



***Permanent Mission of Brazil to the United Nations
and other International Organizations in Geneva***

Geneva, December 23, 2016

Nº 694 /2016

OHCHR REGISTRY

- 3 JAN 2017

Recipients : SPB
D. INFANTE - CANIBANO
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Mr. Special Rapporteur,

I have the honour to refer to the letter (document AL BRA 7/2016) regarding Brazilian constitutional amendment PEC55/2016, dated 8 December, and to the press release published on 9 December by the United Nations Special Rapporteurs on extreme poverty and human rights, Philip Alston, and on the right to education, Koumbou Boly Barry, on the same subject.

2. As I mentioned during our telephone conversation last week, Brazil prizes the independence and autonomy of the Human Rights Council special procedures. Nevertheless, the Brazilian Government deeply regrets that the press release was published without sufficient time for the competent authorities to present the arguments which solidly underpin the initiative. In this regard, we highly appreciate your decision not to endorse the document.

3. The Brazilian Government expresses its profound inconformity with the references contained in the aforementioned letter that question the legitimacy of the current Government to present such initiatives to Congress. It should be recalled that the process that culminated in the impeachment of President Dilma Rousseff and the assumption of then Vice-President Michel Temer, strictly followed all the legal norms and procedures, as mandated by the Brazilian Federal Constitution.

Furthermore, the process was supervised and confirmed by the Federal Supreme Court.

4. It is also inaccurate to affirm that the draft constitutional amendment has not been duly debated in Brazil. Since PEC55/2016 was presented in the Chamber of Deputies, on 15 June 2016, it was under public scrutiny for almost six months. In accordance with the Brazilian law, all constitutional amendments must be approved by a 3/5 qualified majority on two rounds of voting by both Houses of Parliament. According to this process, PEC55/2016 was approved by the Chamber of Deputies with a significantly higher margin than the required majority (366 votes in favor in the first round and 359 votes in the second round out of a total of 513 Deputies). It was also duly considered by the Federal Senate, where it was approved on two rounds of voting with an ample margin (61 votes in favor and 14 against in the first round; 53 votes in favor and 16 against in the second round). On 15 December, PEC55/2016 was promulgated and entered into force.

5. During all this period, the initiative was debated inside and outside Congress, in an intense, productive and democratic process with the full participation of the press and the public opinion.

6. The Brazilian Government is convinced that PEC55/2016 is urgently needed to address the current recession and revert the growing budget deficit. Without the new fiscal regime established by the constitutional amendment, the Government believes that there would be a grave risk of financial instability, economic recession and uncontrolled inflation. In the absence of such regime, unemployment and poverty levels would inevitably rise and social programs would need to be severely curtailed. Areas such as health, education and social assistance would immediately suffer, with serious adverse consequences to the human rights of the population, in particular to vulnerable groups.

7. On behalf of the Brazilian Government, I take this opportunity to reassure you that PEC55/2016 does not affect our unwavering commitment to promote economic, social and cultural rights, in accordance with international human rights law. As established by the Committee on

Economic, Social and Cultural Rights, the measures contained in the draft constitutional amendment are temporary, necessary and non-discriminatory, in line with our obligations in the international human rights system.

Yours sincerely,

Regina M. C. Dunlop

Regina Maria Cordeiro Dunlop

Ambassador

Permanent Representative of Brazil

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