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**The government apparatus, its repressive mechanisms and
restrictions on civic and democratic space**

**Independent international fact-finding mission on the Bolivarian
Republic of Venezuela ***

* This document should be read in conjunction with the official report. (A/HR/54/57).

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I. Introduction

A. Background

1. On 27 September 2019, by resolution 42/25, the Human Rights Council established the International Independent Fact-Finding Mission on the Bolivarian Republic of Venezuela (hereinafter "the Mission").¹ The Mission submitted its first report to the Human Rights Council on 15 September 2020.²
2. On 6 October 2020, the Human Rights Council extended the mandate of the Mission for two years, until September 2022, by resolution 45/20. The resolution mandated the Mission to continue investigating gross human rights violations, including extrajudicial killings, enforced disappearances, arbitrary detentions and torture and other cruel, inhuman or degrading treatments, as well as those related to sexual and gender-based violence, committed since 2014.³ In accordance with this resolution, the Mission submitted its second report to the Human Rights Council in September 2021⁴ and its third report in September 2022.⁵
3. On 7 October 2022, the Human Rights Council adopted resolution 51/29. Pursuant to this resolution, the Mission submitted its report to the Human Rights Council (A/HRC/54/57) on 25 September 2023. The conference room paper accompanies the report and expands in detail on the findings deriving from the Mission's investigations in relation to the violations and crimes mentioned in the Mission's mandate, as well as other restrictions of the civic and democratic space in the Bolivarian Republic of Venezuela.
4. The expert members of the Mission are Marta Valiñas, from Portugal (Chairperson),⁶ Francisco Cox, from Chile,⁷ and Patricia Tappatá, from Argentina.⁸ The experts perform their work *ad honorem*.

B. Scope of research

5. In this session document, the Mission documents the different forms of repression exercised by the Venezuelan State as part of a deliberate and systematic policy of suppression of opinions contrary to the policies, decisions and interests of the Government, as well as the impact of such repression on the reduction of civic and democratic space in Venezuela.
6. Chapter III of this session document presents the findings of the Mission's investigation into cases of extrajudicial executions, arbitrary detentions, enforced disappearances of short duration, torture and other cruel, inhuman or degrading treatments, as well as sexual and gender-based violence since 2020. In that year, the Mission's first report was published, documenting violations and crimes committed from 2014 to 2020. The Mission's objective is to report on the evolution of these types of violations and crimes in recent years.
7. In Chapter IV, this session document presents the results of an investigation of a broader scope: limitations and restrictions on other fundamental freedoms and rights (such as freedom of opinion and expression, peaceful assembly and association, and the right to participate in public affairs) that constitute gross violations of human rights, in the sense that such violations are part of a series of actions taken by the State to close civic space; therefore, violations of the rights to freedom of opinion and expression, of peaceful assembly and association, and the right to participate in public affairs, play a central role in the policy of repression of persons who oppose or are perceived as such.⁹ The time frame of this chapter, although it is equally focused on the period since 2020,

¹ A/HRC/RES/42/25, para. 24.

² A/HRC/45/33. See also A/HRC/45/CRP.11.

³ A/HRC/RES/45/20, para. 15.

⁴ A/HRC/48/69. A/HRC/48/69/CRP.5.

⁵ A/HRC/51/43. See also A/HRC/51/43/CRP.2 (human rights violations and crimes in the Orinoco Arco Minero region and A/HRC/51/43/CRP.3 (human rights violations and crimes by State intelligence services).

⁶ Appointed by the Human Rights Council on 2 December 2019.

⁷ Appointed by the Human Rights Council on 2 December 2019.

⁸ Appointed by the Human Rights Council on 1 September 2021.

⁹ In general, the terms "gross" and "severe" human rights violations are used to refer to arbitrary deprivations of life, torture, forced disappearances, sexual and gender-based violence, among others of a similar nature.

also includes incidents that occurred earlier and that are of special relevance to understanding the current situation of the civic and democratic space in the Bolivarian Republic of Venezuela.

8. The thematic scope of this report in no way minimizes or ignores other cases of gross human rights violations in the Bolivarian Republic of Venezuela and should not be interpreted as an indication that other violations and crimes did not occur.

1. Targeted repression

9. In its first report to the Human Rights Council, the Mission analyzed the targeted political repression against individuals opposed to the Government, or perceived as such, which resulted in gross human rights violations. In its report, the Mission concluded that it had reasonable grounds to believe that, at least since 2014 (the beginning of the time frame of the Mission's mandate), a series of acts and behaviors constituting extrajudicial executions; torture and other cruel, inhuman or degrading treatments or punishments, including sexual and gender-based violence; enforced disappearances (often of short duration); and arbitrary detentions were committed in the Bolivarian Republic of Venezuela.¹⁰ The Mission also concluded that some of the documented acts and conducts were committed in the context of a widespread and systematic attack directed against a civilian population, with knowledge of the attack, thus meeting the contextual elements for a finding of crimes against humanity under the Rome Statute.¹¹
10. As described in the Mission's report, the widespread and systematic attack against the civilian population manifested itself mainly in political repression by the Government against the opposition, through which it sought to "silence, discourage and quash opposition to the Government of President Maduro."¹² According to the Mission's findings, the repression policy targeted people who, in various ways, showed their disagreement with the Government, or who were perceived as being opposed to it, as well as, occasionally, their relatives and friends, who were targeted because they were related to them¹³.
11. Since the publication of its first report, the Mission has continued to investigate violations and crimes committed in the context of the selective repression by the Government of the Bolivarian Republic of Venezuela, by thoroughly documenting the main mechanisms of repression and those responsible for these violations and crimes.
12. In its 2021 report, the Mission concluded that it had reasonable grounds to believe that, in the cases analyzed in this report, judges and prosecutors did not guarantee - and even denied - the enjoyment of some rights to individuals opposed to the Government or perceived as such, in response to interference from political actors and from within the hierarchy of the judiciary or the Public Prosecutor's Office itself.¹⁴ In this context, the Mission concluded that "the justice system played a significant role in the State repression of Government opponents."¹⁵
13. In its report submitted to the Human Rights Council in 2022, the Mission focused, among others, on crimes against humanity committed through structures and individuals belonging to the State intelligence services as part of a plan to repress opponents of the Government. In this regard, the report documented the structures, roles and

However, other Commissions of Inquiry and Fact-Finding Missions have referred to gross, or serious or grave violations of human rights, in relation to rights such as freedom of expression and assembly (Report of the International Commission of Inquiry to investigate all alleged violations of international human rights law in the Libyan Arab Jamahiriya, A/HRC/17/44, para. 237); or the right to health. The report, which documents the most serious violations of human rights and international humanitarian law committed in the territory of the Democratic Republic of the Congo between March 1993 and June 2003, uses as criteria for defining serious human rights violations the large scale of the violations, their systematic nature, their additional discriminatory nature or their impact on communities in general. OHCHR, Report of the Mapping Exercise documenting the most serious violations of human rights and international humanitarian law committed within the territory of the Democratic Republic of the Congo between March 1993 and June 2003, August 2010, para. 100. Available at: https://www.ohchr.org/sites/default/files/Documents/Countries/CD/DRC_MAPPING_REPORT_FINAL_EN.pdf.

