Defending the Rights of LGBTIA+ Persons, within the aforementioned Office for Promoting and Defending the Rights of LGBTIA+ Persons, whose objective is to perform actions to promote the rights of LGBTI persons and combat violence against them.²⁵²

324. The State emphasized that it is developing the Multiyear Plan 2024-2027 for the MDHC programs, to include actions, specific objectives, deliverables, and results indicators for the following aims: (i) promoting the employability of socially vulnerable LGBTIA+ persons; (ii) addressing violence against

²⁴⁹ IACHR, [Juvenile Justice and Human Rights in the Americas](#), OEA/Ser. L./V/II. Doc. 78/11, July 3, 2011, paragraph 588. IACHR, [The right of boys and girls to a family: Alternative care. Ending institutionalization in the Americas](#), OEA/Ser.L/V/II. Doc. 54/13, October 17, 2013, par. 554.

²⁵⁰ IACHR, [Annual Report 2022. Chapter V: Brazil](#), pars. 249-250.

²⁵¹ IACHR, [Annual Report 2022. Chapter V: Brazil](#), par. 253.

²⁵² State of Brazil, Note No. 359 of September 12, 2023. Response to the consultation questionnaire.

LGBTIA+ persons, to include training for and education of public security agents on how to properly handle and register incidents of LGBTQIA-phobic violence; (iii) campaigns to raise awareness of LGBTQIA-phobic discrimination; (iv) strengthening social participation through the Councils on the Rights of LGBTIA+ Persons; (v) strengthening the health promotion and social assistance services for LGBTIA+ persons who are vulnerable or whose families have abandoned or broken ties with them; (vi) preparing reports on incidents of violence and human rights violations against LGBTIA+ persons.²⁵³

325. The State also informed the Commission of its creation of the National Council for the Rights of Lesbian, Gay, Bisexual, Travesti, Transsexual, Queer, Intersexual, Asexual, and Other Persons on April 6, 2023, which as the title reveals, is an important agency for social participation that (i) drafts criteria and parameters for government actions; (ii) proposes strategies for evaluating and supporting these actions; and (iii) provides support for the preparation and execution of the Union's proposed budget, with the potential to submit recommendations on the allocation of funds, with a view to promoting and defending the rights of LGBTIA+ persons.²⁵⁴

Analysis and level of compliance with the recommendation

326. The Commission praises the State's establishment of a stronger institutional framework focused on guaranteeing the rights of LGBTI persons in Brazil. Of particular importance are the actions to protect these persons and broadly guarantee their rights planned in the MDHC's Multiyear Plan 2024-2027 as a way to prevent human rights violations and to ensure that they can access their human rights, like work, social participation, health, social assistance, and primarily, the right to live free from violence and discrimination. The Commission appreciates the creation of the National Council on the Rights of LGBTI Persons as a way to guarantee widespread social participation.

327. In view of the State's indications above, the Commission finds that compliance with this recommendation has progressed to **partial**.

Measures and information to make progress on fulfilling the recommendation

328. To steer compliance with this recommendation, the Commission invites the State to continue making progress on compiling and systematizing data so that it can appropriately shape public policies and laws for protecting the rights of LGBTI persons and ensuring their social inclusion.

Recommendation No. 46. Adopt such legislative measures and public policies as are needed to prevent violence, discrimination, and prejudice against persons based on their sexual orientation, identity, and/or gender expression, or whose sexual characteristics vary in accordance with masculine and feminine models. Those measures need to take into account the intersection of factors that may heighten the violence, such as ethnic/racial origin.

329. The State did not provide information on compliance with this recommendation for Chapter V of the 2022 Annual Report. However, the Commission did mention the decision made by the Sixth Division of the Superior Court of Justice to recognize that the Maria da Penha Law on preventing domestic and family violence against women is also applicable to trans women. The IACHR also expressed its concern over the high number of killings and other violent incidents involving trans persons in the country.²⁵⁵

²⁵³ State of Brazil, Note No. 359 of September 12, 2023. Response to the consultation questionnaire.

²⁵⁴ State of Brazil, Note No. 359 of September 12, 2023. Response to the consultation questionnaire.

²⁵⁵ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 254-256.

Information on compliance

330. In addition to the information it provided with regard to the preceding recommendation, in 2023 the State reported that a technical cooperation agreement had been signed by and between the MDHC and the National Justice Council to perform studies and investigations and exchange information and access to data in order to produce indicators and evidence, and to disseminate information on human rights and citizenship, since one of the objectives is to combat violence against LGBTI persons.²⁵⁶

Analysis and level of compliance with the recommendation

331. The Commission welcomes the information on the technical cooperation agreement entered into by the MDHC and the National Justice Council that provides for, in one of its objectives, adopting measures to combat violence against LGBTI persons. Adding this to the other information provided by the State covered in prior recommendations, the Commission finds that the State has been adopting various measures to prevent violence and discrimination against LGBTI persons. Accordingly, the IACHR determines that compliance with this recommendation has improved to **partial**.

Measures and information to make progress on fulfilling the recommendation

332. To guide the State's process of complying with this recommendation, the Commission invites it to continue adopting the legislative and policy measures necessary to prevent violence, discrimination, and prejudice against LGBTI persons. The IACHR also invites the State to ensure these measures are implemented with mechanisms for evaluating their true impact on preventing violent incidents against this population. Likewise, the IACHR considers it essential for the measures adopted in compliance with this recommendation to take into account the need to prevent violent acts against Afro-descendent trans women, given the intersectional factors that can exacerbate such violence.

Recommendation No. 47. Adopt comprehensive public policies that consolidate progress made as regards civic status (cidadania), equality, and dignity for the trans and diverse gender population, including guaranteeing the right to gender identity.

333. In the most recent follow-up report published in Chapter V of the 2022 Annual Report, the State did not report information on compliance with this recommendation. However, the Commission reported that it had learned that trans persons have gained more access to the right to education, since 12 states have recognized the use of their chosen names in educational spheres. The Commission also congratulated the State for the judicial decision that allowed the posthumous recognition of gender identity on a trans person's death certificate.²⁵⁷

Information on compliance

334. In 2023, the State did not submit specific information on compliance with this recommendation.

Analysis and level of compliance with the recommendation

335. Despite the lack of specific information, the Commission has considered the information provided in connection with previously discussed recommendations and has verified the State's will to continue moving forward on protecting and guaranteeing the rights of LGBTI persons, and therefore determines that compliance with this recommendation continues to be **partial**.

²⁵⁶ State of Brazil, Note No. 359 of September 12, 2023. Response to the consultation questionnaire.

²⁵⁷ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 258 and 259.

Measures and information to make progress on fulfilling the recommendation

336. To move towards full compliance with this recommendation, the State must continue to strengthen and evaluate public policies that enable trans and gender-diverse persons to effectively exercise their human rights. The IACHR calls on the State to take into account, in the strategy, the elements noted to be an integral part of the cycle of a public policy that has a human rights approach, specifically the aspects related to: (i) construction of the agenda and/or identification of the situation to be addressed; (ii) design and/or development; (iii) implementation and/or execution; and (iv) monitoring and evaluation.²⁵⁸ Likewise, the Commission invites the State to consider that public policy implementation entails civil society participation, as well as evaluation indicators to measure the objective advancements that show the policies' effectiveness.

Recommendation No. 48. Create and implement policies that guarantee the right of LGBTI persons, especially trans and diverse gender persons, to access health care services without being subjected to discrimination and violence.

337. For the follow-up report published in Chapter V of the 2022 Annual Report, the State did not inform the IACHR of any measures adopted for compliance with this recommendation. In turn, the IACHR took note of various obstacles to the LGBTI population's access to healthcare, such as stigmatization by healthcare workers, which affects the type of medical services they receive; and the widespread lack of healthcare professionals who have the specialized knowledge to understand and treat the specific health problems of the trans and travesti populations.²⁵⁹

Information on compliance

338. The State informed the IACHR that the transsexualization process policy (in Portuguese, *Processo Transsexualizador*), instituted in 2008 in the Single Healthcare System (SUS), establishes guidelines for treating persons undergoing a gender transition, and that it has been refined over the years. Furthermore, the State indicated that between 2008 and 2018, the Ministry of Health authorized 12 services, but data on them were not published from 2019 to 2022. It also pointed out that, as of January 2023, Brazil has 21 authorized transsexualization process policy services, 8 of which take place in the hospital setting.²⁶⁰

339. The State also acknowledged the need to broaden this policy's scope of application. That said, it also affirmed that it is already engaging in actions to that end, namely: (i) eliminating red tape involved in authorizing new services; (ii) creation of the interministerial working group to improve treatment flows and to expand and enhance the care network and improve the decision-making process; and (iii) preparation of the report entitled "Analysis of the Regulatory Impact" of the specialized care policy on the health of the trans population. Lastly, the State mentioned that the mechanisms for monitoring and evaluating the transsexualization process policy have not been implemented yet, but they will be soon.²⁶¹

340. The State also informed the IACHR of the Ministry of Health's Access and Equity Coordinating Office, whose purpose is to develop, revise, implement, coordinate, and monitor policies to promote the equality of vulnerable population groups, including LGBTI persons. In addition, the State highlighted the 2013 National Policy on LGBT Health, which seeks to expand access to SUS services for lesbians, gays, bisexuals, travestis, and transsexuals, and emphasized the prohibition of all types of exclusionary practices. Lastly, the State indicated that the Access and Equity Coordinating Office is in constant coordination with social movements, and with the MDHC, Ministry of Women's Affairs, Ministry for Racial Equality, and MDS, to discuss complaints and prepare training materials to teach health professionals about policies focused on this population group.²⁶²

²⁵⁸ IACHR, [Public Policy with a Human Rights Approach](#), OEA/Ser.L/V/II. Doc. 191, September 15, 2018, pars. 175 to 178.

²⁵⁹ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 261-264.

²⁶⁰ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

²⁶¹ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

²⁶² State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

Analysis and level of compliance with the recommendation

341. The IACHR welcomes the initiatives adopted by the Ministry of Health in coordination with the MDHC to guarantee the right to health for LGBTI persons. Specifically, it praises the strengthening and expansion of the transsexualization process policy, and the collection of data for it, and considers this policy to be fundamental to guaranteeing the right to health for the country's trans population. The Commission stresses how important it is for these services to be made available for everyone who needs them throughout the country. Given the actions taken by the State, the Commission considers that it has progressed to **substantial partial compliance** with this recommendation.

Measures and information to make progress on fulfilling the recommendation

342. With a view to helping the State fully comply with the recommendation, the IACHR encourages it to continue strengthening the public health policy for the trans population, and stresses the importance of putting mechanisms in place to monitor and evaluate this policy, as data on its progress will be useful. The IACHR also invites the State to provide information on the policies adopted to ensure other LGBTI persons can access their right to health, without discrimination.

Recommendation No. 49. Adopt any legislative and public policy measures needed to promote the rights of LGBTI persons, including those conducive to cultural changes via an inclusive education with a diversified gender perspective.

343. The State did not submit information to the IACHR on compliance with this recommendation for the 2022 follow-up report. In turn, the Commission called attention to various bills that would affect children's and adolescents' rights to comprehensive sexual education and asserted that these initiatives also hamper cultural change towards more inclusive, tolerant societies respectful of human rights, and in particular, of groups vulnerable to gender stereotypes like women and LGBTI persons.²⁶³

Information on compliance

344. In 2023, the State informed the IACHR about the actions of the National Council for the Rights of LGBTQIA+ Persons' Technical Chamber on Education, which ensure the Ministry of Education will be present on that National Council. The State also reported its creation of a working group to shed light on human rights violations against LGBTI persons in Brazilian history, so as to guarantee their rights to truth, memory, and dignity. In this respect, the State pointed out that this policy is also geared towards the implementation of educational and cultural practices in the country that will promote inclusion and nondiscrimination.²⁶⁴

Analysis and level of compliance with the recommendation

345. The Commission congratulates the State for the important integration of the MDHC and Ministry of Education to develop education policies associated with the LGBTI population. Above all, it appreciates the creation of the working group focused on guaranteeing the right to truth and memory for the historical violations committed against LGBTI persons and on changing Brazilian culture. However, since the country has such high rates of violence against LGBTI persons, the Commission considers it necessary for the State to establish and implement additional intersectional public policies that target cultural change in the country until levels of violence effectively decrease. In view of this, the IACHR considers that compliance with this recommendation is still **pending**.

²⁶³ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 267.

²⁶⁴ State of Brazil, Note No. 359 of September 12, 2023. Response to the consultation questionnaire.

Measures and information to make progress on fulfilling the recommendation

346. The IACHR considers that for the State to move towards implementation of this recommendation, it must adopt measures that consist of passing legislation or public policies to promote cultural change, with educational and pedagogical dimensions to foster and guarantee the rights of LGBTI persons.

Recommendation No. 50. Continue making headway with the institutional framework for the human rights agenda of LGBTI persons and ensuring its consolidation by endowing it with adequate budget and trained personnel who will work effectively to uphold it.

347. For the 2022 follow-up report, the State provided information on the increase in the budget earmarked for actions to guarantee the rights of LGBTI persons, which allegedly helped strengthen the institutional framework for human rights for this population. At the same time, the IACHR lamented the closure of institutions focused on this population group, like the LGBTI Policy Coordination Office at the Ministry of Women, the Family, and Human Rights, and the Council to Combat Discrimination against LGBT Persons.²⁶⁵

Information on compliance

348. In 2023, the State reported that in addition to the Multiyear Plan 2024-2027, it intends to allocate funds to the National Secretariat for the Rights of LGBTQIA+ Persons under the MDHC. The State also pointed out the publication of public call 3/2023 to take action on training defenders who work with the LGBTI population.²⁶⁶

349. Furthermore, in its observations to this report, the State informed the IACHR that the National Council for the Rights of LGBTQIA+ Persons was established in April 2023. According to the State, this Council is an important institution for social participation, and its primary functions are to: (i) collaborate with National Secretariat for the Rights of LGBTQIA+ Persons in preparing criteria and parameters for government actions that guarantee equality, equity, and fundamental rights for LGBTQIA+ persons; (ii) propose strategies for evaluating and monitoring the government actions towards this population group; and (iii) oversee the preparation and execution of the Union budget, with the potential to recommend that funds be allocated to promoting and defending the rights of LGBTQIA+ persons.²⁶⁷

Analysis and level of compliance with the recommendation

350. The Commission welcomes the creation of the National Secretariat for the Rights of LGBTQIA+ Persons and the National Council for the Rights of LGBTQIA+ Persons as a way to strengthen the country's institutional framework for human rights focused on this sector of the population. It also recognizes the measures included in the MDHC's Multiyear Plan 2024-2027, as indicated in the analyses of other recommendations above. In view of this progress, the Commission considers that compliance with this recommendation has advanced to **partial**.

Measures and information to make progress on fulfilling the recommendation

351. To steer implementation of this recommendation, the Commission invites the State to adopt measures to strengthen institutions with regard to the human rights of LGBTI persons, ensuring progressive institutional development as well as the resources and qualified staff necessary to ensure the bodies responsible for promoting these rights will be effective.

²⁶⁵ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 269.

²⁶⁶ State of Brazil, Note No. 359 of September 12, 2023. Response to the consultation questionnaire.

²⁶⁷ State of Brazil, Note No. 505 of December 21, 2023. Comments on document draft.

J. Persons with disabilities

Recommendation No. 51. Adopt measures designed to guarantee equality before the law for persons with disabilities, safeguarding their legal capacity on an equal footing with other people.

352. The State did not provide information on compliance with this recommendation for the most recent follow-up report published in Chapter V of the 2022 Annual Report. The Commission, meanwhile, indicated that certain regulatory provisions, like the concepts of guardianship and curatorship, restrict the legal capacities of persons with disabilities. Accordingly, it invited the State to make progress towards overcoming the existing barriers and to report information on the process and the results thereof.²⁶⁸

Information on compliance

353. In 2023, the State emphasized that Brazil has signed the Convention on the Rights of Persons with Disabilities and its Optional Protocol. It reports that in Brazil, equality of persons with disabilities is protected by the Constitution, in line with the principles of the Convention, which has constitutional status. Along these lines, the State highlighted that it is working to strengthen the legal framework for defending the rights of persons with disabilities.²⁶⁹

354. On this occasion, the State pointed out that its Live Without Limits Plan 2, the second national plan to promote the human rights of persons with disabilities and their families, is in full development. It also indicated that the general objective of this plan is to promote the civil, political, economic, social, and cultural rights of persons with disabilities and their families, addressing the barriers that prevent them from fully exercising their citizenship. The plan involves dozens of ministries and will be launched in the second half of 2023. The State highlighted that, with this plan, for the first time in 10 years Brazil will launch a systemic, integrated policy to promote the rights of persons with disabilities. The plan includes dozens of actions organized around four pillars: (i) inclusive management and participation; (ii) the fight against ableism and violence; (iii) accessibility and assistive technology; and (iv) the promotion of economic, social, cultural, and environmental rights.²⁷⁰

Analysis and level of compliance with the recommendation

355. The Commission salutes the State for its efforts to strengthen the legal framework to benefit persons with disabilities. These efforts demonstrate its intention to effectively guarantee their rights. Likewise, the Commission welcomes the launch of the Live Without Limits Plan 2, which is demonstrative of the government's proactiveness in actively promoting the rights of persons with disabilities. The plan is not limited to one single area or aspect, but rather takes a holistic approach to addressing topics that range from inclusive management and participation to the promotion of environmental rights, reflecting a complete, detailed vision of the challenges and needs of people with disabilities.

356. Given the above and based on the progress observed, the Commission considers compliance with this recommendation to have advanced to **partial**.

Measures and information to make progress on fulfilling the recommendation

357. To steer implementation of this recommendation, the IACHR respectfully invites the State to continue adopting comprehensive measures to ensure the equality of persons with disabilities and to report on the design and implementation of such measures. These measures should be geared towards overcoming

²⁶⁸ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 272.

²⁶⁹ State of Brazil, Note No. 359 of September 12, 2023. Response to the consultation questionnaire.

²⁷⁰ State of Brazil, Note No. 359 of September 12, 2023. Response to the consultation questionnaire.

the existing barriers to persons with disabilities' exercise of their right to legal capacity, and may include legislative and regulatory actions, and/or institution building and relevant public policies.

Recommendation No. 52. Eliminate laws, regulations, and practices that discriminate against persons with disabilities, including in connection with health care and, in particular with respect to medical treatment.

