

# Press Release

Inter-American Court of Human Rights

I/A Court H.R.\_PR-90/2021 English

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## I/A Court H.R. Protecting Rights

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### **BRAZIL IS RESPONSIBLE FOR THE MISUSE OF PARLIAMENTARY IMMUNITY IN THE INVESTIGATION OF A FEMINICIDE**

*San José, Costa Rica, November 24, 2021.* In the Judgment notified today of the *Case of Barbosa de Souza et al. v. Brazil*, the Inter-American Court of Human Rights found the State of Brazil internationally responsible for the violation of the rights to judicial guarantees, judicial protection and equality before the law, due to the improper application of parliamentary immunity for the benefit of the main person responsible for the murder of Márcia Barbosa de Souza, the lack of due diligence when conducting investigations into said crime, the gender-biased discrimination in said investigations, and the violation of the reasonable period of time, as well as the violation of the right to personal integrity, to the detriment of Márcia Barbosa's family.

Consult the official summary of the Judgment [here](#) and the complete text of the Judgment [here](#).

Márcia Barbosa de Souza was a twenty-year-old student, of African descent, living in poverty. On the night of June 17, 1998, Márcia and the then Paraíba State Representative, Aécio Pereira de Lima, met at the Trevo Motel. The next day, a witness observed that a person dumped Márcia's body from a car onto a vacant lot near the city of João Pessoa.

On June 19, 1998, the police investigation into her death was formally initiated. Due to the parliamentary immunity enjoyed by the then State Representative, the main suspect, authorizations were requested from the Paraíba Legislative Assembly on two different occasions to initiate criminal proceedings against him. These were rejected.

Subsequently, by virtue of constitutional amendments and the loss of the jurisdiction of the then Representative, the criminal proceedings against Mr. Pereira began on March 14, 2003. He was sentenced on September 26, 2007 to 16 years in prison for the crimes of homicide and concealment of the body of Márcia Barbosa de Souza. Mr. Pereira appealed the sentence, but before said appeal was examined, he died.

This is the first Judgment in which the Inter-American Court analyzes parliamentary immunity within the framework of the right of access to justice and the reinforced obligation to investigate the violent death of a woman with due diligence

In its Judgment, the Court pointed out that parliamentary immunity has been designed as a guarantee of the independence of the legislative body as a whole and of its members, and it cannot be considered as a parliamentarian's personal privilege. Under no circumstances could it become a mechanism of impunity, as should that happen, it would erode the rule of law and be contrary to equality before the law, making access to justice unattainable for the persons concerned.

The Court concluded that the way in which Brazilian parliamentary immunity and that of Paraíba

were regulated, as of the date of the events, was contrary to the right of access to justice. The Court concluded that the legislative body's refusal to lift the parliamentary immunity of the then Representative Aécio Pereira de Lima was arbitrary, transforming this refusal into the mechanism that led to impunity for the murder of Ms. Barbosa de Souza, making effective access to justice for her family unrealistic.

In the Judgment, the Court also concluded that the investigation and criminal proceedings for the events related to the murder of Márcia Barbosa de Souza were discriminatory in nature on the basis of gender and were not conducted with a gender perspective. In this regard, the Court pointed out that, throughout the investigation and the criminal process, the behavior and sexuality of Márcia Barbosa became a subject of special attention, constructing an image of her as an instigator or deserving of what happened and diverting the focus of investigations through stereotypes related to aspects of her personal life.

The Court indicated that personal prejudices and gender stereotypes affect the objectivity of the state officials in charge of investigating the complaints that are presented to them, influencing their perception in deciding whether or not an act of violence occurred, and in their assessment of witness and victim credibility. Stereotypes "distort perceptions and lead to decisions based on preconceived beliefs and myths, rather than facts," which in turn can lead to denial of justice, including re-victimization of claimants.

Above all, on the evidence, the Court found that Brazil violated the rights to judicial guarantees, equality before the law, judicial protection and personal integrity, to the detriment of Márcia Barbosa's mother and father

The Court ordered Brazil to adopt various measures of reparation

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The Court's composition for this Judgment was as follows: Judge Elizabeth Odio Benito, President (Costa Rica), Judge Patricio Pazmiño Freire, Vice President (Ecuador), Judge Eduardo Ferrer MacGregor (Mexico), Judge Humberto Antonio Sierra Porto (Colombia), Judge Eugenio Raúl Zaffaroni (Argentina) and Judge Ricardo Pérez Manrique (Uruguay).

Judge Eduardo Vio Grossi did not participate in the deliberation and signing of the Judgment due to reasons of force majeure.

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