

Request for Urgent Appeal
Special Rapporteur on the Situation of Human Rights Defenders

Situation of the Environmental Defenders in Conceição do Mato Dentro
Brazil

São Paulo and Geneva

21 July 2017

The Serviço Interfranciscano de Justiça, Paz e Ecologia and Franciscans International are respectfully requesting the Special Rapporteur on the Situation of Human Rights Defenders to transmit an urgent appeal to the Government of Brazil to protect the life and physical integrity of Mr Elias de Souza, Ms Vanessa Rosa dos Santos, Mr Reginaldo Rosa dos Santos, Mr Lúcio Gerra Júnior and Mr Lúcio da Silva Pimenta in relation with the development of a mining project in the region of Conceição do Mato Dentro, Brazil.

Identification of the defenders

<i>Name of victim:</i>	<u>Elias DE SOUZA</u>
<i>Gender:</i>	<u>Male</u>
<i>Nationality:</i>	<u>Brazilian</u>
<i>Profession:</i>	<u>Farmer (unemployed)</u>

<i>Name of victim:</i>	<u>Vanessa ROSA DOS SANTOS</u>
<i>Gender:</i>	<u>Female</u>
<i>Nationality:</i>	<u>Brazilian</u>
<i>Profession:</i>	<u>Shopkeeper (unemployed)</u>

<i>Name of victim:</i>	<u>Reginaldo ROSA DOS SANTOS</u>
<i>Gender:</i>	<u>Male</u>
<i>Nationality:</i>	<u>Brazilian</u>
<i>Profession:</i>	<u>Shop attendant (unemployed)</u>

<i>Name of victim:</i>	<u>Lúcio GUERRA JÚNIOR</u>
<i>Gender:</i>	<u>Male</u>
<i>Nationality:</i>	<u>Brazilian</u>
<i>Profession:</i>	<u>Veterinary / businessman</u>

<i>Name of victim:</i>	<u>Lúcio DA SILVA PIMENTA</u>
<i>Gender:</i>	<u>Male</u>
<i>Nationality:</i>	<u>Brazilian</u>
<i>Profession:</i>	<u>Farmer</u>

The human rights activities in which the defenders are engaged, and description of threats and harassment (individualized)

The development of the third phase of the mining project “Minas-Rio” is at the centre of the controversy that led to the harassment of the human rights defenders subject of this communication. Once fully operational, the mining project “Minas-Rio” will lead to the extraction of 56 million of tons of iron ore per year.¹ The project expands to the municipality of Dom Joaquim, Alvorada de Minas and Conceição do Mato Dentro.² It is currently developed by the company “Anglo American Minério de Ferro Brasil S.A.” [Anglo American] a subsidiary of “Anglo American Investimentos - Minério de Ferro Ltda”³ which in turn is a subsidiary of “Anglo American plc”⁴. Anglo American plc is a multinational company headquartered in London producing copper, platinum, diamonds, iron ore, manganese, coal, and nickel with operations in Africa, North and South America and Australia.⁵ The ore is moved by a 525 kilometres long slurry pipeline to the port of Açú, in the State of Rio de Janeiro.⁶

The conflicts between residents and the mining company are not recent: tension arose at least since 2006 when the company started to buy land for the development of the project.⁷ As recognized by the Protection Program for the Human Rights Defenders of the State of Minas Gerais [PPDDH/MG], the local population is negatively affected by the mine. In particular, the PPDDH/MG recognizes the population suffers from⁸:

- Intense flux of workers and vehicles;
- Excessive dust;
- Excessive noise caused by explosions and vehicles;
- Vibrations;
- Cracks in buildings caused by the vibrations;
- Pollution of water;
- Death of fish;
- Drying of water springs;
- Diminution of the quantity of water available;
- Bad odours near the mine dam;
- Fear that the dam will collapse.

On 11 April 2017, a judge granted an injunction suspending a public hearing on the issue of the expansion of the mine (step 3) supposed to take place the same day. The five human rights defenders referred to in this letter were the applicants in that case.⁹ The judge suspended

¹ Programa de proteção aos defensores de direitos humanos do Estado de Minas Gerais, *Elementos extraídos do Parecer Técnico Multidisciplinar de Proteção aos Defensores de Direitos Humanos*, 16 Mar 2017, at p. 7 [PPDDH/MG].

² *Idem*.