¹⁰ A/HRC/45/33, para. 151.

¹¹ *Ibid.*, paras. 160-161.

¹² *Ibid.*, para. 160.

¹³ *Ibid.*

¹⁴ A/HRC/48/69, para. 110.

¹⁵ *Ibid.*, para. 119.

contributions of the Bolivarian National Intelligence Service (SEBIN) and the Directorate General of Military Counterintelligence (DGCIM) of the Bolivarian National Armed Forces (FANB).¹⁶

14. The Mission's last report also noted changes in the patterns of selective political repression over time. As the Mission indicated, [a]dmittedly, the peak periods of illegal arrests followed by torture ended in 2019. This is due to the fact that, over time and given the brutality of the execution of the plan, political dissent was largely crushed, which, compounded by the impact of the coronavirus disease (COVID-19) pandemic over people's ability to protest, has resulted in an overall decrease in the number of such incidents reported.¹⁷
15. This session document focuses on the period between 2020, when the Mission's first report was submitted, and 31 August 2023, and analyses the evolution of patterns and mechanisms of selective repression against real or perceived opponents to the Government.

2. Restrictions on civic and democratic space

16. In its resolution 51/29 adopted in October 2022, the Human Rights Council "strongly" condemned the "widespread targeted repression and persecution on political grounds...by the security and intelligence forces"¹⁸ and expressed its concern at "continued reports of restrictions of civic and democratic space, including arbitrary detention, acts of intimidation and reprisals, public defamation of protesters, journalists and other media workers, lawyers, human rights defenders and other civil society stakeholders."¹⁹
17. In its resolution, the Human Rights Council also drew attention to the upcoming electoral cycle in the country, calling for "free and fair presidential and parliamentary elections, with an independent national electoral council and an independent and impartial Supreme Court, and full freedom of the press and the unfettered political participation of all Venezuelans and all political parties, without fear of repercussions or interference, respecting international standards and civil and political rights".²⁰ The Council further condemned "intervention in the autonomy and composition of several political parties."²¹
18. In accordance with Human Rights Council resolution 51/29, the present conference room paper analyses the consequences of the Government's sustained policy of repression of the opposition on the restrictions of civic and democratic space in the Bolivarian Republic of Venezuela. While there is no international consensus on the normative content of the notion of "civic and democratic space", the various working definitions focus on the mechanisms that enable civil society to participate in the management of public affairs and are linked to the guarantees and effective exercise of certain human rights and civil liberties.²²

¹⁶ A/HRC/51/43, paras. 23-75.

¹⁷ *Ibid.*, para. 26.

¹⁸ A/HRC/RES/51/29, para. 4.

¹⁹ *Ibid.*, preamble, para. 8. (emphasis added)

²⁰ *Ibid.*, para. 8.

²¹ *Ibid.*

²² United Nations Development Programme (UNDP) and International Center for Non-Profit Law (ICNL), *Legal Frameworks for Civic Space: A Primer* (2021). Available at: <https://www.undp.org/sites/g/files/zskgke326/files/2021-12/UNDP-ICNL-Legal-Framework-for-Civic-Space-A-Primer-EN.pdf>.

16. For the United Nations High Commissioner for Human Rights (OHCHR), the notion of civic space - or “civil society space” - refers to the “environment that enables civil society to play a role in the political, economic and social life” of society, allowing “individuals and groups to contribute to policy-making that affects their lives.”¹ The OHCHR definition connects the existence of an “open and pluralistic” civic space with the guarantee of certain human rights and fundamental freedoms, including freedom of opinion and expression, freedom of peaceful assembly and freedom of association,²⁴ and the rights to participate in public affairs. The notion of civic space has also been linked with other rights, such as the rights to freedom of thought, conscience and religion.²⁵

17. The notion of democratic space, in turn, refers directly to the concept of democracy which, in the context of international human rights standards, is directly related to the right to participate in public affairs. Similarly, according to the interpretation of international human rights institutions, democracy includes the rights and freedoms associated with civic space, the right to participate in the conduct of public affairs, as well as respect for the rule of law, the separation of powers, the independence of the judiciary, transparency and public accountability, and the existence of a free, independent and pluralistic media.²⁶ An essential characteristic of democracy is the observance of free and impartial elections, defined as “periodic, genuine, free and fair elections held on the basis of universal and equal suffrage and by secret ballot guaranteeing the free expression of the will of the electors.”²⁷

18. The notion of civic and democratic space connects the enjoyment of human rights with the existence of legal and institutional frameworks that enable and promote the activities of civil society and a series of other enabling conditions, such as access to justice, a favourable public and political environment or access to information.²⁸

19. The Mission’s previous reports drew attention precisely to the link between the restrictions on civic and democratic space and the serious human rights violations committed in the country. In its 2020 report, the Mission already warned about the “gradual process of disintegration of democratic institutions and collapse of the rule of law in the Bolivarian Republic of Venezuela that has occurred since 2014”, warning about the impunity derived from the “weakening of democratic, judicial and institutional accountability mechanisms” as factors that have exacerbated the violations and crimes documented in the report.²⁹ In its report on the justice system, presented to the Human Rights Council in 2021, the Mission warned about the “effects of the deterioration of the rule of law” and its repercussion on Venezuelan society as a whole.³⁰

C. Methodology and standard of proof

20. The Mission continued to use methodologies and best practices developed by the United Nations for fact-finding in human rights investigations. The Mission conducted its work in accordance with the principles of independence, impartiality, objectivity, transparency and integrity.

¹ See <https://www.ohchr.org/es/civic-space>.

²⁴ *Ibid.*

²⁵ United Nations, *The Highest Aspiration: A Call to Action for Human Rights*, introduction by António Guterres, United Nations Secretary-General on the occasion of the seventy-fifth anniversary of the United Nations (2020), p. 9. Available at: https://www.un.org/sites/un2.un.org/files/2020/07/the_highest_aspiration_a_call_to_action_for_human_rights.pdf

²⁶ A/HRC/RES/19/36, April 19, 2012, para. 1. *Cf.* Resolution 2002/2 of the Commission on Human Rights, E/CN.4/2002/46, of 23 April 2002, para. 1. See also: Study on common challenges facing States in their efforts to secure democracy and the rule of law from a human rights perspective, A/HRC/22/29, 17 December 2012.

²⁷ A/HRC/RES/19/36, paras. 1-2.

²⁸ Practical recommendations for the creation and maintenance of a safe and enabling environment for civil society, based on good practices and lessons learned, A/HRC/32/20, 11 April 2016.

²⁹ *Ibid.*

³⁰ A/HRC/48/69, para. 119

1. Standard of proof

21. In line with its past practice, the Mission uses the “reasonable grounds to believe” as its standard of proof. This standard is met when factual information has been collected that would satisfy an objective and ordinarily prudent observer that the incident occurred as described, with a reasonable degree of certainty.