358. In 2022, the State reported its creation of the Inclusion Register, a unique database on the situation of persons with disabilities; tax-exempt credit lines with subsidized interest rates for the purchase of products or services to improve persons with disabilities' quality of life; and a service line for information on rare diseases.²⁷¹ In turn, the IACHR asked the State to provide information on when these initiatives were developed, as well as on implementation, to make it possible to move forward on evaluating compliance with the recommendation.²⁷²

Information on compliance

359. In 2023, the State told the IACHR that it had resumed the process of reviewing and refining the regulatory concepts associated with the Care Network for Persons with Disabilities, with a view to adopting its actions in the territories. The State also reported that it is updating the National Health Policy on Persons with Disabilities in light of various aspects of intersectionality.²⁷³

360. The State also noted the existence of the 2015 Statute on Persons with Disabilities, which not only establishes specific rights for these individuals, but also amends other laws to ensure people with disabilities can fully enjoy their rights. The State further explained that the Statute defines disability-based discrimination as any act that limits or impedes the recognition or exercise of persons with disabilities' fundamental rights, including the refusal to make adaptations or provide support technologies. What is more, the State noted, the Statute classifies discriminatory acts as a crime.²⁷⁴

Analysis and level of compliance with the recommendation

361. According to the Commission, the fact that the State has resumed the process of revising and refining the regulatory concepts involved in the Care Network for Persons with Disabilities demonstrates a proactive effort to ensure that the regulations are up-to-date and aligned with the current needs and rights of people with disabilities. In the same vein, it considers that the State's updating of the National Health Policy on Persons with Disabilities in consideration of various factors associated with intersectionality shows a deep, full understanding of the many facets of discrimination that persons with disabilities may face, and the need to address them.

362. In view of this, the Commission considers that the State has progressed to **partial compliance** with this recommendation.

Measures and information to make progress on fulfilling the recommendation

363. To steer implementation of this recommendation, the IACHR invites the State to continue reviewing the legislation and regulations in place on the rights of persons with disabilities and, based on that analysis, to adopt the actions necessary to eliminate the provisions in the country's legal system that discriminate against them, including laws, regulations, and discriminatory practices.

²⁷¹ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 275.

²⁷² IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 276.

²⁷³ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

²⁷⁴ State of Brazil, Note No. 359 of September 12, 2023. Response to the consultation questionnaire.

Recommendation No. 53. Adopt measures designed to guarantee the right of persons with disabilities to the highest possible state of health, on an equal footing with other people, eliminating any barriers that prevent or obstruct access to health information, services, and assets.

364. In 2022, the State did not provide specific information on compliance with this recommendation.²⁷⁵ At the time, the IACHR invited the State to provide information on the adoption of specific actions taken to guarantee the highest possible state of health for persons with disabilities, with such actions also meant to ensure access to health information, services, and assets, based on individual needs.²⁷⁶

Information on compliance

365. In 2023, the State affirmed that the first step towards overcoming barriers is to implement not only a medical vision of disability, but also a biopsychosocial one. To that end, it indicated that in April 2023, it created the Working Group to Implement the Standardized Disability Assessment, responsible for producing the subsidies and inputs necessary for application of the Standardized Biopsychosocial Disability Assessment. According to the State the first meeting in the participatory process began with an international seminar in hybrid format, with experts from the World Health Organization among the attendees. Lastly, the State emphasized that all the Working Group's meetings are webcast live and available online, which means they are fully transparent for society.²⁷⁷

366. In addition, the State reported four specific measures to guarantee equality before the law for persons with disabilities: (i) training and certification of health professionals and managers working in the Care Network for Persons with Disabilities; (ii) expansion of the offering of SUS actions and services by increasing the number of specialized centers and orthopedics offices financed by the Ministry of Health; (iii) improvement of regulatory concepts associated with the Care Network for Persons with Disabilities in order to expand its actions in the territories; and (iv) certification of the guidance materials for health professionals.²⁷⁸

367. The State also indicated that, in order to foster strategies that will improve inclusive access to information and to SUS services, it is working to certify guidance materials for persons with disabilities and health professionals. It also indicated that it is promoting the active participation of persons with disabilities in the revision of the National Health Policy for Persons with Disabilities, through public consultations held between May and August 2023.²⁷⁹

368. Lastly, it reported that SESAI had created a guidance document for health professionals who work with persons with disabilities and is collaborating with various secretariats to improve access and help develop the Live Without Limits Plan 2, which aims to promote the rights of these people and overcome barriers that restrict their full citizenship.²⁸⁰

Analysis and level of compliance with the recommendation

369. The Commission considers that the State, in adopting a biopsychosocial approach, acknowledges that disability is not only a medical issue, but involves psychological and social factors as well. This is a more comprehensive and empathetic approach towards care for and the needs of persons with disabilities. Along these lines, the establishment of a standardized assessment ensures a consistent, comprehensive approach throughout the country, which facilitates access for persons with disabilities and recognition of their rights and needs. The Commission also congratulates the State for expanding the service

²⁷⁵ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 278.

²⁷⁶ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 279.

²⁷⁷ State of Brazil, Note No. 359 of September 12, 2023. Response to the consultation questionnaire.

²⁷⁸ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

²⁷⁹ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

²⁸⁰ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

offerings and increasing the number of specialized centers, thereby guaranteeing that more persons with disabilities will have access to high-quality healthcare services specific to their needs.

370. In summary, for the Commission, these measures reflect a combination of approaches, strategies, and collaborations designed to address the multifaceted challenges faced by persons with disabilities in connection with their right to health. In view of this, the Commission considers that the State has progressed to **partial compliance** with this recommendation.

Measures and information to make progress on fulfilling the recommendation

371. To guide compliance with this recommendation, the Commission invites the State to continue adopting specific actions to guarantee the highest possible state of health for persons with disabilities. These measures must be designed to ensure access to health information, services, and assets, based on individual needs.

Recommendation No. 54. Put a stop to all coercive practices, guaranteeing the free and informed consent of persons with disabilities to the medical care they receive, and provide them with any support they need to take decisions, including mental health care.

372. The State did not submit specific information to the IACHR on compliance with this recommendation for the most recent follow-up report to the Brazil country report.²⁸¹ However, the IACHR called on the State to report information on measures to ensure that persons with disabilities exercise free and informed consent when accessing medical care, and to foster their decision-making with guidance on mental health.²⁸²

Information on compliance

373. In 2023, the State highlighted its international responsibilities to persons with disabilities and emphasized the need to implement the recommendations issued by the Inter-American Court of Human Rights in the Ximenes Lopes case. In this vein, it indicated that the Ministry of Health has been working, through the Mental Health Bureau, on strengthening the Psychosocial Care Network. The State reported that, in July 2023, the Ministry of Health announced a major allocation of funds (R\$200 million) to reimburse expenses. The State also reported that it had resumed the National Health Conferences, which are extremely important forums for the participative construction of public policies.²⁸³

374. The State also reported that the Statute on Persons with Disabilities guarantees rights like housing, social security, transportation, health, and education, on an equal basis for persons with disabilities, with a view to their social inclusion and citizenship. In addition, it indicated that care of these individuals is guided by the Special Therapeutic Project, a collective treatment plan prepared jointly with the user, family, and specialists, to meet the individual's specific needs, and if necessary, coordinate intersectoral interventions.²⁸⁴

375. The State informed the IACHR that it had launched the Human Rights and Mental Health Training Program: Damião Ximenes Lopes Continuing Education Course, and that the first edition has already been completed, with over 9,000 people registered, including public servants, healthcare professionals, and civil society representatives. The State explained that as a training program developed jointly with the National

²⁸¹ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 280.

²⁸² IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 281.

²⁸³ State of Brazil, Note No. 359 of September 12, 2023. Response to the consultation questionnaire.

²⁸⁴ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

School of Public Administration, the course will be held on an ongoing basis, and revisions will be incorporated pursuant to the methodology adopted.²⁸⁵

376. Also in the vein of complying with the decisions handed down by the Inter-American Court of Human Rights, the State pointed out that the judiciary has intensified its focus on the mental health and human rights of persons with disabilities. In this context, it stressed that the National Justice Council had proposed an agenda to guide its institutional actions and judicial policies based on the judgment in the aforementioned case. A working group was established to address the challenges to promoting mental health, also in reference to the Inter-American Court of Human Rights judgment. As a result, the State indicates, a project was created to institute a policy against asylum in the judiciary, and to provide guidelines for the treatment of persons with disabilities based on national and international regulations. According to the State, this policy was finalized with approval of National Justice Council Resolution 487/2023.²⁸⁶

Analysis and level of compliance with the recommendation

377. The Commission verifies the State's commitment to protecting and promoting the rights of persons with disabilities, especially with regard to mental health. Adherence to international standards, compliance with inter-American system recommendations, the allocation of funds, and the creation of specific programs and policies are essential to guarantee that persons with disabilities receive proper care and treatment, and to ensure that they can actively participate in the decisions that affect their lives. Accordingly, the IACHR considers that compliance with this recommendation has improved to **partial**.

Measures and information to make progress on fulfilling the recommendation

378. To guide implementation of this recommendation, the Commission invites the State to continue adopting and reporting the measures necessary to make certain that persons with disabilities exercise free and informed consent when accessing medical care. The State must also adopt measures designed to provide support adapted to these individuals' various conditions, in order to foster their decision-making processes, including mental health care measures.

Recommendation No. 55. Guarantee the rights of persons with disabilities to sexual and reproductive health care, especially as regards consent, privacy, and protection against cruel, inhuman, and degrading treatment.

379. In 2022, the State did not provide specific information on compliance with this recommendation.²⁸⁷ Therefore, the Commission invited the State to provide information on the measures geared towards guaranteeing the right to sexual and reproductive health for persons with disabilities, pursuant to the recommendation's specific components.²⁸⁸

Information on compliance

380. In 2023, the State highlighted the actions it had taken in connection with the Live Without Limits Plan 2, which provides for equipping primary and specialty care offices to make them accessible, including with special gynecological examination tables and breast examination equipment. It also reported that to reduce the various barriers to access (like insufficient availability and/or discriminatory practices), as well as visible and invisible violence against persons with disabilities and their family members, caregivers, and/or companions, the Ministry of Health has been developing continuing education measures to address discrimination/prejudice, offering training and development courses for administrators and other

²⁸⁵ State of Brazil, Note No. 359 of September 12, 2023. Response to the consultation questionnaire.

²⁸⁶ State of Brazil, Note No. 359 of September 12, 2023. Response to the consultation questionnaire.

²⁸⁷ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 282.

²⁸⁸ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 283.

development courses for professionals who work in Care Network for Persons with Disabilities health services.²⁸⁹

Analysis and level of compliance with the recommendation

381. The Commission considers that, even though the State has implemented measures that promote accessibility for clinics and medical centers, it is still waiting to receive information on the adoption of measures to guarantee the full and informed consent of persons with disabilities with regard to their sexual and reproductive health, right to privacy, and protection against cruel, inhuman, and degrading treatment.

382. In view of the above, the Commission finds that compliance with this recommendation is **pending**.

Measures and information to make progress on fulfilling the recommendation

383. To steer implementation of this recommendation, the IACHR invites the State to provide information on the measures designed to guarantee the right to sexual and reproductive health for persons with disabilities, including the specific aspects set forth in the recommendation, namely: consent, the right to privacy, and protection against cruel, inhuman, and degrading treatment.

Recommendation No. 56. Take steps to ensure that persons with disabilities have access to justice on an equal footing with others, by eliminating discriminatory practices, removing obstacles of any kind, and making reasonable adjustments to facilitate access.

384. For the 2022 follow-up report, the State informed the IACHR of its creation of the *Atiende Libras* program, which is a hotline for persons with hearing impairments to report human rights violations over video call, using Brazilian sign language (*Libras*). The State also highlighted the VLIBRAS program, which is a set of open-source programs that translate digital text, audio, and video content into sign language to make more web sites accessible.²⁹⁰ In turn, the Commission asked the State for more information on the implementation dates of and data from these initiatives.²⁹¹

Information on compliance

385. In 2023, the State specified that, after a seven-year break, the municipal, state, and national conferences on the rights of persons with disabilities would once again be held in 2024. It further indicated that broad participation is a fundamental mechanism for guaranteeing the institutional transformations needed to promote access to justice.²⁹²

386. The State also provided information on National Justice Council Resolution 401/2023, which establishes guidelines on accessibility for and the inclusion of persons with disabilities in judicial agencies and their auxiliary services, focused on eliminating architectural and technological barriers. Furthermore, in 2023, it indicated that it had created a Committee for Persons with Disabilities in the judicial sphere, to provide specific guidance for serving persons with disabilities. It also noted that National Justice Council Resolution 487/2023 introduces the judiciary policy against mental asylums, meaning against confinement. This resolution establishes procedures for handling detained persons who have mental illnesses or psychosocial disabilities. The State explained that it was introduced in response to the Inter-American Court of Human Rights judgment in the Ximenes Lopes case and to United Nations international conventions. It also specified that, in the criminal enforcement sphere, the identification of auditory or visual disabilities in

²⁸⁹ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

²⁹⁰ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 284.

²⁹¹ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 285.

²⁹² State of Brazil, Note No. 359 of September 12, 2023. Response to the consultation questionnaire.

hearings is based on self-reported information, and the possibility that interpreters may be needed is provided for.²⁹³

Analysis and level of compliance with the recommendation

387. The Commission salutes the State for the measures it has adopted to guarantee access to justice for persons with disabilities, like National Justice Council Resolution 401/2021, which establishes guidelines for eliminating architectural and technological barriers at judicial bodies, thereby enabling persons with disabilities to have physical and technological access to judicial services. In the same vein, the Commission recognizes that Resolution 487/2023 represents a major step forward towards a more inclusive justice system, since it focuses on proper treatment of persons with mental illnesses or psychosocial disabilities in detention.

388. The Commission also considers that the State answers to international standards and is adopting measures to ensure that persons with these conditions receive the correct treatment and are not subjected to inappropriate confinement. Accordingly, it considers that the State's compliance with this recommendation has improved to **partial**.

Measures and information to make progress on fulfilling the recommendation

389. With a view to guiding the State towards full compliance with the recommendation, the Commission invites it to continue reporting the measures it adopts to guarantee and strengthen access to justice for persons with disabilities in Brazil. Along these lines, it invites the State to specify which measures have been effectively implemented as a result of the aforementioned resolutions and the creation of the Committee.

K. Persons deprived of liberty

Recommendation No. 57. Adopt judicial, legislative, and administrative measures to reduce overcrowding and use pre-trial detention in accordance with the principles of exceptionality, legality, proportionality, and necessity. Above all, promote the application of alternatives to incarceration, by embracing a gender perspective and differentiated approaches. In particular, the State must do whatever it takes to ensure that the Federal Supreme Court's decision on house arrest with a gender perspective is actually implemented in all states.

390. In 2022, the State did not submit relevant information on the actions and measures adopted for compliance with this recommendation.²⁹⁴ In turn, the Commission took note of the information obtained from official data on the increase in the number of persons who benefited from house arrest in 2022. However, it also indicated that the prison overcrowding rate was 39% in 2022 and that a high number of persons were still subjected to pretrial detention, which would indicate that detention is still prioritized over the use of alternative measures.²⁹⁵

Information on compliance

391. In 2023, the State informed the IACHR that within the National Justice Council, the Prison System Monitoring and Oversight Department coordinates, together with the United Nations Development Programme, the Doing Justice program, which seeks to streamline the process of entering and exiting the prison system and guarantee that custody hearings will be held within 24 hours after an arrest. The State affirmed

²⁹³ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

²⁹⁴ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 289.

²⁹⁵ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 287-290.

that since 2015, over one million such hearings have been held, leading to the release of over 40% of persons arrested in flagrante delicto.²⁹⁶

392. The State also indicated that it is developing the new Vacancy Control Center methodology to optimize space management in prisons. It explained that this methodology is being tested in a federal state and is expected to be replicated in the near future. Concurrently, it reported that the National Justice Council is promoting, through the judiciary, the use of criminal justice alternatives focused on restorative justice and the implementation of solutions that do not involve imprisonment. In this context, it indicated that National Justice Council Resolution 369/2021 establishes guidelines for substituting imprisonment with other alternatives for pregnant women, mothers, fathers, and caregivers of children and persons with disabilities.²⁹⁷

393. In turn, the IACHR has become aware of public-access information on the implementation of this recommendation, such as the information provided by the United Nations Committee against Torture, which, in its reports on prison overcrowding, asked the Brazilian authorities to eliminate overcrowding at all detention centers, correct all deficiencies in the overall prison living conditions, and guarantee the continuity of medical treatment in prison. Likewise, the Commission learned that this Committee had urged the Brazilian State to perform an in-depth review of the existing laws and practices to address the root causes of the disproportionate rates of imprisonment of Afro-Brazilians, as well as over-surveillance, racial profiling, and systemic racial discrimination in law enforcement and other judicial bodies.²⁹⁸

394. The Commission also learned that, according to the Brazilian Forum on Public Security, Brazil's prison population grows every year. It indicated that at present, there are 832,295 individuals in State custody or required to use electronic monitoring devices. Of this total, 43% are young people up to 29 years old and 68% are Afro-Brazilian, just like the victims of violent deaths in the country. The Commission also learned that, according to the Forum, the overcrowding of the Brazilian prison system is the subject of a lawsuit before the Federal Supreme Court, ADPF 347, which argues that it is an "unconstitutional state of affairs" due to the ongoing violation of human rights. Notably, according to the Forum, almost one decade after the suit was filed in 2015, the number of prisoners surpasses the criminal justice system limit by over 230,000.²⁹⁹

395. Likewise, in the document it sent to the IACHR for preparation of this report, the Rio de Janeiro State Mechanism for Preventing and Combating Torture (MEPCT/RJ) stressed the lack of up-to-date data on the country's prison system, especially with regard to intersectionality. According to the organization, no specific data is available on Afro-Brazilian women, LGBTI persons, or persons with disabilities. It also indicated that 51% of the country's prison population is held in the closed regime (the most restrictive form of imprisonment), and 28.06% is in pretrial detention. It also indicated that of the 91,362 persons required to use electronic monitoring systems, 53.89% are in a semi-open regime and 26.22% in pretrial detention. Furthermore, according to data that the Commission received from the same organization, 92.62% of individuals that do not have monitoring devices are in the semi-open regime.³⁰⁰

396. The Mechanism affirmed that, based on these data, electronic ankle bracelets are more of an alternative to freedom than to prison. As for prison capacity, the organization also reported that the country has 477,056 spots at 1,400 units, not enough to cover the growing demand. The MEPCT/RJ explained to the Commission that the national data, furthermore, are not trustworthy nor uniform, for which reason it cited Rio

²⁹⁶ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

²⁹⁷ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

²⁹⁸ United Nations, [Brasil debe poner fin al uso de la fuerza excesiva y Colombia redoblar esfuerzos para erradicar la violencia](#), May 12, 2023.

²⁹⁹ Brazilian Forum on Public Security, [17 Brazilian Yearbook of Public Security, 2023](#).

³⁰⁰ Rio de Janeiro State Mechanism for Preventing and Combating Torture. Response to the consultation questionnaire, September 2023.

de Janeiro, where prison capacity had been increased with the addition of a third bunk to the bunk beds to house more people without major construction work.³⁰¹

Analysis and level of compliance with the recommendation

397. Based on the information provided and that it learned, the IACHR is able to verify that the number of persons who enter the Brazilian prison system continues to increase every year. This information concerns the Commission for two reasons: the increase in the number of persons detained does not necessarily entail an increase in the number of available spots nor improved prison conditions; and pretrial detention continues to be used regularly.

