

ADPF 635 MC

Reducing Police Killings and Protecting Fundamental Rights

Country:

Brazil

Court:

Federal Supreme Court

Competent Court:

Full Court

Format of the Session:

Virtual

Rapporteur:

Justice Edson Fachin

Decision Date:

August 18, 2020

Matter:



STRUCTURAL LITIGATION

CASE SUMMARY

A Claim of Non-Compliance with a Fundamental Precept (ADPF) requesting the Supreme Court to recognize the high mortality rate of police operations carried out in peripheral communities in the state of Rio de Janeiro, and asking the Court for structural public measures to reduce it. The party seeks preliminary injunctions for the creation of police action guidelines on the use of force, as well as measures to investigate and monitor police operations. The plaintiff cites the fundamental precepts of life, human dignity, security, the inviolability of the home, equality, and the priority of children and adolescents in terms of fundamental rights.

LEGAL REASONING

1. The state of Rio de Janeiro suffers from a structural public security problem caused by the actions and omission of multiple public authorities. This reflects in the high number of police killings in operations that take place in underserved communities of the city. This issue leads to the systematic violation of fundamental precepts of the 1988 Federal Constitution, such as the rights to life and to the public security of these communities and of police officers themselves. To tackle the problem, the state should implement actions that ensure the proportional use of force so as to avoid endangering innocent lives.

2. In this regard, the Court ordered the adoption of the following measures, among others: (i) the issuance of search and seizure warrants that specify their purposes and targeted individuals, thus prohibiting general court orders for police entry into any and all residences; (ii) the production of detailed reports on operations, detailing each intervention, and the Federal Prosecutor Service's external oversight, so as to hold officers involved in abuses accountable; (iii) the preservation of evidence of crimes against life, therefore enabling forensic investigations and ensuring auditability; (iv) the restriction of police operations near schools, nurseries, and hospitals, especially at their start and end times; (v) the use of killing reduction indicators in calculating officers' bonuses.

DECISION OF THE COURT

The Federal Supreme Court partially granted the injunctions and imposed constraints to police operations in underserved communities in order to reduce police killings.

ADDITIONAL NOTES

After this ruling, within the same case, the Court granted other injunctions with the same end of reducing killings in operations. For instance, the Court required the police personnel to use cameras and GPS devices in their uniforms and vehicles, thus allowing for the monitoring of the use of force. Additionally, it ordered the creation of police action protocols to ensure proportional use of force.