22. This standard of proof is lower than that required in criminal proceedings both to sustain a criminal conviction (certainty beyond all reasonable doubt) and to substantiate an accusation. It is also inferior to the balance of probabilities test in civil matters (implying that it is more likely that something happened than not). However, it is high enough to justify further investigations.³¹

23. The major human rights incidents described in the following chapters are based on accounts from multiple sources, including the victims themselves. A thorough investigation of the incidents and a detailed reconstruction of the events has been carried out. The individual cases which form the basis of this conference room paper are based on, at least, one credible source of direct information, which was independently verified by at least one other credible source.³² When the report describes patterns of behaviour, they are based on the common elements established by the cases investigated, corroborated by other credible data collected.

2. Information gathering methods

27. The Mission was able to collect information through the following methods: confidential in-person interviews during field missions and remotely, through secure telephone or video connections; review of official documents obtained from individuals and organizations, including court records; and analysis of documentary evidence, which also includes publicly available information.

(a) Field missions

28. To prepare this conference room paper and in the absence of authorization to conduct investigations within the territory of the Bolivarian Republic of Venezuela, the Mission conducted a visit to a third country. During this visit, the Mission interviewed several people outside Venezuela, including victims and relatives of victims, informants, witnesses, journalists and human rights defenders. The Mission had planned another visit that did not take place because it did not receive authorization to enter the country in question in a timely manner. On 23 March 2023, the Mission also conducted a working visit to the European Commission and the European Parliament in Brussels, Belgium.

29. The Mission is grateful for the cooperation of host country authorities, United Nations agencies, non-governmental organizations (NGOs) and individuals who supported the missions.

³¹ A/HRC/45/CRP.11, paras. 11, 1977.

³² The mission considered as direct sources of information the following, when the sources were reliable and credible (a) interviews with victims, family members and witnesses with direct knowledge of the incidents; (b) verified court records and other confidential documents; (c) interviews with former government and military officials and other persons with direct knowledge of specific cases or the internal workings of specific institutions (“whistleblowers”); (d) verified digital information (in particular, videos, audios, satellite images, or social media content) satellite imagery or social media content) that contains direct information about an incident; (e) public statements or relevant information issued by government institutions and representatives (including televised or published on social media); and (f) laws, policies and regulations of the Venezuelan Government.

(b) Remote interviews

30. Given the continued lack of access to the country and in the absence of cooperation from Venezuelan authorities, the Mission's investigations include remote interviews carried out according to the Mission's security protocols.

31. To prepare the present conference room paper, the Mission conducted 248 remote interviews and focus groups (with 136 men, 151 women and 4 gender-diverse people) through a secure telephone or video connection. Among those interviewed were former members of the state security forces. The Mission is grateful to the interviewees for their collaboration.

(c) Documentary evidence

32. The Mission was based on a large volume of documentary evidence, including numerous information, reports and reports prepared by independent media, as well as by national and international NGOs and intergovernmental organizations that have documented the human rights situation and the restrictions to civic and democratic space in the Bolivarian Republic of Venezuela. The Mission also analysed other relevant documents obtained in the context of its investigations, such as files and other judicial or administrative documents, copies of complaints, sworn statements and confidential documents prepared on an ad hoc basis/or specifically for this purpose. The Mission also analysed audiovisual material such as photographs, videos and social media posts.

3. Gender perspective and impact analysis

33. In line with good practices of gender mainstreaming in investigations into human rights violations, throughout its investigation, the Mission paid particular attention to gender issues and the gendered impact of violations and endeavoured to apply a gender approach to the investigation, using methodologies and tools to collect, organize, analyse and reflect the information in this document from a gender perspective. In addition, the Mission analysed specific patterns of sexual and gender-based violence.³³

D. Government cooperation

34. In its resolution 51/29, the Human Rights Council urged the authorities of the Bolivarian Republic of Venezuela to cooperate fully with the Mission, to grant it immediate, full and unrestricted access to the entire country, and to provide it with all the information necessary for it to carry out its mandate,³⁴ reiterating calls contained in previous Council resolutions.³⁵

35. The Mission regrets that, four years into its mandate, the Government of the Bolivarian Republic of Venezuela has still not allowed its members or the staff of its secretariat to visit the country to conduct an investigation in Venezuelan territory. The Mission also regrets not having received any response or additional information from the Government, despite its attempts to do so and its publicly announced willingness to receive information from anyone. Therefore, its fact-finding is based on a rigorous analysis of the information it was able to gather through the methods described above. The Mission considers that its fact-finding should lead to exhaustive criminal investigations and to solving the cases, in accordance with the applicable international norms.

³³ See Chapter V, *below*.

³⁴ A/HRC/RES/51/29, para. 11.

³⁵ A/HRC/RES/42/25, para 25; A/HRC/RES/45/20, para. 16.

E. Limitations of the investigation

36. The investigation was confronted with a series of limitations. Due to the temporary nature of the Mission's mandate, unstable working conditions and delays in staff recruitment processes, the Mission's secretariat team experienced a high turnover of staff between October 2022 and September 2023. During this period, there were six changes in the Mission's staff, representing a 46% turnover rate, including three different coordinators. The research team was not complete until May 2023, eight months after the Mission entered its fourth year (or third term). In fact, up until April 2023, the team had 43% of the members who had been assigned to the Mission.

37. The Mission's investigations have also been limited by peoples' fear of cooperating with the Mission. This is undoubtedly a reflection of a broader dynamic of internalization of repression by Venezuelan society and, in general, inhibition of civil society stakeholders, as reflected in this conference room paper. A large number of people interviewed by the Mission, including victims and family members, requested anonymity for fear of possible reprisals from the Government. This fear is compounded by widespread impunity and scant response by the authorities to allegations of human rights violations or crimes.³⁶

38. Despite these limitations, the Mission was able to gather the information necessary to establish the facts documented in this conference room paper and reach the conclusions set forth in the following chapters in fulfilment of its mandate. Throughout this conference room paper, the Mission identifies cases where further investigation is needed.

II. Context

A. Background

39. In its first report to the Human Rights Council, the Mission presented a timeline of the main events that led to the political and institutional crisis in the Bolivarian Republic of Venezuela between 2014 and September 2020, the time of submission of that report.³⁷

40. The country experienced different phases of social protests to which the Government responded with violent repression, particularly in 2014, 2017 and 2019. Targeted repression against certain actors remained relatively continuous since 2014.³⁸ State repression led to dozens of cases of arbitrary loss of life by the security forces in the context of the protests, detention of people perceived to be in opposition to the government and widespread attacks on journalists and the press.³⁹ In its different reports, these acts were examined by the Mission which reached the conclusion that such acts constituted human rights violations and, in certain cases involving arbitrary detentions and torture, crimes against humanity.

³⁶ A/HRC/48/69, paras. 95-107.

³⁷ See A/HRC/45/CRP.11, paras. 60 and those that follow.

³⁸ *Ibid.*, para. 241.

³⁹ *Ibid.*, paras. 61-71.

41. This section presents an update of the situation within the country, along with the main events related to the civic and democratic spaces during the period covered by this report (1 January 2020 to 31 August 2023).