398. Despite the measures adopted by the State and the progress made, there are still not enough spots available for people to complete their sentences with dignity and have their rights respected. What is more, systemic racial discrimination has been identified in the criminal justice system, with high rates of incarceration for Afro-Brazilians.

399. The IACHR also emphasizes the importance of having specific, up-to-date, and disaggregated data on all the people serving custodial sentences in the country, especially on women, LGBTI persons, persons with disabilities, and other especially vulnerable groups.

400. In view of the above and in consideration of the progress made by the State, the IACHR determines that the State has **partially complied** with this recommendation.

Measures and information to make progress on fulfilling the recommendation

401. With a view to guiding implementation of this recommendation, the Commission invites the State to reinforce implementation of alternatives to incarceration, comprehensively incorporating the gender perspective and differentiated approaches, as well as to take effective measures to reduce prison overcrowding, including reviewing incarceration policies and fostering restorative justice.

402. The IACHR recalls that it is fundamental for the State to implement mechanisms to gather accurate, up-to-date, and disaggregated data on the prison population, paying special attention to intersectionality and ensuring the mechanisms are reliable and consistent throughout the country.

403. The Commission also emphasizes the need to review and amend policies and practices that lead to racial and other forms of discrimination in the criminal justice system. Lastly, it reminds the State of the importance of ensuring that the Constitutional Court's decision on house arrest with a gender perspective is effectively implemented in all states of the country.

Recommendation No. 58. Devise a drug policy with a social reintegration and public health approach, in such a way as to eschew repressive and criminalizing treatment of persons arrested for using or carrying drugs, or who have committed minor offenses due to their problematic use of, or addiction to, drugs.

404. In 2022, the IACHR learned, from public information, about the creation of the National Drug Policy Plan (PLANAD) and its four pillars, one of which is geared towards integrating the policies for the care, treatment, and social reinsertion of users, to ensure that all people with problematic or addictive consumption

³⁰¹ Rio de Janeiro State Mechanism for Preventing and Combating Torture. Response to the consultation questionnaire, September 2023.

patterns can access treatment programs and services.³⁰² While the IACHR did welcome this information, it also invited the State to fully implement the PLANAD and to provide information on its impacts.³⁰³

Information on compliance

405. In 2023, the State did not provide specific information on compliance with this recommendation.

406. According to the document sent by the MECPT/RJ, in the state of Rio de Janeiro, over 30% of cases involving women heard in custody hearings in the state involve the Law on Drugs, and of all these arrests in flagrante delicto, 40% of the resulting pretrial detentions derive from the aforementioned drug policy, even though the crimes are considered nonviolent.³⁰⁴

Analysis and level of compliance with the recommendation

407. The Commission points out that in both 2022 and 2023, the State's compliance with this recommendation was analyzed only on the basis of the public information available. Nevertheless, the Commission sees the creation of PLANAD as a positive step forward towards a Brazilian drug policy with a comprehensive, social reinsertion approach. Even so, in view of the State's failure to provide specific, relevant information, it determines that compliance with this recommendation continues to be **partial**.

Measures and information to make progress on fulfilling the recommendation

408. To steer compliance with this recommendation, the Commission calls on the State to guarantee full implementation of the PLANAD, with special emphasis on the pillar of social reinsertion of users. It also underscores the importance of providing transparent, up-to-date information on the actions and measures adopted under this policy, and their impact on the affected population.

Recommendation No. 59. Guarantee dignified treatment of persons in State custody, in accordance with deprivation of liberty standards and bearing in mind the special risks associated with gender or other characteristics of the detained population. In particular, the State must incorporate a gender perspective to ensure prison treatment meets the specific women's specific health, gender identity, and social reinsertion needs.

409. The State did not provide specific information on compliance with this recommendation for Chapter V of the 2022 Annual Report.³⁰⁵ In turn, the IACHR indicated that it had learned, through official public information, of the implementation of legislation to ensure incarcerated women's sexual and reproductive rights are protected and guaranteed, such as Law 14,214 of 2022, which creates the Program to Protect and Promote Menstrual Health, and Law 14,326 of April 2022, which mandates the humane treatment of women deprived of liberty when they are in labor and during the postpartum period, as well as comprehensive health care for them. It also highlighted the State's adoption of Resolution 233 of December 30, 2022, which establishes guidelines and standards for socio-educational care for female adolescents in custody.³⁰⁶

Information on compliance

410. In 2023, the State reported that, since 2007, the National Justice Council has governed the inspection of criminal facilities. This agency, through the Doing Justice program, seeks to improve judicial

³⁰² IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 292.

³⁰³ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 294.

³⁰⁴ Rio de Janeiro State Mechanism for Preventing and Combating Torture. Response to the consultation questionnaire, September 2023.

³⁰⁵ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 296.

³⁰⁶ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 295-296.

inspections, by including measures to prevent and combat torture. To that end, it published Resolution 414/2021, which defines guidelines for inspections in cases of torture, following the Istanbul Protocol. The State further emphasized that all inspection results are compiled in a public dashboard of the National Registry of Prison Facility Inspections (CNIIEP).³⁰⁷

411. The State also indicated that in 2023 it created a policy to bolster societal participation in the criminal justice system, promoting inmates' rights and reducing their vulnerability. In its response to the IACHR, the State listed all of the conditions established in the law that public authorities must obey in detaining women. It also mentioned the rights associated with maternity and delivery for pregnant women in custody. However, the State did not submit up-to-date data or information on the implementation of these public policies.³⁰⁸

412. From the information provided by civil society organizations, the Commission learned that the Federal Supreme Court had acknowledged, in the context of a precautionary measure in ADPF 347, the "unconstitutional state of affairs" at Brazil's prisons, given the widespread human rights violations.³⁰⁹

413. Likewise, the IACHR learned from public sources about the Ministry of Human Rights and Citizenship's creation of the Mandela Project. According to the information, this project fosters interministerial and intersectional action to promote the human rights of people in custody in Brazil, especially in connection with due process, the fight against torture, and the promotion of decarceration policies.³¹⁰

Analysis and level of compliance with the recommendation

414. The Commission acknowledges the recent initiatives pursued by the State to enhance supervision and prevent torture in penal institutions. The compilation of inspection results in the National Registry of Prison Facility Inspections and the recent policy of citizen involvement in the criminal justice system are steps in the right direction. Nevertheless, the Commission points out the lack of detailed information on the implementation and actual results of these policies. Accordingly, it determines that the State's compliance with the recommendation continues to be **partial**.

Measures and information to make progress on fulfilling the recommendation

415. To guide compliance with this recommendation, the Commission calls on the State to expand and strengthen the National Registry's capacities and areas of responsibility, and to ensure that its findings are translated into rapid corrective measures. The Commission also urges the State to provide hard data and information on the implementation and effectiveness of public policies on the incarceration of women, especially with regard to health, gender identity, and social reinsertion.

416. The IACHR calls on the State to consolidate and expand the scope of the Mandela Project, to ensure interministerial and intersectional action to guarantee the fundamental rights of incarcerated individuals. It further calls on the State to implement immediate measures to address the unconstitutional conditions identified in the prison facilities, in line with the Federal Supreme Court observations.

Recommendation No. 60. Facilitate channels through which persons deprived of liberty - including adolescents - can file complaints and reports on how they are treated in the centers without suffering reprisals for doing so. The complaints must be taken seriously and addressed quickly and effectively, making it possible to punish the parties responsible.

³⁰⁷ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

³⁰⁸ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

³⁰⁹ Conectas, [No STF, entidades de direitos humanos pedem fim da tortura e da superlotação em presídios](#), September 14, 2023.

³¹⁰ Brazil, Ministry of Human Rights and Citizenship, [Iniciadas as articulações para implementação do Projeto Mandela, voltado à garantia de direitos das pessoas presas](#), March 17, 2023; Conectas, ["Combate à tortura é fundamental para o nosso projeto de país", afirma ministro Silvio Almeida na ONU](#), April 20, 2023.

417. In 2022, the State did not provide specific information on compliance with this recommendation.³¹¹ In turn, the IACHR reported that it had learned from publicly accessible information that in the first quarter of 2022, the National Mechanism to Prevent and Combat Torture received a total of 1,227 complaints submitted by persons in custody at the Minas Gerais prisons.³¹² Consequently, the Commission reiterated that persons deprived of liberty have the right to lodge complaints or claims about acts of torture, abuse, or prison violence, as well as concerning prison or internment conditions, and that the states should guarantee access to these mechanisms and ensure the detainees who submit such complaints are protected.³¹³

Information on compliance

418. This year, the State told the Commission that all incarcerated individuals have the right to request a hearing with the prison director to submit petitions, communications, or complaints. In addition, the State recalled that, under the Criminal Enforcement Law, judges must inspect prisons every month and take measures to ensure they operate properly. It also noted that, to guarantee transparency, the National Justice Council is setting up a public dashboard on inspections, compiling data from the entire country in one single database.³¹⁴

419. The State also mentioned that entities like the National Mechanism to Prevent and Combat Torture and the National Committee to Prevent and Combat Torture are essential institutions for combating human rights violations that take place in prison. Likewise, it affirmed that the National Mechanism to Prevent and Combat Torture, formed by independent experts, inspects diverse detention facilities, prepares reports, and calls for action to correct abuses. Lastly, it mentioned that states like Minas Gerais and Río de Janeiro use the Decarceration Platform, which makes it possible to anonymously report torture and violations and thereby facilitates access to and the disclosure of information.³¹⁵

Analysis and level of compliance with the recommendation

420. The IACHR acknowledges the State of Brazil's recent efforts to guarantee that individuals in custody, including adolescents, can enjoy the right to submit petitions, communications, or complaints to the prison management. The active role of judges, pursuant to the Criminal Enforcement Law, and the National Justice Council's initiative to consolidate inspections in a public dashboard, represent positive steps towards strengthening the monitoring and accountability system. It is fundamental for that system to effectively ensure that individuals who submit complaints do not face reprisals for doing so.

421. Notwithstanding this progress, the Commission cannot lose sight of the dire situation of Brazil's prisons and the complaints of torture and mistreatment in the country's prison system. Despite the State's efforts, the IACHR needs specific, detailed data on how detainees' complaints are being processed and addressed. Accordingly, the IACHR considers that compliance with this recommendation is still **pending**.

Measures and information to make progress on fulfilling the recommendation

422. With a view to steering compliance with this recommendation, the Commission calls on the State to specify the mechanisms available for lodging claims and complaints, and to adopt measures that facilitate detainees' access to them, with the confidence that they will not face reprisals. Furthermore, the IACHR highlights the importance of having specific data on these complaints. It also underscores the importance of ensuring that the State will address the complaints filed in a timely, transparent fashion, punishing the perpetrators and implementing preventive measures to avoid future human rights violations.

³¹¹ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 299.

³¹² IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 301.

³¹³ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 299-303.

³¹⁴ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

³¹⁵ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

Recommendation No. 61. Immediately initiate, ex officio, effective investigations in accordance with standards, to identify, prosecute and punish those responsible.

423. The State did not submit specific information to the IACHR on compliance with this recommendation for the most recent follow-up report on the recommendations made in the Brazil country report.³¹⁶ However, the IACHR indicated that it had learned of one conviction for torture, the launch of at least two criminal lawsuits against police officers for committing acts of torture, and two investigations brought against police officers in the states of Ceará and Minas Gerais for acts of torture in prison facilities, in 2022. Accordingly, the Commission expressed its concern over the persistence of cases of torture in Brazilian prisons and over the use of less-lethal weapons against persons deprived of liberty.³¹⁷

Information on compliance

424. In 2023, the State mentioned the powers and duties of the National Justice Council Prison System and Socio-educational Measures Execution System Monitoring and Oversight Department. It stated that this department routinely receives complaints about irregularities in prison and socio-educational units sent in by the victims themselves, who include adolescents, their family members, public defender's offices, the Brazil Bar Association, and civil society organizations. The State explained how these complaints are processed from the time they are received until effective measures to address them are put in place.³¹⁸

425. In turn, based on information available on the Decarceration Platform, an initiative of civil society organizations and academia, the IACHR verified that 3,180 complaints had been lodged in 236 prisons and 38 socio-educational facilities.³¹⁹

Analysis and level of compliance with the recommendation

426. The IACHR acknowledges the actions taken by the State to process and address complaints of irregularities in prison and socio-educational facilities. However, given the high number of complaints, with 3,180 reported on the Decarceration Platform alone (in 236 prisons and 38 socio-educational units), the IACHR finds that ex officio investigations must clearly be intensified.

427. In view of the lack of specific data on the complaints of torture and mistreatment in these facilities, the IACHR determines that compliance with this recommendation is still **pending**.

Measures and information to make progress on fulfilling the recommendation

428. To steer compliance with this recommendation, the Commission invites the State to continue strengthening the human and technical resources allocated to investigating reports of torture and mistreatment in detention centers, to ensure they are handled with the urgency and gravity required. The IACHR also urges the State to implement a transparent system to publicly monitor these complaints that will make it possible to find out the status and results of each case.

429. The IACHR reiterates the importance of establishing specific, effective protocols for addressing complaints that involve groups that are especially vulnerable in the prison and socio-educational units. Lastly, it stresses that it is essential to ensure that the investigations are not only limited to punishing the direct perpetrators of the acts, but also identify and address the structural and systemic causes of the violations.

³¹⁶ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 305.

³¹⁷ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 305-308.

³¹⁸ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

³¹⁹ Data available on the Decarceration Platform on September 22, 2023.

Recommendation No. 62. Take the necessary steps to increase financial and human resources for the mechanisms in place for preventing and combating torture, to boost their effectiveness. Likewise, promote the establishment, implementation, and operation of these kinds of mechanisms in the states that still do not have them, in accordance with the standards set forth in the Optional Protocol to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

430. The State did not provide information on compliance with this recommendation for Chapter V of the 2022 Annual Report. Consequently, the Commission explained that it did not have sufficient information to evaluate compliance, and invited the State to ensure that these mechanisms operate effectively and are afforded sufficient human and material resources to do so.³²⁰

Information on compliance

431. In 2023, the State referred to the information provided on recommendation 1(c) regarding the institutional underpinning of human rights, recalling the existence of the bodies that make up the National System to Prevent and Combat Torture (SNPCT) and mentioning the state committees and mechanisms working toward those same ends. That said, although the State highlighted the fundamental role of these bodies in combating human rights violations and prison violence and described their makeup and functions, it did not provide up-to-date information on their actions.³²¹

Analysis and level of compliance with the recommendation

432. In view of the above, and given the lack of information sent by the State, the IACHR determines that compliance with this recommendation is **pending**.

Measures and information to make progress on fulfilling the recommendation

433. With a view to steering implementation of this recommendation, the Commission reiterates the importance of strengthening the SNPCT's original structure, autonomy, and human and financial resources. The IACHR reiterates the importance of implementing mechanisms for preventing and combating torture in all states that do not have them yet, and of reporting progress to this end.

Recommendation No. 63. Adopt such measures as are needed to ensure that all persons detained in flagrante have access to custody hearings, especially people detained in small towns far from the capitals and those wounded during police raids and subsequently transferred to hospitals.

434. In 2022, the State did not provide specific information on compliance with this recommendation, but the IACHR noted with concern that, as per public information, the resumption of in-person custody hearings had been postponed.³²² It also highlighted information provided by civil society on the risks to incarcerated individuals posed by virtual hearings, which make it difficult to detect and prevent torture, since any intimidation or coercion that the person in custody is suffering cannot be examined.³²³ The IACHR also took note of Draft Law 1,286 of 2022, which would amend Article 310 of the Code of Criminal Procedure on custody hearings, and pointed out that it could be discriminatory insofar as it establishes that custody hearings will be mandatory only for first-time offenders, and not for detained repeat offenders.³²⁴

³²⁰ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 311.

³²¹ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

³²² IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 312.

³²³ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 312-317.

³²⁴ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 343.

Information on compliance

435. In 2023, the State informed the Commission that the Federal Supreme Court had reinforced the mandatory nature of custody hearings for all prison types. It also highlighted that the National Justice Council had determined that, with the COVID-19 pandemic over, all custody hearings should be held in person. Lastly, it mentioned Draft Law 1,286/2022, under which these hearings will not be held for repeat offenders or individuals with bad records.³²⁵

436. In turn, the MEPCT/RJ informed the IACHR of the following data on these hearings: of all the hearings held throughout the country, 66% were held at a court of justice, 10% with the civil police, 2% with the military police, and 16% in prisons. Rio de Janeiro was the only state where 100% were held in prisons. As for frequency, 75% are daily, 24% on business days, and 1% on non-holiday days. All told, 32% are held in person, 31% virtual, and 37% were mixed. Of the virtual hearings, 42% are held in prisons and 38% at court. As for medical care, 27% of detainees always have access, 38% sometimes do, and 24% when they request it. In all, 37% are seen before or after the hearing, with 59% in hospitals. Psychosocial support is not provided at 52% of sites. Detainees participate in all hearing stages at 69% of sites. Family members are not permitted at 66%. Contact among detainees and family members does not occur at 48% of sites; 41% of such contact is in person. Furthermore, containment is used at 24% of sites. There are cells at 83% of the custody hearing sites, with 73% separated by gender. Lastly, police officers are present in the room at all times at 52% of sites.³²⁶

Analysis and level of compliance with the recommendation

437. The IACHR observes, with concern, the disparities in custody hearings throughout Brazil, as well as the conditions in which these hearings take place. Although the Federal Supreme Court has reinforced the mandatory nature of these hearings and the National Justice Council has decided that post-pandemic, they will be held in person, the data provided by the MEPCT/RJ show the frequency, site, and format of these hearings, as well as access to medical services and psychosocial support, to be highly variable.

438. In view of the above and considering the progress made by the State as well as the lack of specific, up-to-date information on custody hearings throughout the country, the IACHR determines that compliance with this recommendation is **partial**.

Measures and information to make progress on fulfilling the recommendation

439. To steer compliance with this recommendation, the IACHR calls on the State to intensify its efforts to ensure that all detainees are physically present at their custody hearings, especially individuals who were detained in areas far from the capitals or were transferred to hospitals due to having been injured in the course of the police operations. The Commission underscores the importance of preventing the adoption of measures that will reduce the custody hearings' scope and effectiveness.

Recommendation No. 64. Take the necessary measures to ensure that, at the custody hearings, pre-trial detention is only imposed as an exception and in accordance with the principles of legality, necessity, and proportionality.

440. In 2022, the State did not provide specific information on compliance with this recommendation. However, the IACHR did receive information from civil society indicating that the vast majority of detainees who are arrested in flagrante are put in pretrial detention.³²⁷ Accordingly, the IACHR

³²⁵ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

³²⁶ Rio de Janeiro State Mechanism for Preventing and Combating Torture. Response to the consultation questionnaire, September 2023.