³ Bloomberg, *Company Overview of Anglo American Minério de Ferro Brasil S.A.*, online: <<https://www.bloomberg.com/research/stocks/private/snapshot.asp?privcapid=44234133>>.

⁴ Bloomberg, *Company Overview of Anglo American Investimentos - Minério de Ferro Ltda.*, online: <<https://www.bloomberg.com/research/stocks/private/snapshot.asp?privcapId=237677705>>.

⁵ Anglo American, *At a Glance*, online: <<http://www.angloamerican.com/about-us/at-a-glance>>.

⁶ PPDDH/MG, *supra* note 1 at p. 7.

⁷ *Idem* at p. 8.

⁸ *Idem*.

⁹ *Idem* at p. 10.

the public hearing based on shortcomings in the convocation of the hearing and in the availability of the environmental impact studies.¹⁰

Immediately after the judicial decision to suspend the public hearing was made public, the mining company published a note on its website saying that the suspension of the hearing “was harming the licensing process”¹¹ and “was putting at risk the continuity of the operations of the Minas-Rio project”.¹² Documents published on social media mentioned that Mr de Souza, Mr and Ms dos Santos, Mr Guerra Júnior, and Mr da Silva Pimenta were the applicants in the judicial action cancelling the public hearing which lead to furious reactions against these human rights activists.¹³ In fact, as exposed below, while these five people were harassed because of their work for the defence of the environment and human rights before the suspension of the hearing, the intensity of threats and harassment increased after 11 April 2017.

The public hearing occurred finally on 20 July 2017, in a climate of tension. In particular, problems relating to the Environmental Impact Assessment and the respect of conditions imposed to undertake the project were raised by the Federal Public Ministry who recommended the suspension of the licencing process.¹⁴

Mr Elias DE SOUZA

According to the Protection Program for the Human Rights Defenders of the State of Minas Gerais, Mr de Souza was the victim of intimidation as a result of his human rights and environment work. In particular, vehicles he identified as possibly being owned by the company were doing bootleg turns in front of his house late at night. He attributes this situation to the fact he is recognized as a leader and representative of the rural communities of Conceição do Mato Dentro.¹⁵

Also, a court decision forbids Mr de Souza to access the region where the Minas-Rio project is developed¹⁶, which is traditionally used by the community to meet.¹⁷

Additionally, his house, already damaged by the vibration caused by explosions taking place at the mine, was stoned by unidentified persons after the suspension of the public hearing.¹⁸

Mr de Souza’s opposition to the mining project also impedes him to find employment in his community. Indeed, business owners fear to be associated with him and, consequently, loosing on business opportunities with the mining company.¹⁹ For that reason, he is unable to find work in his community and is currently unemployed.

¹⁰ *Idem* at p. 12.

¹¹ *Idem* at p. 10: our translation, “traz prejuízos ao processos de licenciamento”.

¹² *Idem* at p. 10: our translation, “coloca em risco a continuidade operacional do Minas – Rio”.

¹³ *Idem* at p. 12.

¹⁴ Ministério Público Federal, Recomendação MPF/MG No. 35, 12 July 2017.

¹⁵ PPDDH/MG, *supra* note 1 at p. 18.

¹⁶ *Idem*.

¹⁷ *Idem*.

¹⁸ *Idem*.

¹⁹ *Idem* at p. 19.

On 12 April 2017, Mr de Souza was attacked by a resident of the São Sebastião do Bom Sucesso district, possibly because of the tension between those in favour of the mining project, and those against it.²⁰

Additionally, after the suspension of the public hearing, an anonymous pamphlet was distributed, defaming Mr de Souza.²¹ The title of the pamphlet is “Leader or Criminal”.²²

Mr de Souza was awarded, from May to October 2017, the payment of 937 reais (roughly 300 USD per month), renewable.

Ms Vanessa ROSA DOS SANTOS and Reginaldo ROSA DOS SANTOS

Vanessa Rosa dos Santos and Reginaldo Rosa dos Santos are married and have been active in the protection of human rights for many years.²³ As a result of the construction of the slurry pipeline on their land (and in particular because of the dust, noise, and lack of water the project caused) they were obliged to move and leave the piece of land they were cultivating.²⁴ They used to grow fruits and vegetables on the land, keep animals and maintain fishing ponds.²⁵

Because of their struggle against the development of mining in their community, they were victims of harassment and received threats. In particular, Vanessa was told by a stranger: “did you buy life insurance? Do it fast, you will really need it”.²⁶