1. Political and economic development

42. Between January 2020 and September 2023, the ruling party managed to retain its power at the municipal, state and national levels through elections that were contested by opposition forces. Following the 2018 presidential elections, which resulted in a victory for President Maduro, parliamentary elections were held on 6 December 2020 and regional (municipal and state) elections on 21 November 2021 (infra). According to the 1999 Constitution, the next presidential election must be held in 2024.⁴¹

43. After the 2019 social demonstrations, which reached a historic peak in attendance, massive and coordinated nationwide protests decreased drastically. According to the Venezuelan Observatory of Social Conflict (OVCS), 9,633 protests took place in 2020, a 42% reduction on the previous year (Table 1). The number of protests stabilized in the following years until the first three months of 2023, when they increased by 47% compared with the same period of the previous year, especially in relation to demands relating to working conditions.⁴²

44. As of 2019, there was also a change in the nature of the protests. As of that year, the majority of the protests were linked to economic and social issues, such as employment rights, access to health care and basic services, including food, as well as in reaction to the gasoline crisis.⁴³ According to OVCS, in 2022, 77% of protests were related to this type of complaint.⁴⁴

⁴⁰ Ibid., paras. 160-166.

⁴¹ 1999 Constitution, art. 230.

⁴² Venezuelan Observatory of Social Conflict (OVCS) Conflictividad durante el primer trimestre de 2023, 20 October 2022. Available at: <https://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/conflictividad-durante-el-primer-trimestre-de-2023>.

⁴³ OVCS, Conflictividad social en Venezuela en 2020, 25 January 2021. Available at: <https://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/informe-anual-situacion-de-la-conflictividad-en-venezuela-en-2020>; Observatorio Venezolano de Conflictividad Social (OVCS), Conflictividad social en Venezuela en 2021, 15 February 2022. Available at: <https://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/conflictividad-social-en-venezuela-en-2021/>.

⁴⁴ OVCS, Conflictividad social en Venezuela en 2022, 3 June 2022. Available at: <https://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/conflictividad-social-en-venezuela-durante-2022#:~:text=Durante%20el%20a%C3%B1o%202022%2C%20el,se%20documentaron%206.560%20hechos%20similares>.

Table 1:
Development of social protest

<i>Year</i>	<i>Number of protests</i>	<i>Political protests (%)</i>
2014	9,286	52% ⁴⁵
2015	5.851	18%
2016	6.917	30%
2017	9.787	14% ⁴⁶
2018	12.715	11%
2019	16.739	42%
2020	9.633	15%
2021	6.560	26%
2022	7.732	23%

Source: Mission's own elaboration, based on information from the OVCS.

45. Low wages and working conditions, particularly in the public sector, became a source of social unrest. In March 2022, after months without raising the minimum wage, the Government increasing it by 1,700%, going from less than 2 USD to approximately 28 USD.⁴⁸ To be able to pay for this increase, the Government adopted the so-called "ONAPRE instructions" (for Oficina Nacional de Presupuesto or National Budget Office), which cut benefits, generating discontent among the working and retired population. Protests were particularly intense in some sectors, such as education and the iron and steel industry.⁴⁹

45 In 2014, OVCS differentiated protests using as criteria those that were perceived as a rejection of the government (52%), which denounced the implementation of repressive practices by government officials in the framework of the demonstrations and the outcome of the presidential elections; and protests that were not perceived as a rejection of the government, related to public policies in social matters. However, this category included calls for citizen security, the rights of persons deprived of liberty and the right to justice (10%). See OVCS, *Conflictividad social en Venezuela en 2014*, p. 6.

⁴⁶ OVCS, *Conflictividad social en Venezuela en 2017*, 15 January 2018. Available at:

<https://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/conflictividad-social-en-venezuela-en-2017/>.

⁴⁷ For annual figures see: Observatorio Venezolano de Conflictividad Social (OVCS), *Informes anuales*. Available at <https://www.observatoriodeconflictos.org.ve/informes-anuales/informes-anuales>. For percentages of protests related to civil and political rights see the OVCS report from the corresponding year, 2022:

<https://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/conflictividad-social-en-venezuela-durante-2022>; 2021: <https://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/conflictividad-social-en-venezuela-en-2021>; 2020: <https://www.observatoriodeconflictos.org.ve/oc/wp-content/uploads/2021/01/INFORMEOVCS-ANUAL2020.pdf>; 2019:

<https://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/conflictividad-social-en-venezuela-en-2019>; 2018:

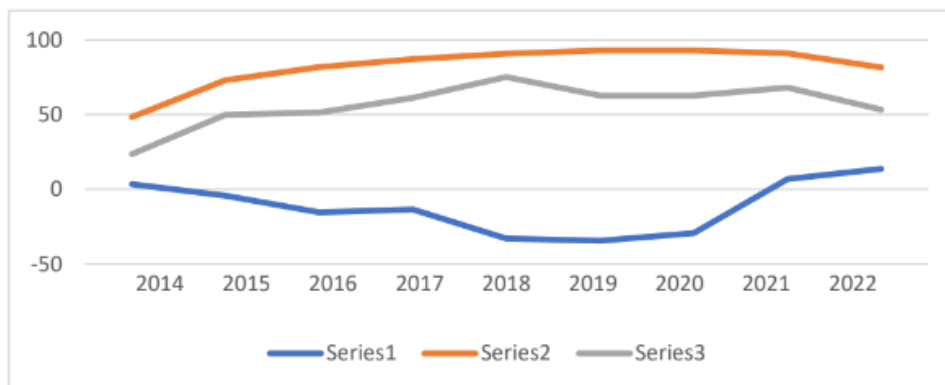
<https://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/conflictividad-social-en-venezuela-2018>; 2016: Approximate figure since the report indicates that about 70% of the protests were related to economic, social and cultural rights, <https://www.observatoriodeconflictos.org.ve/sin-categoria/conflictividad-social-en-venezuela-2016>; 2015: <https://www.observatoriodeconflictos.org.ve/sin-categoria/conflictividad-social-en-venezuela-en-2015>; 2014: <https://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/informe-conflictividad-social-en-venezuela-en-2014>.

⁴⁸ National Assembly, Press release: National Assembly debates economic crisis of the workers of the Public Administration, 02 March 2022. Available at: <https://www.asambleanacionalvenezuela.org/noticias/asamblea-nacional-debate-crisis-economica-de-los-trabajadores-de-la-administracion-publica>; Ministerio del Poder Popular para el Ecosocialismo, Comunicado de prensa, Salario mínimo será equivalente a medio petro, 3 March 2022. Available at: <http://www.minec.gob.ve/salario-minimo-sera-equivalente-a-medio-petro/>; BBC Mundo, Qué hay detrás de la abrupta devaluación de Bolívar y qué dice de la incipiente recuperación de la dolarizada economía en Venezuela, 31 agosto 2022. Available at: <https://www.bbc.com/mundo/noticias-62733859>.

46. On the economic front, the period was marked by the continuation of the economic and humanitarian crisis, exacerbated by the impact of the COVID-19 pandemic.⁵⁰ In the second quarter of 2021, the economy entered a recovery phase⁵¹ and the country emerged from hyperinflation.⁵² In 2022, after seven years of continuous crisis, the economy reached a growth rate of 13.3%.⁵³ According to non-governmental sources, multidimensional poverty was reduced to 50.5% of households, a reduction of almost 15 points with respect to the previous year, although the country's inequality gaps widened.⁵⁴

Table 2:

Development of economic data



Source: Prepared by the Mission based on information from the Economic and Social Research Institute of the Universidad Andrés Bello (UCAB) and the Venezuelan Finance Observatory (Observatorio Venezolano de Finanzas).