³²⁷ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 318.

reminded the State that pretrial detention must only be imposed exceptionally, subject to the right to be presumed innocent, and pursuant to the criteria of legality, necessity, and proportionality.³²⁸

Information on compliance

441. In 2023, the State submitted information on the creation of the Doing Justice program, currently being executed for the third time, and coordinated by the National Justice Council Prison System and Socio-educational Measures Execution System Monitoring and Oversight Department and the United Nations Development Programme. The State highlighted the importance of the institution of the custody hearings, reporting that since 2015, over one million such hearings have been held, with over 40% resulting in release. The State adds that, during the period, the number persons detained provisionally dropped to 12%. The State also once again mentioned its creation of the Vacancy Regulation Center as a new methodology for optimizing the management of available spots in the country's detention centers, to ensure appropriate occupancy levels and balanced operation.³²⁹

Analysis and level of compliance with the recommendation

442. The IACHR takes note of the State's efforts to monitor implementation of the custody hearings. However, given the lack of specific, up-to-date information on the use of such hearings and their outcomes, the Commission concludes that compliance with this recommendation is **partial**.

Measures and information to make progress on fulfilling the recommendation

443. With a view to steering compliance with this recommendation, the IACHR calls on the State to adopt institution-building measures to ensure that the decision to impose pretrial detention at custody hearings is made pursuant to inter-American principles. These measures may include training judges and justices to ensure that pretrial detention is truly used only on an exceptional basis.

Recommendation No. 65. Guarantee detention conditions adapted to the particular needs of especially vulnerable groups. For women deprived of liberty, the State must ensure that the measures applied adhere to a gender approach. For persons with disabilities deprived of their liberty, the State must make reasonable accommodations to remove the environmental barriers that make it difficult for them to exercise their rights.

444. The State did not provide specific information on compliance with this recommendation for the 2022 follow-up report.³³⁰ In turn, the Commission referred back to its analysis of recommendation 59 on detention conditions for women and LGBTI persons. It also drew attention to data sent in by civil society indicating that in general, prison facilities lack the appropriate infrastructure to meet the special needs of persons with disabilities. Accordingly, it invited the State to adapt its infrastructure, specialize the staff, and provide differential attention to ensure persons with disabilities are protected.³³¹

Information on compliance

445. In 2023, the State informed the Commission that persons with disabilities make up 0.9% of the Brazilian prison population. Furthermore, although it mentioned policies targeting inmates, it did not provide specific information on implementation of these policies in the country's detention centers. With regard to the gender issue, the State listed the laws on the rights of women in prison and the public policies

³²⁸ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 318-320.

³²⁹ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

³³⁰ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 322.

³³¹ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 323.

planned for their differential treatment. Nevertheless, it did not submit specific, up-to-date data on the matter.³³²

Analysis and level of compliance with the recommendation

446. Given the lack of specific information provided on compliance, the Commission finds the State's compliance with this recommendation to be **pending**.

Measures and information to make progress on fulfilling the recommendation

447. To steer compliance with this recommendation, the Commission calls on the Brazilian State to adopt all the necessary measures to guarantee that detention conditions are adequate to meet the specific needs of especially vulnerable groups, including women and persons with disabilities deprived of liberty.

448. The IACHR invites the State to provide up-to-date, disaggregated information on the measures and actions it has adopted to guarantee that detention conditions are adequate for especially vulnerable persons, including the elimination of physical and programmatic barriers and the implementation of reasonable adjustments to ensure their full access to rights and services. The Commission also stressed the importance of having specific data on the situation of these individuals in detention centers.

L. Human rights defenders

Recommendation No. 66. Strengthen and endow the Human Rights Defenders Protection Program with the structural facilities it needs to guarantee effective and comprehensive protection for human rights defenders, including the signing of state agreements to ensure actual implementation of that program nationwide. Similarly, ensure effective coordination with the security agencies responsible for implementing the program measures, so as to guarantee full compliance with the program.

449. In 2022, the State informed the IACHR that Ordinance 507/2022 regulated the decrees on the Program for the Protection of Human Rights Defenders, Media Workers, and Environmentalists (PPDDH) to bolster the objective of coordinating protection measures for persons threatened as a result of their work to defend human rights. The IACHR received information affirming that the PPDDH operates throughout the country, and views the country's progress in establishing these new protection programs in a positive light, given that in 2021 there were only eight government protection programs in place, according to information provided by the State that year.³³³

Information on compliance

450. In 2023, the State did not send information to the IACHR on compliance measures adopted over the course of the year. That said, civil society organizations informed the IACHR that in 2023, with the change of government, the dialogues with civil society and the PPDDH activities were resumed, and that the MDHC had launched the PPDDH presentation booklet during the opening of the Amazon Dialogues on August 4, 2023, in Belém, Pará.³³⁴

451. The organizations also reported publication of Ordinance 11,562, of June 13, 2023, which creates the "Sales Pimenta" Technical Working Group to develop the National Plan to Protect Human Rights Defenders, Media Workers, and Environmentalists, and a bill on the National Policy on Protecting Human

³³² State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

³³³ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 326-330.

³³⁴ Ministry of Human Rights and Citizenship, [MDHC lança cartilha sobre o Programa de Proteção aos Defensores de Direitos Humanos. Comunicadores e Ambientalistas](#), August 7, 2023.

Rights Defenders. They further indicated that the technical working group would be made up of 10 persons from the federal executive branch and 10 civil society representatives.³³⁵

452. The organizations indicated that the formation of this technical working group constitutes a major step forward towards strengthening the protection policy, but that significant challenges to making it effective still remain, including the need for an appropriate budget to allow the protection measures to meet the true needs of the persons involved, and the need to approve a legal framework to ensure institutionalization, overcome administrative difficulties that weaken implementation, effectively resume social participation in the Deliberative Council, and expand the protection network to all states in the federation, etc.³³⁶

453. Specifically with regard to the challenges for civil society participation in the PPDDH Deliberative Council, they mentioned issues with the institutional structure established by Decree 10,815/2021, as well as with the administrative management. On this latter point, they reported that although the current PPDDH institutional structure has provided for including civil society in the Deliberative Council since 2021, this has not occurred yet.³³⁷

Analysis and level of compliance with the recommendation

454. The IACHR thanks civil society for the information it provided on compliance with this recommendation. Specifically, it notes that the publication of Ordinance 11,562/2023, which creates the Technical Working Group to develop the National Plan to Protect Human Rights Defenders, Media Workers, and Environmentalists, and the bill on the National Policy on Protecting Human Rights Defenders, will promote compliance with the recommendation.

455. However, given the level of development of these measures, and the State's failure to provide relevant, up-to-date information, the Commission determines that compliance with this recommendation is still **partial**.

Measures and information to make progress on fulfilling the recommendation

456. To steer compliance with this recommendation, the IACHR invites the State to submit relevant, up-to-date information on compliance. Along these lines, the IACHR considers it essential for the State to ensure that the policies for protecting human rights defenders are afforded sufficient human and material resources to operate and effectively meet their institutional objectives; and for the State to make progress on incorporating civil society into the PPDDH Deliberative Council. Specifically, the IACHR invites the State to report on and to continue moving forward, in a transparent way and with civil society participation, with preparation of the National Plan and the bill on the National Policy on Protecting Human Rights Defenders, to establish an appropriate institutional legal framework for the PPDDH. It also invites the State to implement the measures necessary to ensure program implementation in all states of the country.

Recommendation No. 67. Guarantee effective and comprehensive implementation of the measures to protect human rights defenders, especially those located in rural areas far from urban centers.

457. In 2022, the State informed the IACHR that as of March 2022, the state and federal programs had together supported a total of 783 defenders. Despite this, the Commission had found out about the challenges with the PPDDH, including its inefficiency in handing down specific protection measures, the

³³⁵ Vladimir Herzog Institute. Response to the consultation questionnaire, September 17, 2023.

³³⁶ Justiça Global. Response to the consultation questionnaire, September 17, 2023.

³³⁷ Cáritas Brasileira. Response to the consultation questionnaire, September 18, 2023.

measures' ineffectiveness after they are handed down, and the difficulty of developing risk evaluation and protection measures that are sensitive to race, gender, and ethnic origin.³³⁸

Information on compliance

458. In 2023, the State did not send information to the IACHR on compliance measures adopted over the course of the year. However, civil society organizations reported the persistent, overall lack of active transparency on the programs, for both state and federal programs. In this regard, they advised the IACHR that the information about the PPDDH available on the MDHC website is difficult to access, limited, and outdated.³³⁹

459. As for the measures to ensure that the protection measures are accessible to people living in rural areas, civil society informed the IACHR that at present the measures are still uniform and do not address the various specific contexts and particular needs of human rights defenders. Along these lines, as an example, they noted that there is no disaggregated registry showing if the beneficiaries are members of rural communities or indigenous peoples, which makes it impossible to provide separate service mechanisms. As a result, in many cases the measures turn out to be ineffective and inappropriate.³⁴⁰

460. Similarly, according to information provided by civil society, the state-level teams are made up of around 10 people with different jobs, ranging from coordination to technical activities (administrative technicians, administrative assistants, and professionals like lawyers and psychologists), as well as intermediate activities and positions to ensure local program implementation, like general services and drivers. The organizations also noted that the number of team members was standardized, rather than responding to the needs of a diverse country like Brazil. Along these lines, they indicated that states like Amazonas, Pará, Bahia, and Minas Gerais, with their extensive territories and large number of people involved, would require technical teams with more human resources.³⁴¹

461. According to civil society, the number of individuals served by the PPDDH has not increased significantly, and the measures to protect the people who have already been included in the program or are on the waiting list, have not improved.³⁴²

Analysis and level of compliance with the recommendation

462. The IACHR highlights its concern over the lack of official information from the State, especially in view of the information provided by civil society on this recommendation. Therefore, the IACHR determines that compliance with this recommendation is still **pending**.

Measures and information to make progress on fulfilling the recommendation

463. To steer compliance with this recommendation, the IACHR invites the State to submit relevant, up-to-date information on effective implementation of protection measures for human rights defenders. The Commission also suggests that the State move forward with implementing such measures, addressing the specific contexts and particular needs of human rights defenders, with a special emphasis on defenders who are located far from cities and in rural areas. Similarly, in response to the information provided by civil society, the IACHR calls on the State to report and implement actions to foster active transparency regarding federal and state programs, making accessible, complete, and up-to-date information available to the public.

³³⁸ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 335-337.

³³⁹ Cáritas Brasileira. Response to the consultation questionnaire, September 18, 2023.

³⁴⁰ Cáritas Brasileira. Response to the consultation questionnaire, September 18, 2023.

³⁴¹ Justiça Global. Response to the consultation questionnaire, September 17, 2023.

³⁴² Vladimir Herzog Institute. Response to the consultation questionnaire, September 17, 2023.

Recommendation No. 68. Investigate, with due diligence, all acts of violence against human rights defenders, bearing in mind any intersection with other especially at-risk groups mentioned in this Report, assuming as an investigative hypothesis, that those acts were committed in retaliations for their activities in defense of human rights.

464. For the 2022 follow-up report, the Commission did not receive information about progress made on investigating crimes committed against defenders.³⁴³ Despite this, the IACHR observed that in 2022, acts of violence against human rights defenders continued to take place in Brazil, especially against people defending the land, their territories, and the environment. The IACHR also underscored the information reported by the United Nations on the limited access to justice, lack of accountability, and frequent insecurity faced by human rights defenders, and accordingly emphasized the importance of investigations to prevent such acts of violence.³⁴⁴

Information on compliance

465. In 2023, the State did not send information to the IACHR on compliance measures adopted over the course of the year. Furthermore, civil society organizations informed the IACHR that they had still not seen the State undertake meaningful initiatives for compliance with the recommendation.³⁴⁵

466. Also, according to civil society, State inaction and impunity continue to be serious challenges in the quest to protect human rights defenders. To illustrate the gravity of the situation, civil society noted that in the case of the murder of defender Marielle Franco (March 14, 2018), the Federal Police opened only one investigation, nearly five years after the murder had taken place. Civil society also pointed out that in the case of the Pau D'Arco massacre, in Pará, in which 10 rural workers were killed, including the leader Jane Júlia de Almeida, the Federal Police took on part of the investigation only after being pressured by civil society, but then closed it without identifying the perpetrators, who, civil society indicates, were servicemen and civil police officers. The organizations also highlighted that in the case of the recent murder of quilombola leader Bernadete Pacífico, on August 17, 2023, in Simões Filho, Bahia, the Federal Police said it would perform a confidential investigation of the case.³⁴⁶

Analysis and level of compliance with the recommendation

467. The IACHR appreciates the response received from civil society on this recommendation and takes note of the concerning lack of action and impunity reported. In this regard, the IACHR noted that the murders of journalist Dom Phillips and indigenous leader Bruno Araújo Pereira as a result of their work to defend the rights of the indigenous peoples in the Javari Valley are examples of the grave danger facing human rights defenders in the country.³⁴⁷

468. Considering the information provided by civil society, its monitoring of the situation in the country, and the lack of information provided by the State, the IACHR determines that compliance with this recommendation is still **pending**.

Measures and information to make progress on fulfilling the recommendation

469. To steer compliance with this recommendation, the IACHR invites the State to submit relevant, up-to-date information on compliance with the recommendation. Specifically, the Commission calls on the State to adequately and systematically investigate, in a timely fashion, the attacks against human rights defenders

³⁴³ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 340.

³⁴⁴ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 340-345.

³⁴⁵ Vladimir Herzog Institute. Response to the consultation questionnaire, September 17, 2023.

³⁴⁶ Justiça Global. Response to the consultation questionnaire, September 17, 2023.

³⁴⁷ IACHR, Press Release 179/23 - [Brazil: IACHR reports creation of the Joint Working Group on implementation of precautionary measures in favor of Bruno Araújo, Dom Phillips, and members of UNIVAJA](#), August 11, 2023.

and other especially at-risk groups, with a consistent investigative strategy based on the primary hypothesis that their defense work was the motive behind the crimes.

Recommendation No. 69. Promote dissemination of the legal provision seeking to federalize crimes committed against human rights defenders.

470. The State did not submit information to the IACHR on compliance with this recommendation for the follow-up report on the 2022 Brazil Country Report recommendations.³⁴⁸ Accordingly, the Commission calls on the State to report on the legislative process carried out to federalize the crimes committed against human rights defenders, and on the stages of that process.³⁴⁹

Information on compliance

471. In 2023, the State did not submit information to the IACHR on compliance with this recommendation. However, civil society organizations informed the Commission that to date, no measures have been taken to federalize crimes against human rights defenders in Brazil.³⁵⁰

Analysis and level of compliance with the recommendation

472. The IACHR thanks civil society for the information it provided on compliance with this recommendation. In view of the information received, and given the State's failure to submit information in both 2022 and 2023, the IACHR determines that compliance is still **pending**.

Measures and information to make progress on fulfilling the recommendation

473. With a view to steering compliance with this recommendation, the IACHR invites the State to submit relevant, up-to-date information on the initiatives and measures it has taken to ensure the crimes committed against human rights defenders are federalized, and to provide data showing the increased use of this classification.

Recommendation No. 70. Adopt pro-active measures to foster a human rights culture and an environment free from violence and threats, recognizing the value and importance of the work done by human rights defenders in reaffirming the validity of democratic institutions and of a State governed by the rule of law.

474. In 2022, the State did not submit information on compliance with this recommendation.³⁵¹ However, the Commission reported that it had found out about State authorities' stigmatizing speeches, as well as the government measures that would lead to a hostile environment for human rights defenders. The Commission also expressed its concern over the persistence of violence against human rights defenders, and called for the State to prevent and punish the crimes against this population.³⁵²

Information on compliance

475. The State did not submit information to the IACHR on compliance with this recommendation in 2023 either. Civil society, on the other hand, did explain that in 2023, the government had been observed to make greater efforts to raise the population's awareness of the importance of the work of human rights defenders. Mentioned as an example was the launch of the Program for the Protection of Human Rights

³⁴⁸ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 346.

³⁴⁹ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 347.

³⁵⁰ Cáritas Brasileira. Response to the consultation questionnaire, September 18, 2023

³⁵¹ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 348.

³⁵² IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 348.

Defenders, Media Workers, and Environmentalists presentation booklet, which disseminated awareness of the program and simultaneously fostered greater empathy in the community.³⁵³

Analysis and level of compliance with the recommendation

476. The IACHR thanks civil society for the information provided on compliance with the recommendation and appreciates the central government's greater initiative towards recognizing the value and importance of defenders' work to society. Even so, given the State's failure to submit information in both 2022 and 2023, the IACHR determines that compliance with this recommendation is still **pending**.

Measures and information to make progress on fulfilling the recommendation

477. To steer compliance with this recommendation, the IACHR invites the State to submit relevant, up-to-date information on the State's initiatives and measures, which may consist of advocacy on the culture of human rights, institution building, and the adoption of laws and public policies. Specifically, the Commission invites the State to report the actions it has taken towards recognizing the value and importance of the work done by human rights defenders in society.

M. Human trafficking

Recommendation No. 71. Step up actions to prevent, protect, and assist victims of trafficking in persons by implementing the Third National Plan to Address Trafficking in Persons (2018-2022), fostering cooperation with states, municipalities, civil society organizations, academia, and international organizations specializing in all facets of public policies.

478. In 2022, the State reported that the Brazilian Federal Police was working with the Labor Public Prosecutor's Office, Interpol, and other countries' police departments to investigate cases of human trafficking. In turn, the IACHR took note of allegations that the data on human trafficking is imprecise. With regard to the pillar of prevention, the Commission highlighted cooperation agreements to train public servants, and indicated that it had learned about the Brazil without Human Trafficking campaign. As for protecting and assisting victims, the IACHR observes that the International Organization for Migration (IOM), as part of its cooperative efforts with the State of Brazil, published a pamphlet in 2022 to guide on setting up care protocols for victims of human trafficking. It also learned that only 15 states and the Federal District have Centers to Combat Human Trafficking.

479. With regard to identifying and rescuing victims, the IACHR noted that Operation Rescue II was executed in July 2022, and that, between 2010 and 2020, few judicial decisions were made on human trafficking cases. The IACHR reaffirmed the importance of implementing the National Plan to Combat Human Trafficking and emphasized the importance of improving coordination among state and federal agencies from different branches, with civil society participation.³⁵⁴

Information on compliance

480. In 2023, the State reported that the Third National Plan against Human Trafficking, in force from July 2018 to July 2022, was approved by Ordinance 9,440/2018 and structured into 58 targets within 6 thematic pillars. It further reported that the Interministerial Monitoring and Evaluation Group was created to monitor this plan, as was a public platform where compliance with the targets can be verified. It also noted

³⁵³ Cáritas Brasileira. Response to the consultation questionnaire, September 18, 2023

³⁵⁴ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 353-362.

that the Group and the University of Brasilia International Migration Observatory are evaluating this Third Plan to inform the development of the next one, which is already in the initial methodology-definition stage.³⁵⁵

481. Similarly, the State reported various measures it had adopted to strengthen coordination among agencies from different spheres, namely: (i) strengthening and expansion of the Network of Centers to Combat Human Trafficking and Humane Care Stations for Migrants; (ii) signing of technical cooperation agreements among the MDS, Ministry of Health, National Justice Council, National Council of the Public Prosecutor's Office, and Labor Public Prosecutor's Office; (iii) joint development of projects to combat human trafficking by the Federal Police and Ministry of Foreign Affairs (MRE); (iv) strengthening of the National Committee to Combat Human Trafficking, a deliberative body with civil society participation; (v) holding of the National Week to Mobilize the Fight against Human Trafficking; and (vi) capacity-building for stakeholders at the national and state levels, through classes and training sessions on the topic.³⁵⁶

482. Lastly, the State emphasized that it addresses this issue not only from a law-enforcement perspective, but also from the human rights lens, which considers the socioeconomic, cultural, gender, and political aspects involved. The State indicated that all of the actions it has adopted take the Palermo Protocol into account and highlighted the criminalization of domestic and international trafficking in persons.³⁵⁷

Analysis and level of compliance with the recommendation

483. In a context marked by the imperative need to combat trafficking in persons, the Commission observes that the State has made significant progress in stepping up its actions to prevent trafficking and to protect and assist victims. Among these actions, the Commission praises the State's creation of the Interministerial Monitoring and Evaluation Group, the Third National Plan's evaluation, and the important intersectoral measures taken among diverse State agencies to combat this issue. Considering all of the measures adopted, but without losing sight of the challenges, the Commission determines that compliance with this recommendation is **partial**.