Vanessa also informed that someone came twice to the couple’s house with a motorcycle, honking, and accelerating suddenly. He never rang the bell of the house or called for anyone.²⁷ On one occasion, after he left, the couple found a note on their front gate stating: “We know! It was you. For Anglo, always yes to step 3. Next.”²⁸

Vanessa also received other types of threats, as well as messages on her cell phone.²⁹ She feels insecure and does not want to leave her house.³⁰

On 28 April 2017, Vanessa and her husband, Reginaldo, were harassed by a group of people while doing shopping. The group confronting Vanessa and Reginaldo directly referred to the suspension of the public hearing and the human rights activities of the five applicants of the judicial request. According to Vanessa and Reginaldo, these situations are recurrent.³¹

Lúcio GUERRA JUNIOR

Mr Lúcio Guerra Júnior lives alone in Conceição do Mato Dentro. His wife and two children live in the city of Belo Horizonte and visit him during weekends. His house is located beside the office of Anglo American. He is the founder of the movement REAJA (Network of

²⁰ *Idem* at p. 20.

²¹ *Idem* at pp. 18 and 20.

²² *Idem* at p. 18: our translation, “Líder ou Bandido”.

²³ *Idem* at p. 21.

²⁴ *Idem* at p. 24.

²⁵ *Idem* at p. 21.

²⁶ *Idem* at p. 25, our translation: “Você já fez seguro de vida? Faça o mais rápido, você irá precisar demais.”

²⁷ *Idem*.

²⁸ *Idem*, our translation: “Já sabemos! Foi vc. Pela Anglo sempre sim ao step 3. Próxima.”

²⁹ *Idem* at p. 26.

³⁰ *Idem*.

³¹ *Idem*.

Articulation and Environmental Justice for the People Affected by the Rio-Minas Project).³² The organization is very active in the protection of human rights and the environment in the context of the development of the Minas-Rio mining project.³³ He informed that he was being intimidated and received threats for being one of the parties requesting the suspension of the public hearing.³⁴

In fact, Mr Guerra Júnior is being harassed and receives threats since the beginning of the exploration phase in 2008.³⁵ On that year, a vehicle followed him when he went to a meeting at the office of the Public Ministry in the city of Belo Horizonte. He also states that he was followed when he was on his farm.³⁶ In 2010, he received threats at his workplace when a young man informed him it was better for him to silence his opposition to the mine.³⁷

On 11 April 2017, the day the public hearing was suspended, he was included in 5 groups on social media and immediately started to receive threats. He then was evicted from the groups. In one of those groups, a message referred to another human rights defender who was threatened for opposing a mining company. The message stated: “look what happens when someone speaks against the mine.”³⁸

Additionally, on 17 and 24 April 2017, Mr Guerra Júnior informs that he received unsolicited phone calls offering him funeral services. He considers these calls as threats related to his opposition to the mine.³⁹

Lucio DA SILVA PIMENTA

Mr da Silva Pimenta lives in the community “Cabeceira do Turco”. He was evicted from his home as a result of a judicial decision and now lives in a shed without running water or electricity. He does not receive any income supplement from the mining company.⁴⁰ He now survives producing cassava flour.⁴¹

Mr da Silva Pimenta feels vulnerable because of his strong commitment to human rights and his opposition to the mine. In particular, he considers he is at risk because he was part of the group requesting the suspension of the public hearing.⁴²

³² Our translation: “Rede de Articulação e Justiça Ambiental dos Atingidos pelo Projeto Minas Rio.”

³³ See for instance : REAJA, *Nota sobre o cancelamento da audiência pública em Conceição do Mato Dentro*, 12 April 2017, online: <https://singa2017.files.wordpress.com/2017/04/nota-sobre-cancelamento-ap-em-cmd_12abr2017.pdf>.

³⁴ PPDDH/MG, *supra* note 1 at p. 27.

³⁵ *Idem*.

³⁶ *Idem*.

³⁷ *Idem*.

³⁸ *Idem*, our translation: “Veja o que acontece com que[sic] fala mal da mineradora.”

³⁹ *Idem*.

⁴⁰ *Idem* at p. 28.

⁴¹ *Idem* at p. 29.

⁴² *Idem*.