⁴⁹ National Assembly (IV Legislature), Press release: AN legítima repudia y exige que sea derogado el instructivo ONAPRE que viola los derechos de los trabajadores públicos, 11 August 2022. Available at: <https://www.asambleanacionalvenezuela.org/noticias/an-legitima-repudia-y-exige-que-sea-derogado-el-instructivo-onapre-que-viola-los-derechos-de-los-trabajadores-publicos>; El País, El alza abrupta del dólar le pone techo a la recuperación económica de Venezuela, 26 August 2022. Available at: <https://elpais.com/internacional/2022-08-27/el-alza-abrupta-del-dolar-le-pone-techo-a-la-recuperacion-economica-de-venezuela.html/>.

⁵⁰ Office for the Coordination of Humanitarian Affairs (OCHA), The Venezuela Humanitarian Response Plan with Humanitarian Needs Overview (2020), p. 7.

⁵¹ Central Bank of Venezuela, Press release: El INPC continuó en marzo su tendencia a la desaceleración, con una variación intermensual de 1,4%, 06 April 2022; Press release: El PIB de la economía venezolana creció 17,73% en el período enero-septiembre de 2022, 30 December 2020.

⁵² BBC Mundo, “Qué hay detrás de la abrupta devaluación de Bolívar y qué dice de la incipiente recuperación de la dolarizada economía en Venezuela”, 31 August 2022. Available at: <https://www.bbc.com/mundo/noticias-62733859>.

⁵³ Venezuelan Finance Observatory, Se frena el crecimiento de la economía venezolana, 30 January 2023. Available at: <https://observatoriodefianzas.com/se-frena-el-crecimiento-de-la-economia-venezolana/>.

⁵⁴ Instituto de Investigaciones Económicas y Sociales, Universidad Andrés Bello (UCAB), *Condiciones de vida de los venezolanos ENCOVI 2022*, November 2022, p. 17. Available at: <https://elucabista.com/2022/11/10/encovi-2022-cae-la-pobreza-aumenta-la-desigualdad-y-se-agrava-la-crisis-educativa/#:~:text=Medida%20por%20el%20nivel%20de,alcanzaba%20a%2090%2C9%25>.

⁵⁵ Instituto de Investigaciones Económicas y Sociales, Universidad Andrés Bello (UCAB), *Condiciones de vida de los venezolanos ENCOVI 2022*, November 2022; Observatorio

47. This growth, linked to the transactional and spontaneous dollarization of the economy, kept the economy subject to significant fluctuations and, in the first half of 2023, a decrease of 8.5% was recorded with respect to the previous period.⁵⁶ Although inflation dropped drastically in relation to the hyperinflation of previous years, in 2022 it registered a rate of 234%, according to official data.⁵⁷ By July 2023, the rate had reached 398%, the highest inflation rate in the world.⁵⁸

48. According to several sources consulted by the Mission, the development of the economic situation did not translate into improved living conditions for the population. A recent study by the Inter-American Development Bank (IDB) concluded that the economic growth of recent years benefited households with higher income levels more than those with lower incomes.⁵⁹ In fact, an unofficial survey estimated that, in 2022, the income level of 70.6% of the households surveyed was still insufficient, while for 14.4% it was significantly insufficient.⁶⁰ According to some estimates, after several years of rising, income inequality (Gini coefficient) reached an all-time high in 2022 (0.603), making the Bolivarian Republic of Venezuela the most unequal country in Latin America and one of the most unequal in the world.⁶¹

49. The humanitarian crisis continued during this period, entering its eighth consecutive year. According to data from the United Nations and the Pan American Health Organization (PAHO), in 2022, the Bolivarian Republic of Venezuela had the highest prevalence of undernourishment in the region (22.9%).⁶² This means that 6.5 million people⁶³ “whose habitual food consumption is insufficient to provide the dietary energy levels that are required to maintain a normal active and healthy life”.⁶⁴ Non-governmental sources reported that, in March of the same year, 82.8% of the medical attention centres were inoperative, which implied that 19,1 million of people ceased to benefit from those services.⁶⁵

Venezolano de Finanzas (OVF), *Indicadores de actividad económica*, 2023. Available at: https://observatoriodefinanzas.com/wp-content/uploads/IAEM_2023_1.xls

⁵⁶ Infobae, *La economía de Venezuela se contrajo un 8,3 % interanual en el primer trimestre de 2023*, 27 April 2023. Available at: <https://www.infobae.com/venezuela/2023/04/27/la-economia-de-venezuela-se-contrajo-un-83-interanual-en-el-primer-trimestre-de-2023/>

⁵⁷ Reuters, *Venezuela’s inflation slows to 234% in 2022, vice president says*, 23 January 2023. Available at: <https://www.reuters.com/world/americas/venezuelas-inflation-slows-234-2022-vice-president-says-2023-01-23/>.

⁵⁸ Trading Economics, *Inflation Rate – World*. Available at: <https://tradingeconomics.com/country-list/inflation-rate?continent=world/>. Available at: <https://www.fao.org/panama/noticias/detail-events/ar/c/1629848/>.

⁵⁹ Banco Interamericano de Desarrollo (BID), *Tendencias recientes en la distribución del ingreso en Venezuela: un análisis a través de los microdatos de encuestas de hogares*. Documento para discusión núm. IDB-DP-00982 (December 2022), p. 10. Available at: <http://dx.doi.org/10.18235/0004640>.

⁶⁰ HumVenezuela, *Diagnósticos comunitarios*, March 2021, p. 4. Available at: <https://humvenezuela.com/wp-content/uploads/2022/09/promedehum-informe-situacion-derechos-humanos-Venezuela-agosto-2022.pdf>.

⁶¹ Instituto de Investigaciones Económicas y Sociales (UCAB), *Condiciones de vida de los venezolanos ENCOVI 2022* (November 2022), pp. 40-41.

Food and Agriculture Organization of the United Nations, the International Fund for Agricultural Development, the United Nations Children’s Fund, The World Food Program and The Pan American Health Organization, *Regional Overview of Food Security and Nutrition in Latin America and the Caribbean 2022*, p. 5. Available at: <https://www.fao.org/panama/noticias/detail-events/ar/c/1629848/>.

⁶³ Ibid.

⁶⁴ Metadata for SDG Indicator 2.1.1 – Prevalence of undernourishment. See Food and Agriculture Organization of the United Nations (FAO), *Sustainable Development Goals*. Available at: <https://www.fao.org/sustainable-development-goals-data-portal/data/indicators/2.1.1-prevalence-of-undernourishment/en>.