Measures and information to make progress on fulfilling the recommendation

484. Since the recommendation refers to a plan for combating human trafficking that ended in 2022, the IACHR will cease to follow up on this recommendation in the coming years.

N. Forced internal displacement

Recommendation No. 72. Draft and implement public policies for repressing violence and other factors that trigger internal displacement, specifically among campesino populations and rural workers who are forced to abandon the territories they originally came from due to the violence in rural areas.

485. In 2022, the State did not submit substantial information on compliance. In turn, the IACHR highlighted certain Internal Displacement Monitoring Centre figures. The IACHR also noted with concern that in the cases documented by civil society organizations, indigenous peoples and campesino communities continue to be threatened and attacked by people and groups interested in the economic exploitation of their territories, according to figures provided by the organizations. The Commission called on the State to adopt public policies to prevent forced internal displacements and maintained that the obligation of due diligence in the investigation, punishment, and reparation of victims contributes to this end.³⁵⁸

³⁵⁵ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

³⁵⁶ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

³⁵⁷ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

³⁵⁸ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 363-367.

Information on compliance

486. In 2023, the State did not submit specific information on compliance with this recommendation.³⁵⁹

Analysis and level of compliance with the recommendation

487. Given the lack of information, the Commission finds the State's compliance with this recommendation to be **pending**.

Measures and information to make progress on fulfilling the recommendation

488. To steer implementation of this recommendation, and pursuant to the Guiding Principles on Internal Displacements, the Commission calls on the State to adopt public policies to prevent forced internal displacements, with a special emphasis on campesino populations and rural workers.

Recommendation No. 73. Draw up and implement a regulatory framework with specific laws on identifying and protecting persons and protecting the victims of forced internal displacement in Brazil.

489. In 2022, the State did not provide information on compliance with this recommendation. The IACHR indicated that it did not receive information on State initiatives to create a regulatory framework for identifying and protecting internally displaced persons and noted that the lack of data makes it difficult to monitor and describe the displaced population, the causes of the displacements, and the response mechanisms, and at the same time helps obscure the scale of this issue in the country.³⁶⁰

Information on compliance

490. In 2023, the State did not submit specific information on compliance with this recommendation.³⁶¹

Analysis and level of compliance with the recommendation

491. Given the lack of information, the Commission finds the State's compliance with this recommendation to be **pending**.

Measures and information to make progress on fulfilling the recommendation

492. To steer compliance with this recommendation, the Commission stresses the importance of adopting a regulatory framework based on up-to-date information on the issue of internal displacement in Brazil. Accordingly, the Commission recalls how important it is for Brazil to reach a broad understanding of the issue by identifying new sources of displacements, adverse impacts, and relevant responses, which will be essential for developing a regulatory framework adapted to the reality and topicality of this problem.

O. Human mobility migration, asylum, and statelessness

Recommendation No. 74. Fully implement Law No. 13.445/2017 (New Migration Law) in a transparent process, with civil society participation and in accordance with the inter-American human

³⁵⁹ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 363.

³⁶⁰ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 368-371.

³⁶¹ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 363.

rights principles, norms, and standards; establishing, in particular, the National Migration, Refugees, and Statelessness Policy, envisaged in Article 120 of that Law.

493. In 2022, the State did not provide information. In turn, the IACHR noted that on July 12, 2022, the National Congress installed the Joint Standing Committee on International Migrations and Refugees, to monitor migratory movements at the borders and the rights of refugees, and to analyze the causes and effects of migratory flows. The IACHR also noted that there is no information on progress on the creation of the National Migration, Refugees, and Statelessness Policy, provided for in Law 13,445/2017, and called on the State to design a national policy on migration and asylum.³⁶²

Information on compliance

494. In 2023, the State informed the IACHR that MJSP Ordinance 290/2023 was published on January 23, 2023, to create a working group to implement Article 120 of the Migration Law, which envisages the National Policy on Migration, Refugees, and Stateless Persons. The State indicates that this working group, formed by representatives of the ministries, judiciary, civil society, and international organizations, studied five areas: (i) regularization of migration; (ii) local integration; (iii) promotion and protection of rights, and the fight against xenophobia and racism; (iv) social participation; and (v) international relations and interculturalism. Along these lines, the State specified that over 1,800 contributions were submitted during this process, which helped the group develop a draft regulatory text, currently being evaluated internally for subsequent, swift publication.³⁶³

495. In the same vein, civil society organizations also informed the IACHR of the formation of the working group created by Interministerial Ordinance 290/2023 to make Article 120 of the Migration Law operative.³⁶⁴ They indicated that this working group held several meetings, and that afterwards, the participating organizations were asked to complete reports to be used to create and implement the National Policy on Migration, Refugees, and Stateless Persons. The organizations also note that after these reports were submitted, the next stage would involve structuring and drafting a preliminary text to be put up for public consultation pursuant to Article 7 of Ordinance 70. The organizations indicated that this had not yet taken place, and that according to the initial schedule submitted to the group, this phase would be completed before April 30, 2023, but nearly five months later, no new timeline had been submitted. Lastly, they also indicated that the Migrations Department had established that public hearings on the policy would be held in the states and municipalities in April, and a hearing to present the progress made would be held in June, but to date, these hearings have not taken place.³⁶⁵

Analysis and level of compliance with the recommendation

496. The IACHR appreciates the information provided on this recommendation by the State and civil society, and notes how the creation of the working group through Ordinance 290/2023, to implement Article 120 of the Migration Law with civil society participation, contributes to compliance with the recommendation. In view of the information received on the State's progress, and the level of development, the IACHR determines that compliance with this recommendation has progressed to **partial**.

Measures and information to make progress on fulfilling the recommendation

497. With a view to steering compliance with this recommendation, the Commission invites the State to continue, in a timely, participative fashion, with the agenda of the working group created by Ordinance 290/2023 to establish the implementing regulations for Article 120 of the Migration Law, and to report on the progress made on constructing the requested policy. Likewise, the Commission reiterates that

³⁶² IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 372-374.

³⁶³ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

³⁶⁴ Cáritas Brasileira. Response to the consultation questionnaire, September 18, 2023.

³⁶⁵ Conectas Direitos Humanos. Response to the consultation questionnaire, September 17, 2023

designing a national policy on migration and asylum requires fostering public policies attuned to the migrant and refugee populations' characteristics and needs and developing strategies for interagency coordination and organization to improve integration processes for migrants and refugees.³⁶⁶

Recommendation No. 75. Establish national plans for the comprehensive protection of human rights and the social inclusion of all persons in a human mobility situation living in Brazil, taking into account such factors as gender, ethnic/racial origin, migrant status, age, sexual orientation, identity and/or gender expression, and sexual characteristics, as well as any other characteristics capable of triggering intersectional risks.

498. In 2022, the State did not submit information on compliance with this recommendation. Through its monitoring activities, the IACHR found out that the State had included asylum-seekers, refugees, and migrants in the 2022 national census, and that, with support from the United Nations High Commissioner for Refugees (UNHCR), it collected information about the Venezuelan population living in the states of Amazonas, Pará, and Roraima. The Commission considered that including these populations in the census would enable the State to develop national plans adapted to their needs. It also invited the State to spearhead the development of plans to protect the rights and inclusion of persons in a human mobility situation.³⁶⁷

Information on compliance

499. In 2023, the State informed the Commission of the social inclusion of migrants in Brazil, taking into account factors like race, gender, diversity, age, childhood, and disability, and indicated that it had: (i) launched the Program to Attend to and Accelerate Asylum Policies for Afro-descendants; (ii) adopted a simplified procedure for *prima facie* recognition of requests for asylum from women and girls at risk of female genital mutilation or ablation and LGBTIA+ persons; (iii) published Ministry of Justice and Public Security/Ministry of Foreign Affairs (MJSP/MRE) Interministerial Ordinances 24, 37, and 38, which establish that, when granting visas/prior residence permits, the State will pay special attention to requests from women, children, elderly adults, persons with disabilities, and their family members.³⁶⁸

500. In turn, from the information provided by civil society, the Commission learned of the following ordinances: (i) MJSP/MRE Interministerial Ordinance 36/2023, which provides for granting temporary visas and humanitarian residence permits to Ukrainian nationals and stateless persons affected or displaced by the armed conflict in Ukraine; (ii) MJSP/MRE Interministerial Ordinance 37/2023, which orders the granting of temporary visas and residence permits to Haitian nationals and stateless persons affected by a grave catastrophe, natural disaster, or the institutional instability of the Republic of Haiti, for humanitarian purposes; and (iii) MJSP/MRE Interministerial Ordinance 38/2023, which orders the granting of prior authorization for residency and the respective granting of temporary visas for family reunification for Haitian nationals and stateless persons with family ties in Brazil.³⁶⁹

501. Furthermore, the Commission was informed by civil society organizations that the MJSP had announced the working group responsible for the discussions on developing the National Policy on Migration, Refugees, and Stateless Persons, and that a National Conference on Migration and Refugees would be held in the second half of 2023, to prepare a national plan on this issue. The civil society organizations indicated that objectives, activities, and responsibilities would be established for this conference, but they also informed the Commission that it would likely be postponed.³⁷⁰

³⁶⁶ IOM, [MigraCidades 2020: Sistematização e análise dos dados sobre a dimensão de acesso à saúde](#), 2022, p. 38; UNHCR, UN Women, and the United Nations Population Fund. [Oportunidades e desafios à integração local de pessoas de origem venezuelana interiorizadas no Brasil durante a pandemia de Covid-19](#), August 11, 2022, p. 72.

³⁶⁷ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 375-376.

³⁶⁸ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

³⁶⁹ Cáritas Brasileira. Response to the consultation questionnaire, September 18, 2023.

³⁷⁰ Conectas Direitos Humanos. Response to the consultation questionnaire, September 17, 2023.

Analysis and level of compliance with the recommendation

502. The IACHR appreciates the information provided by the State and civil society on this recommendation and observes that the initiatives undertaken, like the launch of the Program to Attend to and Accelerate Asylum Policies for Afro-descendants; the simplified procedure for recognizing requests for asylum made by women and girls at risk of female genital mutilation or ablation and LGBTIA+ persons; and Interministerial Ordinances 24, 36, 37, and 38, significantly contribute to compliance with the recommendation. However, the IACHR also notes that the State did not provide specific data on implementation of these initiatives nor on the results thereof. Pursuant to the information available, and without losing sight of the remaining challenges, the IACHR considers that the State's level of compliance with this recommendation has progressed to **partial**.

Measures and information to make progress on fulfilling the recommendation

503. To steer compliance with this recommendation, the Commission invites the State to provide specific data on implementing the aforementioned new public policies. Similarly, the Commission invites the State to continue, in a timely, transparent, and participative fashion, with its agenda for developing the National Policy on Migration, Refugees, and Stateless Persons and holding the National Conference on Migration and Refugees to draft the National Plan on this issue, as well as with the corresponding approval and effective implementation thereof, ensuring that this plan will foster the inclusion of migrants living in the country, by addressing factors like race, gender, diversity, age, childhood, disability, and intersectional identities.

Recommendation No. 76. Step up humanitarian welcome actions, provided for in the Migration Law, Law No. 13.445/2017, and supplemented by the measures established in Law No. 13.684/2018 for persons who find themselves in vulnerable circumstances arising out of the migration flow caused by a humanitarian crisis, particularly with regard to maintaining and bolstering actions to receive persons displaced from Venezuela by the current humanitarian crisis.

504. In 2022, the State did not report on compliance with this recommendation. In turn, the IACHR highlighted "Operation Welcome" as a best practice implemented by the State to address the massive influx of Venezuelans. With regard to the emergency humanitarian assistance centers, the IACHR took note of the shelters in the state of Roraima, and saluted Brazil's decision to renew its partnership with the UNHCR to provide humanitarian aid and encourage the relocation of vulnerable refugees and migrants to the country's interior. At the same time, the IACHR also observed that Brazil does not have a national policy on integrating immigrants and refugees. The IACHR welcomed the State's efforts to maintain the humanitarian shelter, interiorization, and social integration programs, but indicated that additional efforts were necessary to address this issue.³⁷¹

Information on compliance

505. In 2023, in connection with the follow-up on this recommendation, the State informed the Commission that based on Laws 13,445/2017 and 13,684/2018, the MJSP and MRE handed down the following interministerial ordinances to order the granting of temporary visas and residence permits for humanitarian shelter: (i) 36/2023, for Ukrainian nationals and stateless persons affected or displaced by the armed conflict in Ukraine; (ii) 37/2023, for Haitian nationals and stateless persons affected by major calamities, natural disasters, or institutional instability in the Republic of Haiti; and (iii) 38/2023, for Haitian nationals and stateless persons with family ties in Brazil, enabling them to request family reunification directly from the public administration, free of charge, by filling out a form and submitting the documents online.³⁷²

³⁷¹ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 377-384.

³⁷² State of Brazil, Note No. 357 of September 6, 2023. Response to the consultation questionnaire.

506. The State also informed the Commission that, as a response to the Afghans arriving at the Guarulhos International Airport with humanitarian visas, it had set up an emergency shelter in the city of Praia Grande, state of São Paulo, for 200 individuals who are socially vulnerable or have health problems, including families with children. Several civil society agencies are collaborating with this shelter, making joint efforts to provide medical care and help migrants sort out their legal status, as well as to provide recreational activities and Portuguese classes. The State also reported that while the refugees are staying in the emergency shelter, other ministries, the state of São Paulo, and the municipality of Guarulhos are organizing a new public space for vulnerable migrants, refugees, and stateless persons.³⁷³

507. Civil society informed the Commission that while the humanitarian visas constitute an alternative to humanitarian residence permits, they also apply to the nationalities recognized as asylum cases by the National Committee on Refugees (CONARE), and furthermore serve as a guarantee that will allow these individuals to escape grave situations in which their lives are in danger. However, the civil society organizations also indicated that there are ongoing delays in the processing of visa requests, and the embassies authorized to analyze the applications from people affected by the situation in Afghanistan constantly suspend their services. The organizations also passed on the complaints that the embassy of Brazil in Port au Prince, Haiti, is frequently inaccessible, which prevents Haitians from obtaining humanitarian visas.³⁷⁴

508. The IACHR also learned from civil society organizations that the State had taken several measures to create a national policy for integrating immigrants, refugees, and asylum seekers, including the creation of the working group and the collection of data via forms filled out by civil society, religious and governmental civil organizations, and international agencies. Civil society also indicated that one positive point has been that civil society and religious organizations have once again been allowed to participate in the discussion of these issues after having been excluded during the prior administration.³⁷⁵

Analysis and level of compliance with the recommendation

509. The IACHR appreciates the information provided on this recommendation by the State and civil society, and notes that the actions taken in 2023 to respond to situation of Afghans arriving at the Guarulhos International Airport and, especially, the State's approval of MJSP/MRE Interministerial Ordinances 36, 37, and 38, based on Laws 13.445/2017 and 13.684/2018, are meaningful contributions to compliance with the recommendation. In accordance with the information available, the IACHR determines that the level of compliance with this recommendation has progressed to **substantial partial**.

Measures and information to make progress on fulfilling the recommendation

510. To steer compliance with this recommendation, the IACHR considers it necessary for the State to ensure the continuity of the programs reported and invites it to send updated information on the actions to welcome the displaced Venezuelans. Specifically, the IACHR notes that it is essential for the State to rapidly and effectively process applications for visas and consular services at Brazilian consulates and embassies in countries where the demand for visas is higher, to prevent asylum-seekers from having to stay in their risky situations for longer time periods.

Recommendation No. 77. Maintain and strengthen public policies, programs, and actions to welcome, bring in, include, and provide social welfare for migrants, asylum-seekers, and refugees, undertaken directly by the State or with the support of civil society organizations.

511. In 2022, the State did not report on compliance with this recommendation. The IACHR observed that Brazil does not have a national policy on integrating immigrants and refugees. It recalled that,

³⁷³ State of Brazil, Note No. 357 of September 6, 2023. Response to the consultation questionnaire.

³⁷⁴ Conectas Direitos Humanos. Response to the consultation questionnaire, September 17, 2023.

³⁷⁵ Cáritas Brasileira. Response to the consultation questionnaire, September 18, 2023.

according to an investigation conducted by the UNHCR, UN Women, and the United Nations Population Fund, this lack of a national policy means that the country does not have any forums for dialogue, planning, or coordinating immigrant relocation to the interior among state and municipal agencies, which also affects integration, as job placement is prioritized over social integration, and gender issues are overlooked. The IACHR considers it essential for the State to expand, strengthen, and guarantee the continuity of the welcome programs discussed in the recommendation.³⁷⁶

Information on compliance

512. In 2023, in the context of the follow-up on this recommendation, the State informed the Commission that it had established a working group, through MJSP Ordinance 290/2023, to set up the implementing regulations for the National Policy on Migration, Asylum, and Statelessness, envisaged in Article 120 of the Migration Law.³⁷⁷

513. The State also indicated that it has undertaken the following initiatives to welcome and help integrate migrants in the country: (i) the Second National Conference on Migration and Asylum, an event held to bring together migrant associations, civil society organizations, government stakeholders, international agencies, and researchers to discuss and propose approaches to migration and asylum policies; (ii) implementation of the Support Centers for Immigrants, Refugees, and Stateless Persons, coordinated by the Migrations Department, together with civil society, as a network of specialized service and support centers to promote economic, social, and cultural inclusion as well as free, universal access to public services; (iii) coordination to build a National Network of Welcoming Cities to create tools to support local decision-making; develop strategies for welcoming migrants, refugees and stateless persons and helping them integrate locally; promote joint actions against discrimination, racism, and xenophobia; bolster government and civil society capacities; and establish a community of learning.³⁷⁸

514. In turn, according to information provided by civil society organizations, the government will continue to support the Operation Welcome actions to relocate migrants to the interior, focusing on better monitoring of the migrants after they are transferred to other cities, to guarantee local integration and job placement, and to prevent trafficking in persons and slave labor situations, given that the most recent administration reported cases of migrants who had been enslaved. The civil society organizations also informed the Commission that State monitoring had intensified in border cities, with the State attentively listening to the organizations acting in the region.³⁷⁹

Analysis and level of compliance with the recommendation

515. The IACHR thanks the State and civil society for the information they provided on this recommendation and appreciates the initiatives undertaken to welcome immigrants to the country and foster their integration, like the Second National Conference on Migration and Asylum, the implementation of the Centers for Immigrants, Refugees, and Stateless Persons, and the coordination for setting up the National Network of Welcoming Cities. The IACHR finds that these initiatives will contribute to compliance with the recommendation. However, it also notes that the State did not provide specific data on implementation of these initiatives nor on the results thereof. In view of the information available and the level of progress of the reported initiatives, the IACHR considers that compliance with this recommendation continues to be **partial**.

