Category: Obligation to Provide Access to Legal Remedies

Sub-Category: National Human Rights Institutions

Name of Good Practice: Brazilian Ministerio Publico’s Environmental Actions

Key Words: Constitutional Right to Environment, Accountability, Access to Justice, National Human Rights Commission, Monitoring

Implementing Actors: Public Prosecutor: *Ministerio Publico* of Brazil

Location: Brazil

Description: Article 225 of the Brazilian Constitution states: “All have the right to an ecologically balanced environment, which is an asset of common use and essential to a healthy quality of life, and both the Government and the community shall have the duty to defend and preserve it for present and future generations.” The 1988 Brazilian Constitution provides the *Ministerio Publico* or public prosecutor with broad powers to monitor and enforce violations of, among other things, constitutional rights. Article 129(3) of the Constitution outlines that one of the functions of the *Ministerio Publico* is “to institute civil investigation and public civil suit to protect public and social property, the environment and other diffuse and collective interests.”

Pursuant to its mandate, the *Ministerio Publico* has been extremely active in the area of environmental protection, both in terms of enforcement and policy development. For example, in the state of Sao Paolo alone, the *Ministerio Publico* brought over 4000 environmental cases. Moreover, recent years have seen the *Ministerio Publico* use the threat of prosecution as means to negotiate settlement agreements with polluters which are referred to as “conduct adjustment agreements.” These agreements allow the *Ministerio Publico to* avoid the high costs, delays and uncertainty in the court system.

Further Information: See Constitution of Brazil (1998), art. 127, English Translation: <http://www.wipo.int/wipolex/en/text.jsp?file_id=218270>; website of the *Ministerio Publico*: <http://www.mpu.mp.br/>; Bernardo Mueller, “Who Enforces Enforcement: Can Public Prosecutors in Brazil Break the Endless Regress?”, Department of Economics, University of Brasilia, Brazil (August 2006), available at

<http://www.isnie.org/ISNIE06/Papers06/07.3%20(no%20discussant)/mueller.pdf>; David Richard Boyd, *The Environmental Rights Revolution: A Global Study of Constitutions, Human Rights, and the Environment* (UBC Press 2012).