50. The humanitarian and human rights crisis continued to fuel the massive exodus of Venezuelan citizens. According to the latest estimates by the United Nations High Commissioner for Refugees (UNHCR), by June 2023, approximately 7.24 million people had left the country, including refugees and migrants,⁶⁶ representing a 60% increase compared to December 2019.⁶⁷ The vast majority, some 6.1 million people, settled in Latin American countries.⁶⁸

51. Indigenous peoples, who represent 2.8% of the population,⁶⁹ continued to be in a critical situation one of the causes of which was the lack of access to basic public services, the absence of land entitlement and protection of their traditional territories, the exploitation of natural resources in their territories, and the serious environmental deterioration resulting from such exploitation.⁷⁰ Forced displacement and cross-border migration of indigenous communities fleeing violence and humanitarian crisis increased from 2020 onwards.⁷¹

52. The Mission's report on the Orinoco Mining Arc drew attention to the situation of the Pemón people (Arekuna, Karamoto and Taurepan) and other peoples in the State of Bolívar affected by illegal gold mining and violence perpetrated by illegal armed groups and by the State itself.⁷² Similar situations and social dynamics were experienced in the neighbouring state of Amazonas and other regions.⁷³

2. Chronology of principal events (January 2020-September 2023)

a) January-December 2020: parliamentary elections and new legitimacy crisis

53. As analysed in the Mission's first report, the legislative elections of December 2015, in which the political opposition parties won a large majority, triggered an unprecedented institutional crisis.⁷⁴

⁶⁵ HumVenezuela, Informe de seguimiento a los impactos de la Emergencia Humanitaria Compleja en Venezuela tras el confinamiento por la pandemia de COVID. Actualización a Marzo 2022 y evolución comparada con Marzo 2020 y Junio 2021 (2022). Available at: <https://humvenezuela.com/wp-content/uploads/2022/09/HumVenezuela-Informe-Marzo-2022.pdf/>.

⁶⁶ Plataforma Interagencial para los Refugiados y Migrantes de Venezuela (RV4), Refugiados y migrantes de Venezuela (datos actualizados a junio de 2023). Available at: <https://www.r4v.info/es/refugiadosymigrantes/>.

⁶⁷ Observatorio Venezolano de Migración Evolución stocks de emigrantes 1990-2019 (en diciembre de 2019, la cifra de personas refugiadas y migrantes venezolanas se estimaba 4,487). Available at: <https://www.observatoriovenezolanodemigracion.org/tablas-y-graficos/venezuela-evolucion-stocks-de-emigrantes-1990-2019#:~:text=Evolución%20stocks%20de%20emigrantes%201990-2019%20descargar%20volver%20a,Sociales%20Universidad%20Católica%20Andrés%20Bello%20Caracas%2C%20Venezuela%20%E2%80%8D>.

⁶⁸ Plataforma de Coordinación Interagencial para Refugiados y Migrantes (R4V), Refugiados y migrantes de Venezuela.

⁶⁹ See International Work Group for Indigenous Affairs (IWGIA), *The Indigenous World 2022: Venezuela* (2022). Available at: <https://iwgia.org/en/venezuela/4677-iw-2022-venezuela.html>

⁷⁰ *Ibid*

⁷¹ *Ecopolítica Venezuela*, Desplazamiento forzado y esclavitud, el drama de los indígenas Warao en Venezuela, Available at: <https://ecopoliticavenezuela.org/2021/07/07/desplazamiento-forzado-y-esclavitud-el-drama-de-los-indigenas-warao-en-venezuela/>.

⁷² A/HRC/51/CRP.2 paras. 157 y ss.

⁷³ *Ibid.*, par 8.

⁷⁴ A/HRC/45/CRP.11, paras. 72-80.

54. The work of the National Assembly was hampered by a series of rulings issued by the Supreme Court of Justice and by the extension of the prerogatives of the Executive Branch through successive “economic emergency” decrees.⁷⁶ In August 2017, a new National Constituent Assembly, convened by President Maduro and established by popular vote, claimed and exercised functions proper to the National Assembly.⁷⁷

55. The May 2018 presidential elections, widely questioned domestically and internationally, granted President Maduro a second term in office.⁷⁸ The opposition did not accept the results and, in January 2019, Juan Guaidó, president of the National Assembly, declared himself president-in-charge until new presidential elections could be held under fair conditions.⁷⁹

56. The institutional crisis had repercussions on the parliamentary elections to elect the members of the National Assembly for the period 2021-2026 (V Legislature), scheduled for 6 December 2020.⁸⁰

57. At the end of May 2020, the Supreme Court of Justice issued a ruling recognizing Congressman Luis Parra as president of the National Assembly, a candidate backed by the government of President Maduro, in place of Juan Guaidó.⁸¹ The ruling put an end to the legal controversy arising from the January 2020 Assembly’s table vote, during which security forces and “colectivos” prevented Guaidó and other deputies from accessing the Federal Legislative Palace.⁸²

58. On 5 June 2020, the Supreme Court of Justice issued judgment number 0068, in which it declared the National Assembly in “unconstitutional omission” and abrogated to itself the competence to appoint the members of the National Electoral Council⁸³. On 12 June, the same Court issued a judgment naming five persons as principal members and 10 alternate positions of the National Electoral Council, which included two female magistrates of the National Electoral Tribunal itself.⁸⁴

⁷⁵ See, among other sources, Supreme Tribunal of Justice (Constitutional Chamber), Sentence no. 0083, no. exp. 20-0215, 7 August 2020; Sentence no. 0116, no. exp. 20-0250, 18 August 2020; Supreme Tribunal of Justice (Constitutional Chamber), Sentence no. 0132, no. exp. 20-0311, 11 September 2020; Sentence no. 0143, no. exp. 20-0329, 18 September 2020; Sentence no. 0146, no. exp. 20-0329, 10 October 2020; Sentence no. 0158, no. exp. 20-0311, 10 November 2020; Sentence no. 0263, no. exp. 20-0433, 16 December 2020; Sentence no. 0274, no. exp. 17-0001, 30 December 2020.

⁷⁶ Decree no. 4.090, Oficial Journal no. 6501 (Extraordinary), from 5 January 2020; Decree no. 4145, Oficial Journal no. 6515 (Extraordinary) from 5 March 2020; Decree no. 4.194, Oficial Journal no. 6534 (Extraordinary), 4 May 2020; Decree no. 4.242, Oficial Journal no. 6551 (Extraordinary) from 2 July 2020.

⁷⁷ See A/HRC/45/33, para. 15.

⁷⁸ A/HRC/45/33/CRP.11, para. 98; Noticias ONU, Venezuela no reúne las ‘condiciones mínimas’ para unas elecciones libres y creíble, 7 March 2020; OEA, Press release no. D-019/18: Message from the OAS Secretary General on elections in Venezuela, 21 May 2018; Lima Group, Ministry of Foreign Affairs of Peru, Joint Communiqué 001 - 19, 4 January 2019; European Union, Press Release: Members of Parliament: elections in Venezuela for 20 May should be postponed, 3 May 2018; YouTube Video, AFP Español, Venezuelan opposition rejects going to presidential election without guarantees, 21 February 2018. Available at: <https://www.youtube.com/watch?v=wuh1VnL-V5g>.

⁷⁹ *Ibid.*, para 103.

⁸⁰ National Electoral Council (CNE by its Spanish acronym), Press release: Elecciones Parlamentarias se realizarán el próximo 6 de diciembre de 2020, 1 July 2020.

⁸¹ Supreme Tribunal of Justice (Constitutional Chamber), Sentence no. 0065-2020, no. exp. 20-0001, 26 May 2020.

⁸² A/HRC/45/33/CRP.11, paras. 109-110.