Measures and information to make progress on fulfilling the recommendation

516. To guide the State towards full compliance with this recommendation, the IACHR invites it to continue undertaking efforts to welcome migrants, refugees, and asylum-seekers and redirect them towards

³⁷⁶ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 377-384.

³⁷⁷ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

³⁷⁸ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

³⁷⁹ Cáritas Brasileira. Response to the consultation questionnaire, September 18, 2023.

the country's interior, especially by structuring a comprehensive national policy that will include and complement the progress reported. The Commission invites the State to provide specific data on implementation of the public initiatives mentioned and the results thereof.

Recommendation No. 78. Implement and strengthen actions to protect and shelter migrants living on the street in both border areas and in cities inside Brazil.

517. In 2022, the State did not send the IACHR substantive information on compliance with this recommendation, and the IACHR noted with concern that there is a lack of data on immigrants living on the streets in other states of Brazil, and on permanent measures to protect them. Accordingly, it called on the State to create appropriate mechanisms for identifying immigrants living on the streets and determining their specific needs, so that, based on the findings, it can design and implement coordinated programs, plans, and policies to protect their rights.³⁸⁰

Information on compliance

518. As for compliance measures adopted in 2023, the State informed the Commission that, as a response to the Afghans arriving at the Guarulhos International Airport with humanitarian visas, it established an emergency shelter in the city of Praia Grande, state of São Paulo, to house 200 individuals who are socially vulnerable or have health problems, including families with children. The State indicated that several civil society agencies are collaborating with this shelter, making joint efforts to provide medical care, sort out the individuals' migration status, and provide recreational activities and Portuguese classes. For now, the refugees are staying in the emergency shelter, while other ministries, the state of São Paulo, and the municipality of Guarulhos are organizing a new public space equipped specifically to help vulnerable migrants, refugees, and stateless persons.³⁸¹

519. In addition, in its observations to this report, the State reported the publication of the Guidelines for Serving International Migrants in the Single Social Assistance System (SUAS), which is the result of the joint work of the MDS and the IOM. According to the State, this publication provides complete guidelines and up-to-date technical instruction to improve the quality of care provided to vulnerable immigrants, and to provide them with social assistance in the SUAS framework.³⁸²

520. With regard to this recommendation, civil society organizations also recognized the major achievement in the case of the Afghans who had suffered human rights abuses and were being held at the Guarulhos airport; through State actions, they were relocated to shelters in the city and in neighboring towns, where they received legal aid to adjust their migration status, as well as food, Portuguese classes, and donated clothing and shoes, etc.³⁸³

Analysis and level of compliance with the recommendation

521. The IACHR thanks the State and civil society for the information they provided on this recommendation, and welcomes the establishment of the emergency refuge and other shelters in response to the Afghans' situation. It further observes that this measure contributes to the State's compliance with the recommendation. Likewise, the Commission appreciates the guidelines drawn up to improve immigrants' access to social services. In view of the information available and the progress made, the IACHR determines that compliance with this recommendation has progressed to **partial**.

³⁸⁰ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 385-388.

³⁸¹ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

³⁸² State of Brazil, Note No. 505 of December 21, 2023. Comments on document draft.

³⁸³ Cáritas Brasileira. Response to the consultation questionnaire, September 18, 2023.

Measures and information to make progress on fulfilling the recommendation

522. To further implementation of this recommendation, the Commission invites the State to provide updated information on the public policies to help migrants living on the streets in Brazil and along the border. Accordingly, the Commission called on the State to create appropriate mechanisms to identify immigrants living on the streets and determine their specific needs, so that, based on the findings, it can design and implement coordinated programs, plans, and policies to protect their rights, especially in regions with the most challenges.

Recommendation No. 79. Prevent, raise awareness of, and combat xenophobia and all forms of violence against persons in human mobility situations, including migrants, refugees, those applying for refugee status, stateless persons, and victims of human trafficking.

523. In 2022, the State reported that it had published a pamphlet on human rights for Afghan refugees and migrants in Brazil, which covered topics like the fight against xenophobia. Furthermore, the IACHR learned of CONARE's creation of the Observatory of Violence against Refugees, which monitors acts of violence committed against the refugee and migrant populations and will coordinate actions to follow up on complaints and support public policy development. The IACHR also took note of the cooperation agreement entered into by the Labor Public Prosecutor's Office for Pará and Amapá, the Pará Public Prosecutor's Office, and the UNHCR for implementing actions to combat racism and xenophobia. The IACHR invited the State of Brazil to implement measures designed to eradicate this type of discrimination and violence, such as educational campaigns, public policies, and awareness campaigns and actions to promote multiculturalism in Brazilian society.³⁸⁴

Information on compliance

524. In 2023, as part of the follow-up on this recommendation, the State informed the Commission that in January of the same year, it had created the Moïse Kabagambe Observatory - Observatory of Violence against Migrants and Refugees, as one of the measures to monitor and combat violence and xenophobia against individuals seeking refugee status, refugees recognized by Brazil, and migrants in Brazilian territory. Specifically, the State indicated that the Observatory primarily focuses on the issues of gender violence, racism, xenophobia, and workplace violence against migrants and refugees.³⁸⁵

525. The State also indicated that the Observatory was conceived of mainly as a repository of information and analyses of this issue and a catalyst for conducting studies and disseminating information on them. In addition, it noted that, to that end, the Observatory intends to establish partnerships with ministries involved in these issues, state and municipal secretariats, and universities and civil society organizations, with the primary objective of gathering and analyzing data on violence against migrants and refugees, to support and help develop public policies to combat this grave issue.³⁸⁶

526. Subsequently, as part of its observations to this report, the State added that, under the Constitution, all migrants have the same rights as nationals, and furthermore, members of at-risk groups, like women, children and adolescents, LGBTI persons, the elderly, etc., receive special protection. Taking this into account, according to the State, the MDHC General Coordinating Office for Promoting the Rights of Migrants, Refugees, and Stateless Persons carries out actions to provide accurate information to migrants and to Brazilian society as a whole on the rights of this group of persons and the channels available in the country for reporting violations. In this regard, the State pointed out the following measures: (i) the Working Group to draft the National Policy on Migration, Refugees, and Stateless Persons, coordinated by the Ministry of Justice and Public Security; (ii) development of the *Clique Cidadania* [Click Citizenship], a digital tool that contains information

³⁸⁴ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 389-393.

³⁸⁵ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

³⁸⁶ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

and guidance on rights, services, public policies, and programs available in Brazil for nationals and migrants, and provides rapid access to the channels for protection and reporting. The State explained that this application also contains relevant, up-to-date information on human rights, social assistance, education, health, and labor questions, as well as an interactive map with georeferenced data on the locations where public services are offered; (iii) courses on human rights for migrants; (iv) availability of the *Disque 100* hotline for filing reports of human rights violations; (v) preparation of informational material and pamphlets on migration and asylum; (vi) coordination among ministries as well as federated bodies to make policies targeting the migrant population feasible; (vii) coordination with civil society organizations, etc.

527. In turn, civil society informed the Commission that the Moise Kabagambe Observatory focuses on proposing public policies and forming partnerships with civil society organizations, international organizations, states, and municipalities with a view to universalizing good practices targeting the Afro-descendent refugee population, which includes current nationals of African countries as well as people whose ancestors were born in Africa.³⁸⁷ At the same time, they noted that, despite this being a major initiative, the Observatory does not yet have a web page that displays the results for public transparency.³⁸⁸

528. Civil society also reported the federal government's publication of the Report of Recommendations to Address Hate Speech and Extremism in Brazil, including xenophobia.³⁸⁹

Analysis and level of compliance with the recommendation

529. The IACHR thanks the State and civil society for the information they provided on this recommendation and takes note of the founding of the Moise Kabagambe Observatory - Observatory of Violence against Migrants and Refugees reported by the State, as a measure to prevent and combat violence and xenophobia against people applying for refugee status, refugees recognized by Brazil, and migrants in Brazilian territory. However, even though this measure may contribute to compliance with the recommendation, the State did not provide specific data to the IACHR to verify the results of implementation.

530. The IACHR also welcomes the information provided on the compliance measures taken by the MDHC General Coordinating Office for Promoting the Rights of Migrants, Refugees, and Stateless Persons. In accordance with the information available, the IACHR determines that compliance with this recommendation continues to be **partial**.

Measures and information to make progress on fulfilling the recommendation

531. Intending to steer compliance with this recommendation and prevent discrimination and xenophobia against migrants, the Commission invites the State of Brazil to continue developing the Observatory, fostering its activities, and fulfilling the measures reported by the MDHC. Specifically, it calls on the State to take action to set up a publicly accessible Observatory web page that displays the Observatory's up-to-date, complete plans, actions, and results transparently and to report additional information on the implementation of the measures reported by the Ministry, as well as on their specific outcomes.

Recommendation No. 80. Strengthen government structures relating to protection of the human rights of migrants, refugees, and stateless persons, especially Brazil's National Committee for Refugees (CONARE).

532. For Chapter V of the 2022 Annual Report, the State did not provide information on recommendation 80 to strengthen government structures to protect the human rights of migrants, refugees,

³⁸⁷ Cáritas Brasileira. Response to the consultation questionnaire, September 18, 2023.

³⁸⁸ Conectas, *Respostas da ONG Conectas Direitos Humanos (C) em relação à Solicitação de informações da OSC - Brasil pela CIDH*, September 17, 2023.

³⁸⁹ Secretariat of Social Communication, [Governo publica estratégias e recomendações para o combate ao discurso de ódio e ao extremismo](#), July 4, 2023.

and stateless persons. The IACHR considered it necessary for the State to report information on the measures adopted to protect the rights of these individuals and on the details and outcomes of these actions, to make it possible to evaluate compliance with the recommendation.³⁹⁰

Information on compliance

533. In 2023, the State informed the IACHR that, in addition to the measures adopted for compliance with the previous recommendation, the National Committee for Refugees launched the Program to Attend to and Accelerate Asylum Policies for Afro-descendants to propose migration and public policy solutions to build partnerships with civil society organizations, international agencies, states, and municipalities, with a view to universalizing good practices for the Afro-descendent refugee population. This population includes nationals of African countries as well as people whose ancestors were born in Africa. The State underscored that the objective is to help deconstruct the race-based view of persons of African descent who arrive in Brazil, through actions designed to promote reparation policies and political and social interventions with the target population.³⁹¹

534. Similarly, the State informed the IACHR of its promotion of a simplified procedure to recognize, *prima facie*, applications for asylum from women and girls at risk of female genital mutilation or ablation and LGBTIA+ persons. Furthermore, the State indicated that these procedures were designed to be more streamlined and humane, and to prevent revictimization of the applicants, allowing them to integrate faster into Brazilian society. The State also reported that financial education courses were offered for migrants and refugees, to provide them with general knowledge about the Brazilian financial and banking system, in an easy-to-understand way, to facilitate and foster their inclusion in the banking system.³⁹²

535. In turn, civil society reported that this year CONARE included the MDHC, MPI, Ministry of Ports and Airports, and MDS as observer members, without the power to vote.³⁹³

536. In addition, civil society organizations mentioned the importance of CONARE also appointing associations and groups that represent refugees, and other civil society organizations, as observer members at least, since at present civil society only has one seat on the Committee, placing it at a disadvantage compared to the government in terms of votes. At the same time, they indicated that more decentralized CONARE units are needed in the cities with high concentrations of immigrants and noted that at present there are only three units located outside Brasilia, all in the southeast: São Paulo, Rio de Janeiro, and Campinas.³⁹⁴

537. Moreover, according to public information, on August 31, 2023, the National Immigration Council will be restructured. This Council is a deliberative agency that works to promote discussion on labor migration policy, in order to ensure equal participation by the government and civil society organizations, including the associations formed by migrants and refugees. In addition, the Federal Public Defender's Office (DPU) and the United Nations agencies working on this issue will be admitted.³⁹⁵

Analysis and level of compliance with the recommendation

538. The IACHR thanks the State and civil society for providing information on this recommendation. Along these lines, it observes that the initiatives undertaken, like the launch of the Program to Attend to and Accelerate Asylum Policies for Afro-descendants and the promotion of a simplified procedure for recognizing requests for asylum made by women and girls at risk of female genital mutilation or ablation and LGBTIA+ persons are major contributions towards compliance with the recommendation. That said, the Commission also takes note of the civil society reports on the need to create more decentralized CONARE units

³⁹⁰ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 394- 395.

³⁹¹ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

³⁹² State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

³⁹³ Cáritas Brasileira. Response to the consultation questionnaire, September 18, 2023.

³⁹⁴ Cáritas Brasileira. Response to the consultation questionnaire, September 18, 2023.

³⁹⁵ Federal Senate, [Public Hearing in the Joint Commission on Migration and Refugees](#), August 31, 2023.

and on the structural challenges to effective civil society participation. In view of the information available, the Commission determines that the country's level of compliance with this recommendation has advanced to **partial**.

Measures and information to make progress on fulfilling the recommendation

539. The Commission invites the State to provide information on the implementation of the Program to Attend to and Accelerate Asylum Policies for Afro-descendants, as well as updated information on the restructuring of the National Immigration Council and its new functions and responsibilities. It also invites the State to consider the need to set up more decentralized CONARE units and to guarantee civil society's effective participation, as well as to provide the resources necessary to ensure CONARE can operate effectively.

Recommendation No. 81. Ensure effective access and due process guarantees in connection with administrative procedures regarding immigration and refugee documents.

540. The State did not provide information on compliance with this recommendation for the 2022 follow-up report. The IACHR appreciated the State's efforts to guarantee due process in determining refugee status and to facilitate access to regularization processes. However, it considered it necessary for the State to continue implementing actions to guarantee a reasonable time frame for analyzing requests for asylum and effective access to international protection mechanisms. Moreover, it invited the State to take action to guarantee due process in immigration proceedings, like expulsion and deportation.³⁹⁶

Information on compliance

541. In 2023, the State reported that in July 2023, over 80,000 applications for recognition of refugee status had been analyzed, double the amount reviewed in 2022. Along these lines, it indicated that this progress is due to actions that combine human resource management, process management, and the development of IT tools. These actions notably include: (i) the strengthening of studies of the country of origin and development of reports and interview scripts focused on specific groups and nationalities; (ii) the grouping of similar types of cases for one collective decision; and (iii) a standing working group for refining procedures and registration processes and developing new functionalities in the *Sisconare* system, like analyses without a merits decision, programming of batch interviews, resources, etc.³⁹⁷

542. The State also indicated that the General Coordinating Office for Immigration Policy handles the administrative processes associated with the loss of nationality, recognition of statelessness, applications for naturalization, and mandatory measures. The State reported that from January 2023 to date, decisions have been made on 10,671 applications for naturalization, which represents a significant increase since the implementation of the "Get Naturalized System" in 2021, given that only 14,811 cases were decided throughout the entire year of 2022. As for a breakdown of cases decided, there were 50 on equality of rights, 22 on reacquisition of nationality, 257 on loss of nationality, 2 on statelessness, 8 on loss and cancellation of residence permits, and 5 on residence permits for people who already had Brazilian nationality.³⁹⁸

543. According to civil society, under the prior administration, there were cases in which individuals were expelled from the country without due process and with human rights violations. However, since 2023, there has been a return to democratic actions, including greater civil society and religious participation with the migrants and refugees themselves having a voice. The civil society organizations also noted that starting this year more care has been taken to ensure immigration processes are completed within a reasonable time frame.³⁹⁹

³⁹⁶ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 396 and 403.

³⁹⁷ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

³⁹⁸ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

³⁹⁹ Cáritas Brasileira. Response to the consultation questionnaire, September 18, 2023.

Analysis and level of compliance with the recommendation

544. The IACHR thanks the State and civil society for providing information on this recommendation. It also welcomes the actions taken by the State in 2023 to speed up immigration and asylum processes, ensuring they take place in reasonable time frames, allowing greater civil society participation and ensuring the migrants and refugees themselves have a voice.

545. Specifically, the IACHR finds that the fact that two times more applications for recognition of refugee status were analyzed in 2023 is a major step towards compliance with the recommendation, as are the strengthening of the studies of the country of origin, the development of reports and interview guides focused on specific groups and nationalities, the grouping of similar types of cases for collective decisions, the standing working group for refining the procedural and registration processes, and the development of the new functionalities of the *Sisconare* system. In view of the information available, the Commission concludes that the country's level of compliance with this recommendation has advanced to **partial**.

Measures and information to make progress on fulfilling the recommendation

546. To steer the implementation of this recommendation, the Commission invites the State to guarantee the continuity of the actions taken to ensure the immigration processes are completed within a reasonable time frame and to facilitate the means necessary for asylum-seekers to submit their cases to the competent authorities and, if the process is digital, to implement actions to ensure access and accessibility. The IACHR also invites the State to provide up-to-date, disaggregated data on the refugee and asylum processes in the country.

Recommendation No. 82. Issue affordable and non-stigmatizing provisional I.D.s for all asylum-seekers, stateless persons, and migrants, while taking additional measures to train public servants and sensitize the general population so as to ensure effective access to rights and services.

547. In 2022, the State did not provide information on compliance with this recommendation. However, the IACHR noted the Operation Horizon initiative implemented by the Federal Police in São Paulo. The objective of this operation was to reduce the wait time for appointments to get and renew immigration documents. The IACHR considered this operation to be a best practice that should be replicated throughout the country to ensure all immigrants are issued identification documents as per the recommendation.⁴⁰⁰

Information on compliance

548. In 2023, the State reported that Ordinance 9,277/2018 created the Provisional National Migration Registration Document (DPRNM) specifically for this objective to replace the printed "Refugee Protocol" issued as asylum-seekers primary identification document. It also indicated that since 2020, the National Committee for Refugees and Federal Police systems have been integrated and the DPRNM is issued as soon as the immigration authority receives the asylum application.⁴⁰¹

549. In addition, in its observations to this report, the State reiterated the publication of the Guidelines for Serving International Migrants in the SUAS, which is the result of the joint work of the MDS and IOM. According to the State, this publication serves as a measure for implementation of the second part of this recommendation insofar as it furnishes complete guidelines and up-to-date technical instruction to improve the quality of care provided to vulnerable immigrants and to provide them with social assistance in the SUAS framework.⁴⁰²

⁴⁰⁰ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 405-407.

