



DEFENSORIA PÚBLICA DA UNIÃO EM SÃO PAULO/SP
 3º Ofício Regional Cível da DPU em São Paulo
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MEMORANDO Nº 8747960/2026 - DPU SP/GABDPC SP/3OFRC SP

São Paulo, 11 de fevereiro de 2026.

**To: United Nations Committee against Torture (CAT)
 Human Rights Council and Treaty Mechanisms Division
 Office of the United Nations High Commissioner for Human Rights (OHCHR)**

Ref: Submissions - 84th CAT session -Alternative reports for country reviews (Brazil)

Esteemed members of the Committee against Torture (CAT):

I hereby inform you that, in my capacity as Regional Human Rights Defender in São Paulo, Brazil, I acted as a third party in Public Civil Action No. 5009616-82.2024.4.03.6100 pending before the 8th Federal Civil Court of São Paulo, with the objective of compelling the defendants to implement within their respective competences, the Committee (CEPCT) and the State Mechanism for the Prevention and Combat of Torture (MEPCT), pursuant to Law No. 12.847/2013, observing the conditions set forth in Articles 18 to 23 of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) and in Recommendation No. 05/2018 of the National Committee for the Prevention and Combat of Torture.

The claim was based on (i) the international commitment undertaken by Brazil with its adherence to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Decree No. 40, of February 15, 1991) and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, promulgated by Decree No. 6,085, of April 19, 2007; (ii) Law No. 12,847/2013, which provides for a National Committee for the Prevention and Combat of Torture and a National Mechanism for the Prevention and Combat of Torture, as well as the possibility for States to create state Committees and mechanisms for the prevention and combat of torture, with powers to inspect any place existing in national territory (state and district) periodically, constituting the main instrument for combating torture; (iii) in the recommendation of the UN Subcommittee on Prevention of Torture to state governments, during a visit to Brazil in 2015, that all state governments that have not yet done so take action and establish state preventive mechanisms; (iv) in the Federal Pact for the Prevention and Combat of Torture, established through MDH Ordinance No. 346, of 09/19/2017, which provides for the responsibility of the states to implement the mechanism; (v) in the practical guide issued by the Ministry of Human Rights with guidelines for the creation of the mechanism; (vi) in MDH Ordinance No. 354/2018, which provides for the approval of the Terms of Adhesion and the Declaration of Adhesion to the System, whose adhesion was not signed by the State of São Paulo.

In a first-instance ruling, it was found that the absence of a State Committee for the Prevention and Combat of Torture implies a possible breach of the Action Plan determined by the Supreme Federal Court of Brazil in ADPF 347, and that the autonomy of the federative entity does not hinder compliance with the Convention, given that the State is bound to create a Mechanism, without delay, which must be equivalent to the values, objectives, and minimum structure stipulated by the

Convention and Law No. 12.847/2013, establishing federative cooperation with the National System (SNPCT).

The ruling concluded that the creation of a Committee (CEPCT) and a State Mechanism for the Prevention and Combat of Torture (MEPCT) in a model equivalent to the national one is mandatory, ensuring the full protection of human rights, especially those of persons deprived of liberty.

Furthermore, the ruling states that the bodies indicated by the State of São Paulo are not sufficient to consider the State Mechanism for Combating Torture, as foreseen in the Convention, as existing, despite the relevant function of the bodies indicated, some of which are dedicated to the defense of human rights. In addition, the unconstitutional state of affairs in the prison system, as recognized by the Supreme Federal Court, reinforces the indispensability of this instrument in the State of São Paulo.

The sentence concluded that Resolution No. 123, of January 7, 2022, of the National Council of Justice urges the entire Judiciary to "observe the international human rights treaties and conventions in force in Brazil and to utilize the jurisprudence of the Inter-American Court of Human Rights (IACHR), as well as the need for conventionality control of domestic laws." This is the foundation upon which the entire thesis developed in this judgment is built. The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) is not optional, but mandatory, as it deals with mechanisms for overcoming torture and cruel punishments, which shatter souls and bodies every day in the Brazilian prison system, constituting a violation of human dignity – Article 1, III, of the Federal Constitution – in addition to clear unconstitutionality, according to the clauses of Article 5 that prescribe: no one shall be subjected to torture or inhuman or degrading treatment or punishment. degrading (item III), prohibition of cruel and degrading punishments (item XLVII) and provision for respect for the prisoner's physical and moral integrity.

Therefore, the first-instance federal court ordered the State of São Paulo, within 180 (one hundred and eighty) days, to present an implementation plan for a State Committee and Mechanism for the Prevention and Combat of Torture (MEPCT/SP), with the structure, budgetary resources, and number of positions necessary for the proper functioning of the body and for conducting periodic visits (at least annually) to all places of deprivation of liberty existing in the territory of São Paulo, preceded by prior consultation with the bodies of the National System for the Prevention and Combat of Torture and civil society institutions, the deadline for which shall be counted from the date of the final judgment.

The process is still under appeal. However, the Public Defender's Office (DPU) is requested to forward this collaboration so that it may be considered in the Committee against Torture's report on Brazil, as it is a valuable incentive for the implementation of state committees and mechanisms for the Prevention and Combat of Torture. In the letter from the Committee against Torture sent to the Permanent Mission of Brazil to the UN in Geneva, it was noted that state committees are operational in only six states of the federation. Therefore, the DPU collaborates in the dialogue so that the State of São Paulo has its own state mechanism, despite the resistance of its Government.

ERICO LIMA DE OLIVEIRA

Federal Public Defender

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Documento assinado eletronicamente por **Érico Lima de Oliveira, Defensor Público Federal**, em 11/02/2026, às 19:40, conforme o §2º do art. 10 da Medida Provisória nº 2.200-2, de 24 de agosto de 2001.



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