⁸³ Constitutional Chamber of the Supreme Tribunal of Justice, Sentence no. 068, no. exp. 20-0215, 5 June 2020, dispositive point no. 4.

59. On 15 and 16 June 2020, the Constitutional Chamber of the Supreme Court of Justice issued rulings suspending the boards of directors of two of the main opposition parties, Acción Democrática and Movimiento Primero Justicia. In these rulings, the Court dismissed the boards of directors of these parties and decided to appoint *ad hoc* boards of directors, with the power to use the “electoral registration, logo, symbols, emblems, colors and any other concept” of these parties⁸⁶. In the following months, the Supreme Tribunal dismissed the executive boards of six other parties: Voluntad Popular;⁸⁷ Movimiento Republicano;⁸⁸ Tendencias Unificadas para Alcanzar Movimiento de Acción Revolucionaria Organizada (Tupamaro);⁸⁹ Patria para Todos;⁹⁰ Bandera Roja⁹¹ and Compromiso País (Compa).⁹²

60. On 30 June 2020, following the mandate of the Supreme Tribunal of Justice, the new National Electoral Council adopted new rules for the holding of parliamentary elections, including a 66% increase in the number of male and female deputies (from 167 to 277). The measure was criticized for altering the population base required to set the number of deputies established in Article 186 of the Constitution, for allegedly partisan purposes.⁹⁴

61. Also following the guidelines set by the Supreme Court, the National Electoral Council approved a new special regulation for the election of the special indigenous representation in the National Assembly.⁹⁵ The regulations changed the appointment of the three indigenous representatives from a direct and a majority system set by law,⁹⁶ to an indirect system through community assemblies.⁹⁷ The new regulations were criticized for contravening the constitutional framework⁹⁸ and for the lack of adequate consultation with indigenous peoples.⁹⁹

⁸⁴ CIDH, Press release no. 151/2027: The IACHR rejects a set of recent decisions made by the Venezuelan Supreme Tribunal of Justice that threaten democratic institutions and fundamental freedoms, 27 June 2020.

⁸⁵ Supreme Tribunal of Justice (Constitutional Chamber), Sentence no. 0071, no. exp. 18-0458, 15 June 2020; Sentence no. 0072, no. exp. 20-0026, 16 June 2020.

⁸⁶ *Ibid.*, dispositive points no. 3(2) and 3(3).

⁸⁷ Constitutional Chamber of the Supreme Tribunal of Justice, Sentence no. 077, no. exp. 20-0053, 7 July 2020.

⁸⁸ Supreme Tribunal of Justice (Constitutional Chamber), Sentence no. 019, no. exp. AA70-E-2017-000096, 20 July 2020.

⁸⁹ Supreme Tribunal of Justice (Constitutional Chamber), Sentence no. 0119, no. exp. 20-0127, 18 August 2020.

⁹⁰ Supreme Tribunal of Justice (Constitutional Chamber), Sentence no. 0122, no. exp. 20-0278, 21 August 2020.

⁹¹ Supreme Tribunal of Justice (Constitutional Chamber), Sentence no. 0124, no. exp. 20-0282, 25 August 2020.

⁹² Supreme Tribunal of Justice (Constitutional Chamber), Sentence no. 0125, no. exp. 20-0284, 25 August dispositive point no. 5.

⁹³ The CNE argued this change on the need to balance the “ready vote” (voting on lists closed nationwide) and the “nominal vote” (voting for individual candidates). CNE, Press release: CNE aprobó normativa especial para Elecciones Parlamentarias 2021- 2026, 30 June 2020

⁹⁴ Acceso a la justicia, 10 claves sobre el sistema electoral aprobado por el írrito CNE, 7 July 2020. Available at: <https://accesoalajusticia.org/10-claves-sobre-el-sistema-electoral-aprobado-por-el-irrito-cne/>; Observatorio Electoral Venezolano (OEV), 7 claves sobre la norma especial de las elecciones parlamentarias, Bulletin no. 45. Available at: <https://oevenezolano.org/2020/07/boletin-45-7-claves-sobre-la-norma-especial-de-las-elecciones-parlamentarias/>.

⁹⁵ Reglamento especial para regular la elección de la representación indígena en la Asamblea Nacional 2020, Consejo Nacional Electoral, Resolution no. 200630-0024, 30 June 2020. See also CNE, Press release: CNE publicó Reglamento Especial para la elección de la representación indígena en la AN, 27 July 2020.

62. The measures adopted by the Supreme Court of Justice and the National Electoral Council were rejected by international human rights organizations, which pointed out their negative impact on the democratic process.¹⁰⁰ These measures were also rejected by the opposition, which decided to boycott the elections by means of an agreement signed by 27 parties.¹⁰¹

63. On 15 October 2020, the National Electoral Council adopted an amendment to the General Regulations of the Organic Law on Electoral Processes, replacing the concept of international observation with that of “international monitoring”, which was subject to additional controls by the Council.¹⁰² The Organization of American States and the European Union decided not to send electoral observation missions due to the absence of sufficient conditions for fair elections.¹⁰³

64. During the months leading up to the parliamentary elections, attacks against political parties, journalists and human rights defenders were reported.¹⁰⁴ On 26 October 2020, Venezuelan authorities detained journalist Roland Carreño, national operational coordinator for the political opposition party Voluntad Popular, a detention that was considered arbitrary by the United Nations Working Group on Arbitrary Detention (see case 7 below),¹⁰⁵ In November the union leader of the State-owned company Petróleos de Venezuela SA (PDVSA) Eudis Girot, was arrested after denouncing acts of corruption within the company. Girot remained in custody until his release in April 2022 (see Case 8 below).¹⁰⁷

⁹⁶ *Ibid.*, Reglamento especial para regular la elección de la representación indígena, art. 14

⁹⁷ *Ibid.*, Reglamento especial para regular la elección de la representación indígena. See also CNE, Press release: CNE publicó Reglamento Especial para la elección de la representación indígena en la AN, 27 July 2020. Available at: http://www.cne.gob.ve/web/sala_prensa/noticia_detallada.php?id=3807

⁹⁸ 1999 Constitution, art. 126; Organic Law on Indigenous Peoples and Communities (LOPCI by its Spanish acronym), 12 August 2005, art. 54; Organic Law of Electoral Processes, 31 July 2009, arts. 143-149.

⁹⁹ A/HRC/47/55, para. 50.

¹⁰⁰ Statement by Michelle Bachelet, United Nations High Commissioner for Human Rights, 44th session of the Human Rights Council, 2 July 2020 (stating that “recent decisions of the Supreme Court of Justice reduce the possibility of creating conditions for credible and democratic electoral processes”). Available at: <https://www.ohchr.org/en/statements/2020/07/human-rights-crimea-nicaragua-and-venezuela?LangID=E&NewsID=26027> See also, IACHR, Press release no. 151/20: IACHR Rejects a Set of Recent Decisions of the Venezuelan Supreme Court of Justice that Undermine Democratic Institutions and Fundamental Freedoms, 27 June 2020 (stating that the TSJ's decisions “interfere[d] with the free development of the democratic process, while reducing democratic spaces”).