⁴⁰¹ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

⁴⁰² State of Brazil, Note No. 505 of December 21, 2023. Comments on document draft.

550. In turn, civil society pointed out that there are currently many undocumented immigrants living in Brazil as a result of the lack of opportunities for some groups to legalize their status, due to the border closures during the COVID-19 pandemic, which led to an enormous backlog of documentation processes, since people, especially vulnerable ones, continued to enter illegally.⁴⁰³

Analysis and level of compliance with the recommendation

551. The IACHR thanks the State and civil society for the information they provided on this recommendation but notes that the State failed to report specific, concrete information on compliance measures adopted in 2023. Although it took careful note of the publication of the Guidelines for Serving International Migrants in the Single Social Assistance System, the IACHR needs more information on how this publication contributes to training and awareness-raising to ensure that the identification documents mentioned in this recommendation will make it possible for their holders to access rights and services. In anticipation of this additional data, the Commission determines that compliance with this recommendation is still **pending**.

Measures and information to make progress on fulfilling the recommendation

552. To steer compliance with this recommendation, the Commission calls on the State to provide relevant, up-to-date, broad-ranging information about the compliance-related measures adopted. Specifically, it invites the State to adopt measures to adjust immigrants' documentation as soon as possible, paying special attention to the most vulnerable individuals. The IACHR also invites the State to take additional training and awareness-raising measures to effectively guarantee that the identification documents will be recognized for access to rights and services and to report on the adoption of these IDs. In this respect, it asks the State for specific data showing how the Guidelines for Serving International Migrants in the Single Social Assistance System foster the training and sensitization requested in the recommendation.

Recommendation No. 83. Strengthen integrated steps to protect migrants from slave labor and guarantee prompt investigation, with all due diligence of any such cases, as well as punishment of those responsible.

553. The State did not send any information to the IACHR on compliance with this recommendation for Chapter V of the 2022 Annual Report. The Commission learned of the establishment, within the Labor Public Prosecutor's Office, of a group called "Venezuelan Migratory Flow" that, according to public information, will work with Operation Welcome to monitor and ensure adherence to labor standards in the employment of Venezuelan refugees and migrants.

554. The IACHR also took note of the measures to prevent and support victims of slave labor, such as the creation of the National Treatment Protocol for Victims of Slave Labor in Brazil and the publication, jointly with the UNHCR, IOM, and International Labour Organization, of a pamphlet for immigrants on slave labor. That said, the IACHR also observed that Brazil does not have a public information system on the number of victims of slave labor, and that the State did not provide any information on the implementation of actions to ensure that the perpetrators in cases of immigrant slave labor will be investigated and punished.⁴⁰⁴

Information on compliance

555. In 2023, the State informed the IACHR that the MJSP General Coordinating Office on Labor Immigration grants residence permits for work-related reasons. It also explained that workplace inspections are carried out by the Labor Inspectorate, tied to the Labor Secretariat, which falls under the Ministry of Labor and Employment. Along these lines, it indicated that actions had been carried out to monitor workplaces,

⁴⁰³ Conectas Direitos Humanos. Response to the consultation questionnaire, September 17, 2023.

⁴⁰⁴ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 408-413.

working conditions, and the legal measures for guaranteeing human rights at work, regardless of workers' immigration status and nationality, including Brazilian and immigrant workers. The State clarified that the atypical situations identified by the General Coordinating Office on Labor Immigration are sent to the Labor Inspectorate for verification.⁴⁰⁵

556. The State also indicated that the Labor Inspectorate, Labor Secretariat, and Ministry of Labor and Employment have made the Brazilian Labor Inspectorate Statistics and Information Dashboard available on the Labor Inspectorate portal, with data on actions to combat slavery-like work and child labor, as well as infringement records. Plans are also being implemented in specific areas like combating slave labor and informality, such as the National Plan to Combat Wage Earner Informality.⁴⁰⁶

557. Lastly, the State indicated that the Labor Prosecutor's Office is also working to promote the rights of workers, including immigrant workers, and to foster equality, improve the work environment, and combat slave labor, through working groups and specific projects, like the Freedom in the Air, Economic Empowerment of Women Project and the Working Group for Gender, Race, and Diversity Equality.⁴⁰⁷ Civil society informed the IACHR that the Labor Prosecutor's Office has been doing excellent supervision work and has even been helping to rescue immigrants and refugees from slavery-like jobs throughout Brazil.⁴⁰⁸

558. Civil society expressed its concern over the State's failure to monitor the Operation Welcome relocation program, especially the modality with designated job offers, since investigations and complaints have shown that many immigrants brought to the country's interior have become victims of slave labor.⁴⁰⁹

Analysis and level of compliance with the recommendation

559. The IACHR thanks the State and civil society for the information they provided on this recommendation and notes that the surveillance and control actions taken by the State in 2023 to combat immigrant slave labor, such as the inspection of workplaces and working conditions and of the legal actions to guarantee human rights at work; the launch of the Brazilian Labor Inspectorate Statistics and Information Dashboard with data on the actions to combat slave labor and child labor, and infringement records; as well as the Labor Prosecutor's Office's surveillance and work to rescue migrants and refugees from jobs analogous to slave labor in the country, significantly contribute to compliance with this recommendation. In accordance with the information available, the IACHR determines that compliance with this recommendation is **partial**.

Measures and information to make progress on fulfilling the recommendation

560. To steer compliance with this recommendation, the Commission invites the State to, in addition to its regular workplace inspections, report on the measures it takes with regard to immigrant labor and to guarantee acts are investigated and the persons deemed responsible are punished. These could include measures designed to guarantee access to justice to protect migrants' rights, as well as comprehensive reparation for the damages suffered, free of charge and on an equal footing with Brazilian nationals.⁴¹⁰ The IACHR also invites the State to report additional information on the results achieved by the Labor Prosecutor's Office with regard to this recommendation.

⁴⁰⁵ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

⁴⁰⁶ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

⁴⁰⁷ State of Brazil, Note No. 347 of September 6, 2023. Response to the consultation questionnaire.

⁴⁰⁸ Cáritas Brasileira. Response to the consultation questionnaire, September 18, 2023.

⁴⁰⁹ Conectas Direitos Humanos. Response to the consultation questionnaire, September 17, 2023. El País, [Ambev e Heineken são autuadas por trabalho escravo de imigrantes venezuelanos em São Paulo](#), May 17, 2021.

⁴¹⁰ IACHR, [Resolution 04/19, Inter-American Principles on the Human Rights of All Migrants, Refugees, Stateless Persons and Victims of Human Trafficking](#), San Salvador, December 7, 2019, Principles 19 and 40.

P. Memory, truth, and justice

Recommendation No. 84. Establish a body to oversee compliance with the recommendations of the National Truth Commission.

561. In 2022, the State did not provide information on compliance with this recommendation. However, civil society organizations informed the IACHR of the judiciary's secret decisions to order that certain information be eliminated from the National Truth Commission (CNV) Final Report, without notifying the Federal Public Prosecutor's Office or the victims' families. The IACHR reiterated the importance of truth commissions as a complement to judicial proceedings, insofar as they help further the collective reconstruction of the truth about human rights violations, in light of the historical, social, and political contexts. It also indicated that their work, based on documentary and testimonial evidence, serves as a way to recognize and dignify the victims, and constitutes a fundamental source of information for legal proceedings and for the development of public policy and suitable reparation mechanisms.⁴¹¹

Information on compliance

562. This year, the State reported that it is working to create a deliberative mechanism to support compliance with the 29 recommendations issued by the CNV. It acknowledged that it had not paid these recommendations the attention they deserved over the past few years and underscored that the three branches of the Republic must share the efforts towards compliance. The State mentioned the report drawn up by the Vladimir Herzog Institute civil society organization entitled *Strengthening Democracy: Following up on the CNV Recommendations*, which concluded that by the end of 2022, barely two recommendations had been fully implemented, six had been partially implemented, 14 had not been implemented, and seven had run into setbacks.⁴¹²

563. The Vladimir Herzog Institute provided the information in its report and indicated that no progress had been made on implementing the CNV recommendations.⁴¹³

Analysis and level of compliance with the recommendation

564. The IACHR takes note of the efforts announced by the Brazilian State to create a deliberative instrument to supervise compliance with the CNV recommendations. However, it is concerning that despite these announcements, the information provided by civil society indicates that the State has not complied with most of the recommendations and has even backtracked on some of them. In view of the above and in consideration of the advancements being implemented by the State, the IACHR determines that the State has progressed to **partial compliance** with this recommendation.

Measures and information to make progress on fulfilling the recommendation

565. The IACHR salutes the initiative and highlights the importance of formally establishing the deliberative body, affording it resources so it will be autonomous, transparent, and effective, and ensuring that civil society representatives and victims can actively participate. It also highlights the importance of establishing an action plan and accountability mechanisms for the body's activities.

Recommendation No. 85. Strengthen mechanisms and actions for making comprehensive reparation to the victims of human rights violations perpetrated during the civil-military dictatorship, including the deployment of physical and psychological rehabilitation measures for the victims and their next of kin, and continuation and strengthening of historical memory policies.

⁴¹¹ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 414-417.

⁴¹² State of Brazil, Note No. 359 of September 12, 2023. Response to the consultation questionnaire.

⁴¹³ Vladimir Herzog Institute. Response to the consultation questionnaire, September 2023.

566. In 2022, the State did not provide specific information on compliance with this recommendation. However, the Commission did indicate that it had received information from civil society on the continued weakening of the Amnesty Commission, which was established to handle the financial requests made by victims of the dictatorship. This weakening is due to the high rates of review and rejection of the requests made to the Amnesty Commission, and the use of negationist and revictimizing speech during the proceedings. The IACHR was also informed of the lack of programs for victims' rehabilitation, and that the then Ministry of Women, the Family, and Human Rights was trying to do away with the archive of publications and audiovisual material associated with the dictatorship.⁴¹⁴

Information on compliance

567. In 2023, the State reported that the operation and structure of the Amnesty Commission, which was established in 2001, have undergone major changes since 2016, with it rejecting most declarations of political amnesty and financial compensation. The State also indicated that in 2019, the Amnesty Commission was transferred to the Ministry of Women, the Family, and Human Rights, accelerating the aforementioned changes. The State indicated that from 2019 to 2022, only 104 of 4,280 processes were approved.⁴¹⁵

568. Nevertheless, the State also indicated that in 2023, the Commission was reorganized, appointed new directors, and approved new internal rules of procedure, including the possibility of group applications for amnesty. The State highlighted the events held to commemorate the Amnesty Law, and the fact that up to 2023, the Commission had received 79,389 requests, with 3,400 pending review. With regard to the comprehensive reparation, the State affirmed that from 2017 to 2019, the Special Committee on Political Disappearances and Deaths (CEMDP) corrected the death records of victims of human rights violations, and stated that policies are being implemented to preserve the memory of the legacy of authoritarianism and the trans-Atlantic slave trade.⁴¹⁶

569. In a document sent to the IACHR, civil society organizations reported that the Amnesty Commission is once again working in accordance with the regulations and the rule of law, although few reparations have been awarded during 2023.⁴¹⁷

Analysis and level of compliance with the recommendation

570. The Commission salutes the Amnesty Commission's return to its activities with the appointment of new directors and the approval of its new rules of procedure, and especially appreciates that it is analyzing applications expeditiously. Accordingly, the IACHR determines that compliance with this recommendation has progressed to **partial**.

Measures and information to make progress on fulfilling the recommendation

571. To foster full compliance with this recommendation, the Commission calls on the State to continue reviewing the applications it receives and to guarantee comprehensive reparation to victims of the dictatorship, in line with international standards. In addition, the Commission highlights the importance of maintaining the archives associated with the dictatorship, to guarantee the right to memory.

Recommendation No. 86. Take, ex officio, all steps needed to determine the fate or whereabouts of the victims of forced disappearance, identify their mortal remains, and deliver them to their family members. Search operations should form part of a comprehensive public policy regarding

⁴¹⁴ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 418-421.

⁴¹⁵ State of Brazil, Note No. 359 of September 12, 2023. Response to the consultation questionnaire.

⁴¹⁶ State of Brazil, Note No. 359 of September 12, 2023. Response to the consultation questionnaire.

⁴¹⁷ Vladimir Herzog Institute. Response to the consultation questionnaire, September 2023.

disappearances, and they should be conducted, systematically and rigorously, by independent and impartial entities, using adequate human and technical resources and guaranteeing communication and coordination with the victims' next of kin.

572. For 2022, the State reported that a technical cooperation agreement had been signed to create the National Registry of Missing Persons. It also reported that the agreement establishing the National System for Locating and Identifying Missing Persons would be extended, and that it would make efforts to implement the National Policy on the Search for Missing Persons as a permanent federal policy. In response, the IACHR reiterated the importance of specifically addressing cases of forced disappearance by ensuring communication and coordinated action with victims' family members.

573. The Commission lamented that the Special Committee on Political Disappearances and Deaths (CEMDP) had been eliminated, despite the constant reports that certain activities have been halted in recent years and that various proceedings have not been completed, including identification of the bones of several deceased individuals whose remains had been exhumed. Accordingly, the Commission called on the State to resume the search for persons who were forcibly disappeared during the military regime, and to guarantee sufficient resources to clarify their whereabouts, find and identify them, and provide decent restitution to their family members, where applicable.⁴¹⁸

Information on compliance

574. In 2023, the State reported that although the CEMDP has historically been the leading organization for locating victims who disappeared during the dictatorship, its activities were paused in 2019 and eventually terminated in December 2022. That said, the State did praise the fact that the MDHC is seeking to restore the CEMDP to full operation. It also indicated that agreements are being negotiated with the São Paulo Secretariat of Human Rights and the Federal University of São Paulo to continue identifying skeletal remains from the Perus clandestine mass grave. From 2019 to 2022, the lack of formal regulation meant that this identification process could not fully take place.⁴¹⁹

575. The State also informed the IACHR of the draft National Policy on the Search for Missing Persons and the agreements entered into by the Ministry of Justice and Public Security and the Public Security Departments of the states of Ceará and Minas Gerais and the Federal District. In addition, it reported that the MJSP had established an agreement with Meta to implement the Amber Alert.⁴²⁰

576. In turn, civil society organizations informed the IACHR that the elimination of the Special Committee had quite adversely impacted the country's promotion of memory, truth, and justice, and emphasized that to date, it had not been restored.⁴²¹

Analysis and level of compliance with the recommendation

577. The Commission notes, with concern, the information provided by the State and civil society on the pause in the CEMDP's activities in 2019 and the termination thereof in December 2022. Early in the year, the IACHR had already spoken out on this issue, underscoring that the families of victims of grave human rights violations, and society as a whole, have the right to know the truth about everything that happened in those violations. Although the Commission acknowledges the measures taken in connection with the Perus clandestine mass grave, it highlights that the CEMDP's work was broader, in that it looked for, identified, and delivered the remains of the victims of the dictatorship to their families. Therefore, the IACHR considers that compliance with this recommendation is still **pending**.

⁴¹⁸ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 423-430.

⁴¹⁹ State of Brazil, Note No. 359 of September 12, 2023. Response to the consultation questionnaire.

⁴²⁰ State of Brazil, Note No. 430 of October 20, 2023. Response to the consultation questionnaire.

⁴²¹ Vladimir Herzog Institute. Response to the consultation questionnaire, September 2023.

Measures and information to make progress on fulfilling the recommendation

578. The Commission salutes the State for indicating that it wishes to resume the CEMDP's activities, in addition to its efforts to search for victims of forced disappearance during the military regime. Along these lines, it highlights the need to guarantee the CEMDP has the resources necessary to continue the process of determining all victims of the regime, as well as of clarifying their whereabouts, locating and identifying them, and, where applicable, returning their mortal remains to their next of kin in a dignified fashion. The IACHR recalls the importance of implementing the comprehensive public policy on disappearance.

Recommendation No. 87. Investigate, prosecute, and wherever criminal liability is determined, punish the perpetrators and instigators of gross human rights violations, while refraining from having recourse to such notions as amnesty, pardon, or prescription due to any statute of limitations, or any other provisions precluding responsibility, and measures intended to prevent criminal prosecution or annul the effects of a conviction.

579. In 2022, the State did not provide specific information on compliance with this recommendation. Even so, the Commission learned about various actions taken by the Federal Public Prosecutor's Office to investigate and punish former agents of the civil-military dictatorship for human rights abuses committed in 1970, in São Paulo, and 1972, in Goiânia. It also highlighted the decision made by the Eighth Federal Court of Rio de Janeiro to reject the request to apply the Amnesty Law in cases of human rights violations, based on the obligation to review the law's compliance with conventions. Furthermore, the IACHR invited the State to make progress on criminally investigating and punishing the perpetrators of human rights abuses.⁴²²

Information on compliance

580. This year, the State reported that human rights violations that took place during the dictatorship in Brazil are prosecuted in light of Law 6,683/1979, also known as the Amnesty Law. The State clarified that this law has been interpreted to mean that public servants involved in human rights violations are granted amnesty and therefore, protected from criminal punishment. It recalled that in 2010, this interpretation was reiterated by the Federal Supreme Court in ADPF 153, and that then once again questioned in 2014 with ADPF 320, with no judgment issued. The State further reported that under this law, the Federal Public Prosecutor's Office has carried out several actions on the crimes of the dictatorship, especially through working groups established within the institution starting in 2010.⁴²³

581. In turn, civil society affirmed that although the Federal Public Prosecutor's Office continues to make efforts to hold the perpetrators of the human rights violations that occurred during the dictatorship criminally accountable, the application of the Amnesty Law continues to block justice for the victims.⁴²⁴

Analysis and level of compliance with the recommendation

582. The Commission welcomes the report that the Federal Public Prosecutor's Office continues to undertake efforts to hold the perpetrators of the grave human rights violations that took place during the military dictatorship in Brazil criminally accountable. The IACHR emphasizes that the issue was already scrutinized by the inter-American system in the Gomes Lund and Vladimir Herzog cases, in which the Court reiterated that the obligation under international law to prosecute and, if criminal responsibility is determined, to punish the perpetrators of human rights violations, stems from the obligation to guarantee the rights enshrined in Article 1(1) of the American Convention. Accordingly, if the State acts in such a way that the violation remains unpunished, and it does not restore, to the extent possible, the victim's rights, it is considered

⁴²² IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 431-433.

⁴²³ State of Brazil, Note No. 359 of September 12, 2023. Response to the consultation questionnaire.

⁴²⁴ Vladimir Herzog Institute. Response to the consultation questionnaire, September 2023.

to have failed to comply with the obligation to guarantee, for the persons within its jurisdiction, the free and full exercise of their rights. The Inter-American Court of Human Rights even underscored that amnesty or other similar laws have represented one of the obstacles alleged by certain States, including Brazil, to investigating and punishing the persons responsible for grave human rights violations.⁴²⁵

583. In view of the above, and based on how the Amnesty Law makes it impossible to hold state agents criminally liable, the Commission finds that it is materially impossible for the State to comply with this recommendation, for which reason it considers compliance to be **pending**.