Actions taken by the defenders and the authorities after the violation and ongoing investigation

Inclusion of the defenders in the Protection Program for the Human Rights Defenders of Minas Gerais

The five defenders were included in the Protection Program for the Human Rights Defenders of the State of Minas Gerais on 16 May 2017.⁴³ Indeed, it was considered that the criteria of article 4 of the law 21.164 of 17 January 2014 was fulfilled: because of the activities for the defence of human rights, the physical, emotional, or social integrity of a person was at risk.⁴⁴ Article 12 of the law details the measures that can be adopted to ensure the protection on the defenders admitted in the program.

Concretely, the program entails improved articulation with different State entities responsible for public safety (the Military, Civil and Federal police authorities) and for judicial protection (State and Federal Public Defender Offices as well as State and Federal Public Prosecutor Offices). If attacks occur, the improved articulation should provide from immediate responses from the police authorities as well as investigation from prosecutors and public defenders.

However, this type of protection is insufficient as human rights and environment defenders are receiving threats from members of the military police. Further, the civil police is often unwilling or unable to carry on their duties and fail to investigate the crimes committed. In particular, officers from the civil police sometimes refuse to register occurrences of crimes committed against human rights defenders. Finally, the program is often unable to protect human rights and environment defenders against the serious threats posed by militias hired to intimidate and attack them.

Additionally, considering the crime of proffering threats is considered minor “menor potencial ofensivo”⁴⁵, the investigation of such crimes is not given priority by law enforcement agencies. This represents an important obstacle in the effective protection of human rights and environment defenders.

Contact made with other State institutions

Various State institutions were contacted by the five defenders. In particular, the defenders sought legal assistance with the Public Defender Office of the State of Minas Gerais and the cities of Belo Horizonte and Conceição do Mato Dentro. Additionally, a reunion was organized with a commander of the Military Police to ask the institution to provide the five defenders with specific protection. Further, they presented complaints to the police, leading to several complaint reports “boletins de ocorrência”, and testimonies presented to federal and State prosecutors.

⁴³ *Idem* at p. 30.

⁴⁴ Estado de Minas Gerais, *Lei 21,164 de 17 de Janeiro de 2014*, online: <<http://www.almg.gov.br/consulte/legislacao/completa/completa.html?tipo=LEI&num=21164&comp=&ano=2014>>.

⁴⁵ Law No. 9.099, 26 September 1995, art 61; art. 147, Law No. 2848, 7 December 1940, art. 147.

Link between the violation and the victims' human rights work

The five human rights defenders referred to in this communication are actives in mobilizing the communities affected, directly and indirectly, by mining activities in the municipality of Conceição do Mato Dentro. In particular, according to the Protection Program for the Human Rights Defenders of the State of Minas Gerais, these five people were involved in discussions and mobilizations around the issue of mining in the municipality. They are widely known for questioning the potential impacts of mining, the protection of the environment, and the compensation to be paid by the company.⁴⁶

It is clear that the harassments and threats to the defenders are related to their activities as opponents to the mining project Minas-Rio, and, in particular, their request to suspend the public hearing related to the new development of the project. Indeed, as mentioned, the tension in the community increased after a judicial decision suspended the hearing. After their identity as applicants in the case was made public, the threats and harassment they received increased.

Also, as stated, the content of the threats and messages received is directly related to the struggle of the defenders against the mining project. In particular, messages received by Mr and Ms dos Santos, and Mr Guerra Júnior explicitly refer to the mining project or the mining company. Additionally, as specified above, the threats received by these human rights defenders intensified after the suspension of the public hearing on the third step of the Minas-Rio project. It is considered that the publicity around the identity of the applicants of the injunction suspending the hearing was a determining factor in the increased of harassment and threats directed at the five human rights defenders object of this communication.

Informed Consent of the Human Rights Defenders

1. Mr Elias de Souza consented on 18 and 20 July 2017 to have his case transmitted to the Special Procedures of the Human Rights Council.
2. Ms Vanessa Rosa dos Santos consented on 18 and 20 July 2017 to have his case transmitted to the Special Procedures of the Human Rights Council.
3. Mr Reginaldo Rosa dos Santos consented on 18 and 20 July 2017 to have his case transmitted to the Special Procedures of the Human Rights Council.
4. Mr Lúcio Gerra Júnior consented on 18 and 20 July 2017 to have his case transmitted to the Special Procedures of the Human Rights Council.
5. Mr Lúcio da Silva Pimenta consented on 18 and 20 July 2017 to have his case transmitted to the Special Procedures of the Human Rights Council.

Organizations Submitting the Communication

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⁴⁶ PPDDH/MG, *supra* note 1 at p. 14.