Measures and information to make progress on fulfilling the recommendation

584. To steer implementation of this recommendation, the IACHR sees fit to call on the State to refrain from applying legal concepts that exempt perpetrators from liability and to reinforce its actions for justice by seeking specific outcomes based on inter-American standards, in terms of criminal responsibility for the gross violations committed during the dictatorship.

Recommendation No. 88. Ratify the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity.

585. The State did not submit specific information to the IACHR on compliance with this recommendation for the most recent follow-up report on the recommendations made in the Brazil country report. The Commission reiterated its indications regarding recommendation 2 subject to follow-up herein, on the institutional underpinning of human rights.⁴²⁶

Information on compliance

586. In 2023, as in 2022, the State did not provide specific information on compliance with this recommendation.⁴²⁷

Analysis and level of compliance with the recommendation

587. Accordingly, the Commission finds that the State's compliance with this recommendation is still **pending**.

Measures and information to make progress on fulfilling the recommendation

588. The IACHR once again calls on the State to ratify the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity.

Recommendation No. 89. Classify the crime of enforced disappearance, according to inter-American parameters.

589. In 2022, the State did not provide any information on compliance with this recommendation. On the other hand, the IACHR mentioned the December 5, 2022, report for the United Nations Committee on Enforced Disappearances, in which civil society organizations and family members reported that this gross violation of human rights has still not been classified, noting that Draft Law 6,240/2013, proposed in 2013 to do so, is still being processed by the National Congress. The Commission did note that the bill was approved by

⁴²⁵ Inter-American Court of Human Rights, [Case of Gomes Lund et al. \("Guerrilha do Araguaia"\) v. Brazil](#), Judgment of November 24, 2010, pars. 140-149; Corte IDH, [Case of Herzog et al. v. Brazil](#), Judgment of March 15, 2018, pars. 175-178.

⁴²⁶ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 434.

⁴²⁷ IACHR, [Annual Report 2022, Chapter V: Brazil](#), par. 434.

the Federal Senate Committee on the Constitution, Justice, and Citizenship on December 2, 2022; recalled that the final version of the law must adhere to inter-American standards on the matter; and invited the State to make progress on definitively classifying this crime.⁴²⁸

Information on compliance

590. With regard to this final recommendation, this year the State reported that in 2016 Brazil incorporated the Inter-American Convention on Forced Disappearance of Persons and the International Convention for the Protection of All Persons from Enforced Disappearance, committing to take measures to prevent and punish forced disappearance. However, it also affirmed that the National Policy on the Search for Missing Persons, established in 2019, did not specify the forced disappearance of persons but rather referred to disappearance for any reason.⁴²⁹

591. The State also indicated that the National Congress is currently debating Draft Law 6,240/2013, which proposes to criminalize the offense of forced disappearance, and to classify it as a heinous crime. Lastly, the State reported that this bill has already been approved by the Federal Senate, and is being evaluated by several committees in the Chamber of Deputies, with consideration in the plenary pending.⁴³⁰

592. In turn, civil society emphasized that although the Brazilian State has ratified the UN International Convention for the Protection of All Persons from Enforced Disappearance, it has not yet classified forced disappearance as a crime, and it does not have any specific policies in place to support or provide assistance to victim's families.⁴³¹

Analysis and level of compliance with the recommendation

593. The IACHR takes note of the progress made by the Brazilian State in ratifying the two aforementioned conventions. At the same time, it observes, with concern, that despite these international commitments, to date Brazil has been unable to appropriately classify forced disappearance as a crime in line with inter-American standards. Although it acknowledges the 2019 creation of the National Policy on the Search for Missing Persons, it considers that this policy must explicitly include the crime of force disappearance, given its seriousness and particular implications in the human rights context. Therefore, the IACHR determines that the State's compliance with the recommendation continues to be **partial**.

Measures and information to make progress on fulfilling the recommendation

594. The Commission finds that, for the State to comply with the recommendation, the crime of forced disappearance must be properly classified in the country's domestic legal regulations, based on inter-American standards.

III. SUMMARY TABLE OF THE LEVEL OF STATE COMPLIANCE WITH THE RECOMMENDATIONS

595. The following table shows the level of Brazilian State compliance with each of the recommendations made by the Commission in its February 2021 report on the situation of human rights in Brazil.

⁴²⁸ IACHR, [Annual Report 2022, Chapter V: Brazil](#), pars. 435-437.

⁴²⁹ State of Brazil, Note No. 359 of September 12, 2023. Response to the consultation questionnaire.

⁴³⁰ State of Brazil, Note No. 359 of September 12, 2023. Response to the consultation questionnaire.

⁴³¹ Vladimir Herzog Institute. Response to the consultation questionnaire, September 2023.

Recommendation topic	Recommendation number	2022	2023
		Level of compliance	Level of compliance
The institutional underpinning of human rights	1.a	Pending	Partial
	1.b	Pending	Pending
	1.c	Pending	Pending
	2.a	Pending	Pending
	2.b	Pending	Pending
Economic, social, and cultural rights	3.a	Pending	Partial
	3.b	Pending	Pending
	3.c	Pending	Pending
	4	Pending	Partial
	5	Pending	Partial
	6	Pending	Pending
Citizen security	7.a	Pending	Pending
	7.b	Pending	Pending
	7.c	Pending	Pending
	7.d	Pending	Pending
	7.e	Pending	Pending
	8.	Pending	Partial
	9	Pending	Pending
	10	Pending	Partial
	11	Pending	Pending
	12	Pending	Pending
Access to justice	13	Pending	Pending
	14	Pending	Pending
	15	Pending	Pending
	16	Pending	Pending
Persons of African descent	17	Pending	Partial
	18	Partial	Substantial partial
	19	Pending	Pending
Indigenous peoples and traditional and quilombola communities	20	Pending	Partial
	21	Pending	Partial
	22	Pending	Pending
	23	Pending	Pending
	24	Pending	Partial
	25	Pending	Pending
	26	Pending	Pending

	27	Pending	Partial
	28	Pending	Pending
	29	Pending	Pending
	30	Pending	Partial
	31	Pending	Pending
Women	32	Partial	Substantial partial
	33	Partial	Partial
	34	Partial	Partial
	35	Pending	Partial
	36	Pending	Pending
	37	Partial	Partial
	38	Pending	Partial
	39	Pending	Partial
Children and adolescents	40	Pending	Pending
	41	Pending	Pending
	42	Partial	Partial
	43	Pending	Pending
	44	Partial	Partial
LGBTI persons	45	Partial	Partial
	46	Partial	Partial
	47	Partial	Partial
	48	Pending	Partial
	49	Pending	Pending
	50	Pending	Partial
Persons with disabilities	51	Pending	Partial
	52	Pending	Partial
	53	Pending	Partial
	54	Pending	Partial
	55	Pending	Pending
	56	Pending	Partial
Persons deprived of liberty	57	Partial	Partial
	58	Partial	Partial
	59	Partial	Partial
	60	Pending	Pending
	61	Pending	Pending
	62	Partial	Pending
	63	Pending	Partial
	64	Pending	Partial

	65	Pending	Pending
Human rights defenders	66	Pending	Partial
	67	Pending	Pending
	68	Pending	Pending
	69	Pending	Pending
	70	Pending	Pending
Human trafficking	71	Partial	Partial
Forced internal displacement	72	Pending	Pending
	73	Pending	Pending
Human mobility migration, asylum, and statelessness	74	Pending	Partial
	75	Pending	Partial
	76	Partial	Substantial partial
	77	Partial	Partial
	78	Pending	Partial
	79	Partial	Partial
	80	Pending	Partial
	81	Partial	Substantial partial
	82	Pending	Pending
	83	Partial	Partial
Memory, truth, and justice	84	Pending	Partial
	85	Pending	Partial
	86	Pending	Pending
	87	Partial	Pending
	88	Pending	Pending
	89	Partial	Partial

596. The IACHR considers compliance to be pending for 47 (48%), partial for 47 (48%), substantial partial for 4 (4%), and full for none (0%) of the total 98 recommendations.

IV. CONCLUSIONS

597. The Inter-American Commission on Human Rights has conducted an exhaustive, detailed follow-up analysis of the recommendations presented in the 2021 country report on Brazil. This analysis showed the State of Brazil's clear progress on and commitment to complying with its international obligations on human rights.

598. This progress is reflected in how the levels of compliance with the recommendations have evolved. In 2022, the Commission's evaluation of the State's level of compliance with the 98 recommendations showed that compliance was pending for 76.5% of them, meaning that the State had not taken a single measure to comply with those recommendations or that the steps it had taken were incipient or had still not yielded concrete results. In that context, the Commission also verified that only 23.4% of the recommendations had been partially complied with, meaning the State had adopted some measures to comply with the recommendations but still needed to adopt more.

599. In 2023, the Commission finds the outlook to be greatly improved. Based on the information sent in by the State and civil society organizations, as well as public information, the IACHR determined that, currently, 52% of the recommendations made in the country report are partially fulfilled. This is a significant step forward of almost 29% compared to 2022.

600. The Commission considers that Brazil demonstrates a greater commitment to making progress on the human rights agenda with the measures it is adopting. However, the IACHR cannot fail to see the challenges that still remain in Brazilian society, as shown by the existence of discriminatory, unequal structures that disproportionately affect the country's most vulnerable communities and groups.

601. The lack of concrete, specific information on the implementation of some of the measures adopted, as well as the references made to previous laws with no clarification of their present-day impacts, demonstrate the State's lack of action and/or failure to communicate clearly on areas that are essential to guaranteeing and protecting human rights. For example, the Commission can cite the issues of public security and police violence, as well as the protection of human rights defenders, as examples of challenges that persist and for which the State needs to make its utmost effort to find long-term solutions, in order to guarantee the rights of the people who are most affected by these types of human rights abuses.

602. The IACHR acknowledges the inherent difficulties of implementing public policies in a country as diverse and complex as Brazil, but reiterates that the country's commitment to human rights cannot be put off or considered secondary. A fair, timely solution is needed to address the problem of impunity, especially in cases of human rights violations by State agents, and in crimes associated with the civil-military dictatorship.

603. Lastly, the Commission urges the Brazilian State to take immediate, specific actions to respond to these concerns, always in the understanding that the protection and guarantee of human rights must translate into tangible, effective changes in people's daily lives, particularly for members of the most vulnerable groups. The IACHR, reaffirming its commitment to people and its respect for the State's sovereignty, will continue to closely monitor the situation, and remains eager to collaborate in building a fairer, more equitable society that is more respectful of everyone's rights.

604. Based on the information received from the State, civil society organizations, and autonomous agencies, as well as from public information available on official channels and the media, the Commission determines that the overall status of compliance with the recommendations made in the 2021 report on the situation of human rights in Brazil is **partial**.

REASONED VOTE OF COMMISSIONER CARLOS BERNAL PULIDO ON CHAPTER V- BRAZIL OF THE 2023 ANNUAL REPORT

With all due respect for my colleagues and in accordance with Article 19.1 of the Rules of Procedure of the Inter-American Commission on Human Rights ("the Commission" or "the IACHR"), I hereby submit a partial reasoned vote on certain points raised by the majority of the plenary of the Commission in Chapter V-Brazil ("the Chapter") of the 2023 Annual Report (the "Report" or the "Annual Report").

While I share several of the concerns and findings set forth in Chapter V - Brazil, I disagree with recommendation N 39, which suggests: "adopting comprehensive measures to respect and guarantee women's sexual and reproductive health rights, reinforcing the availability and continuity of essential services. In particular, (...) the voluntary interruption of pregnancy when applicable." Also with paragraph 239, which states that it "highlights the information on (...) the impact on reproductive health due to the excessive use of agrochemicals and the obstruction of access to legal abortion."

In connection with these considerations, I will now address the following issues: (i) the exercise of Brazil's leeway or 'margin of configuration' does not imply that there is a right to abortion in the inter-American human right system; and (ii) in any case, the report leaves the unborn unprotected.

1. Recognition of the margin of configuration/leeway: far from being the basis for the constitution of a right to abortion in the IHRS

I welcome the fact that in this report the IACHR recognizes the Brazilian State's margin of configuration in the regulation of abortion and that the State's possible duties derive from its own regulations and not from non-existent obligations derived from international law.

In view of this, I reiterate that there are no binding sources in international law -and especially in the American Convention or other treaties that make up the inter-American system- that contemplate (i) the so-called right to abortion or (ii) alleged duties related to the decriminalization of abortion.

Regarding the non-existence of the right to abortion, former I/A Court H.R. Judge Eduardo Vio Grossi (R.I.P.), established in his partially dissenting opinion in the judgment in the case of *Manuela et al. v. El Salvador* that:

"In this regard, it is indisputable that (...) **there is no** inter-American or international **legal norm**, whether conventional, international custom, or general principle of law, **that recognizes abortion as a right**. There are only resolutions of international bodies, most of which are made up of international officials and not representatives of States, decisions which, in addition to not being binding, are not interpretative of current international law but rather reflect aspirations for it to change in the direction they suggest."⁴³² (Bold added)

Within this framework, the States have considerable leeway - by virtue of the principles of subsidiarity or complementarity and representative democracy - to take measures to protect prenatal life - which is indeed protected by the American Convention⁴³³- including, although it is not the only means, the use of criminal law.

Now, I emphasize that this leeway derived from the non-existence of a right to abortion and the convergence of competing rights is increased thanks to the fact that it is incumbent upon States to define punishable conducts and their consequences, and to the automatic referral that, according to the IACHR Court, Article 7.2

⁴³² Partially Dissenting Opinion of Judge Eduardo Vio Grossi, Inter-American Court of Human Rights, Case of *Manuela et al. v. El Salvador*: Judgment of November 2, 2021, (Preliminary Objection, Merits, Reparations, and Costs), paragraph 13.

⁴³³ ACHR. Article 4.

of the American Convention makes to domestic law in matters related to deprivation of liberty -legal exception principle (*principio de reserva de ley*)-.⁴³⁴

Precisely, the Brazilian State made use of its leeway to establish that within the State there are cases in which abortion will be legal. However, I emphasize that this does not imply that there is a right to abortion in the IHRS because, as I have already explained, there is no instrument that enshrines it.

This is relevant if one bears in mind that, from a systematic reading of Articles 31, 76, and 77 of the American Convention, it is only through consensus -which the States express by signing and ratifying amendments or treaties- that international obligations can arise for ALL States, different from those already contemplated in the ACHR.

2. Lack of protection of the unborn derived from the report's considerations

In any case, I emphasize that the decriminalization of and references to abortion in the Brazil Report ignore the other person whose right to life is also conventionally protected: the unborn person, and the necessary balancing that must exist between the competing rights (*derechos en tensión*) is ignored. In this regard, it should be noted that pregnant women are also subjects of law and holders of the right to life.

In this regard, I emphasize that Article 1.2 of the ACHR clearly establishes that, for the purposes of the Convention, a "person" is every human being.⁴³⁵ Thus, in light of the Convention, human rights are not only recognized for persons who have already been born, but must be protected for all individuals from conception, who are to be considered human beings. Moreover, the I/A Court H.R. itself, in its advisory opinion 22, indicated that, without being a matter open to interpretation, the term "person" is equivalent to the term "human being."⁴³⁶

In view of this, it is clear that a human fetus (*persona en gestación*) is a human being.⁴³⁷ Furthermore, the Universal Declaration on the Human Genome and Human Rights states that "the human genome underlies the fundamental unity of all members of the human family, as well as the recognition of their inherent dignity and diversity. In a symbolic sense, it is the heritage of humanity."⁴³⁸

The consequence of recognizing the unborn as a person as a human being is that he/she becomes a holder of rights. Thus, the ACHR establishes in the articles that develop rights the formula "Everyone (...)"⁴³⁹. Likewise, the instruments for the protection of human rights generally recognize the ownership of rights by members of the human species, especially the right to life.⁴⁴⁰

Furthermore, in the Artaviara Murillo judgment, the I/A Court H.R. determined that "the protection of the right to life is not absolute, but gradual and incremental as the development of the fetus progresses", which implies that without prejudice to the concepts of gradualness and incrementality (with which I take issue), the Court has already established that persons in gestation must be protected by the State in their "right to life."

⁴³⁴ I/A Court H.R. Case of Romero Feris v. Argentina. Merits, Reparations, and Costs. Judgment of October 15, 2019. Series C No. 391. Par. 77.

⁴³⁵ ACHR. Article 1.2 "For the purposes of this Convention, person means every human being."

⁴³⁶ I/A Court H.R. OC-22/16. Ownership of rights of legal persons in the inter-American human rights system. Advisory Opinion of February 26, 2016. Series A. No. 22, Par. 48.

⁴³⁷ Kaluger, G., and Kaluger, M., Human Development: The Span of Life, The C.V. Mosby Co., St. Louis, 1974, pp. 28-29.

⁴³⁸ Universal Declaration on the Human Genome and Human Rights. Article 1.

⁴³⁹ American Convention on Human Rights, Articles 4, 5, 7, 8, 10, 11, 12, 13, 14, 16, 18, 20, 21, 22, 24, and 25.

⁴⁴⁰ International Covenant on Civil and Political Rights. Preamble, par. 3; American Convention on Human Rights, par. 3. Preamble African Charter on Human and Peoples' Rights: Preamble, par. 6; on the Geneva Declaration Rapporteur on the Rights of Children. Preamble, par. 1; American Declaration of the Rights and Duties of Man. Article 1; Universal Declaration of Human Rights. Preamble, par. 1; Declaration of the Rights of the Child. Preamble, par. 2; European Convention on Human Rights. Preamble, par. 2.

In the same vein, in the Cuscul Pivaral case,⁴⁴¹ the I/ A Court H.R. applied the ACHR to a fetus (*persona en gestación*) and also applied Article 19 of the ACHR, thus recognizing the legal status of the fetus as a child. Likewise, I emphasize that the preamble of the Convention on the Rights of the Child states that the child needs protection and care both before and after birth. This implies that in light of the Convention on the Rights of the Child (CRC), the unborn child is a child in need of special care. This was reiterated in the preparatory work for the International Covenant on Civil and Political Rights.⁴⁴²

In conclusion, this Report completely ignores the rights of the unborn, especially their right to life, recognized not only in the IHRS but also in other instruments of international law.

⁴⁴¹ I/A Court H.R. Case of Cuscul Pivaral v. Guatemala. Judgment of August 23, 2018. "That said, the Court has indicated that extreme poverty and the lack of adequate medical care for women during pregnancy and postpartum are causes of high maternal mortality and morbidity. Therefore, States must implement appropriate health policies that allow it to provide assistance with suitably qualified personnel during births; policies to prevent maternal mortality by providing adequate prenatal and postpartum controls, and legal and administrative instruments relating to health policies that record cases of maternal mortality adequately. The State must assume its special position of guarantor with greater care and responsibility and take special measures focused on the principle of the best interest of the child."

⁴⁴² "The main reason for providing in paragraph 4 [now Article 6(5)] of the original text that the death penalty should not be applied to pregnant women was to save the innocent life of the unborn child." United Nations. General Assembly Report of the Third Committee on the Draft International Covenants on Human Rights. A/3764. P. 40.