¹⁰¹ Public Statement: Unidos debatimos y unidos decidimos: No participaremos en el fraude, sí lucharemos por verdaderas elecciones libres, 2 August 2020 Reproduced on Infobae, Los 27 partidos de la oposición venezolana anunciaron que no participarán en las legislativas convocadas por el régimen de Maduro, 13 February 2020. Available at: <https://www.infobae.com/america/venezuela/2020/08/02/los-27-partidos-de-la-oposicion-venezolana-anunciaron-que-no-participara-en-las-legislativas-convocadas-por-el-regimen-de-maduro/>.

¹⁰² National Electoral Council, Resolution no. 201014-044, 14 October 2020, whereby Title XIV of the General Regulations of the Organic Law of Electoral Processes is amended.

¹⁰³ General Assembly of the Organization of American States (OAS), Resolution AG/RES. 2963 (L-O/20): The Lack of Minimum Democratic Conditions to Guarantee Free, Fair, and Transparent Elections in the Bolivarian Republic of Venezuela, 21 October 2020; European External Action Service (EEAS), Press release: Press release on the EU stakeholder dialogue in Caracas, 30 September 2020.

¹⁰⁴ IACHR, Press Release no. 269/20: IACHR warns of obstacles to competitive parliamentary elections in Venezuela, 11 November 2020.

¹⁰⁵ Working Group on Arbitrary Detention, Opinion no. 48/2022 regarding Roland Carreño Gutiérrez, A/HRC/WGAD/2022/48, 11 November 2022.

65. On 6 December 2020, parliamentary elections were held throughout the country, they took place against a backdrop marked by an opposition boycott and an all-time record abstention rate.¹⁰⁸ According to official data, only 30.5% of the electorate participated in the elections.¹⁰⁹ The electoral alliance formed by the ruling parties - the Gran Polo Patriótico party and the United Socialist Party of Venezuela (Partido Socialista Unificado de Venezuela PSUV) and other related groups - obtained 69.43% of the votes, winning 253 seats. The Organization of American States and the European Union issued declarations rejecting the election results.¹¹⁰

66. On 11 December, voting was held to elect the three indigenous representatives following the new indirect voting system introduced by the CNE, which was preceded by 37 community assemblies.¹¹¹ The three indigenous representatives elected were PSUV militants.¹¹²

67. A few days after these elections, on 18 December 2020, the National Constituent Assembly (ANC) formally terminated its activities.¹¹³ Since its establishment in August 2017, the ANC adopted a large number of legislative acts supplanting the formal functions of the National Assembly, although it did not fulfil its initial purpose of adopting a new constitutional text.¹¹⁴

¹⁰⁶ Joint allegation letter from the Rapporteur on the situation of human rights defenders, the Working Group on Arbitrary Detention, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, AL-Ven 7/2021, 27 July 2021.

¹⁰⁷ El Tiempo, Liberaron al dirigente petrolero Eudis Giro, 25 April 2022. Available at: <https://eltiempove.com/liberaron-al-dirigente-petrolero-eudis-girot/>.

¹⁰⁸ BBC News, Elecciones en Venezuela 2020: el chavismo gana las elecciones parlamentarias marcadas por el boicot de la oposición y una masiva abstención, 7 December 2020. Available at: <https://www.bbc.com/mundo/noticias-america-latina-55212032>; France24, Venezuela celebró sus elecciones legislativas en medio de un boicot de la oposición. Available at: <https://www.france24.com/es/am%C3%A9rica-latina/20201207-venezuela-elecciones-boicot-fraude/>.

¹⁰⁹ CNE, Press release: CNE presentó segundo boletín correspondiente a elecciones parlamentarias 2020, 8 December 2020.

¹¹⁰ OAS Permanent Council, Resolution CP/RES. 1164 (2309/20): Rejection of the parliamentary elections held on December 6 in Venezuela, 10 December 2020; Council of the European Union (EU), Press Release: Venezuela: Declaration by the High Representative on behalf of the EU on the elections for the National Assembly, 7 December 2020.

¹¹¹ CNE, Press release: Pueblos indígenas de 10 estados del país eligen 3 representantes al Parlamento, 11 December 2020. Available at: http://www.cne.gob.ve/web/sala_prensa/noticia_detallada.php?id=3897; CNE, Press release: CNE totaliza Actas de Escrutinio de elección indígena a la Asamblea Nacional, 12 December 2020. Available at: http://www.cne.gob.ve/web/sala_prensa/noticia_detallada.php?id=3900.

¹¹² Tal Cual Digital, CNE proclamó a diputados electos a la Asamblea Nacional por los pueblos indígenas, 15 December 2020. Available at: <https://talcualdigital.com/cne-proclamo-a-diputados-electos-a-la-asamblea-nacional-por-los-pueblos-indigenas/>; Deutsche Welle (DW), Otorgan al chavismo las tres diputaciones indígenas de Venezuela, 15 December 2023. Available at: <https://corporate.dw.com/es/qui%C3%A9nes-somos/s-31839/>.

¹¹³ YouTube Video - Luigino Bracci Roa, Asamblea Nacional Constituyente finaliza: Diosdado Cabello hace balance de gestión, 15 December 2020. Available at: https://www.youtube.com/watch?v=gMuqTqT9J_o/.

¹¹⁴ A/HRC/45/33, para. 15.

68. The outgoing National Assembly (IV Legislature) formally denied the legitimacy of the parliamentary elections. On 18 December, the Assembly adopted a legislative reform to continue its mandate for a sixth year, with the aim of promoting the holding of free parliamentary and presidential elections.¹¹⁵ The National Assembly ratified Juan Guaidó as acting president.¹¹⁶

69. On 30 December 2020, the Supreme Court of Justice issued a ruling declaring that “any action taken for the purpose of perpetuating, extending, continuing or proroguing the investiture or status of deputies to the National Assembly” was “invalid and lacking in legal validity and efficacy.”¹¹⁷

70. On 7 January 2021, the deputies of the new National Assembly (V Legislature) were sworn in. The Assembly appointed Congressman Jorge Rodríguez Gómez as its new president.¹¹⁹ A few days later, on 12 January 2021, President Maduro presented the balance sheet of his administration to the Assembly for the first time in five years.¹²⁰

¹¹⁵ Law amending the Statute governing the transition to democracy to reestablish the validity of the Constitution of the Bolivarian Republic of Venezuela, Legislative Gazette no. 38, 28 December 2020. The decision of the National Assembly was based on an interpretation of Article 333 of the 1999 Constitution, which establishes that the “Constitution shall not cease to be in effect if it ceases to be observed due to acts of force or because of repeal in any manner other than as provided for herein”; by virtue of this provision, “every citizen, whether or not vested with official authority, has a duty to assist in bringing it back into actual effect.” According to the interpretation defended by the National Assembly, the fraud in the parliamentary elections entailed a breakdown of the constitutional order by usurpation of the legislative power (similar to the one that occurred in the 2018 presidential elections in relation to the executive power) generating the need to guarantee the continuity of the validity of the Constitution until the democratic institutionality could be reinstated. Román J. Duque Corredor, “La estabilidad y la continuidad legislativa constitucional y las cláusulas de salvaguardia de la defensa de la Constitución y de la democracia y los derechos de desconocimiento y de resistencia civil”, en José Ignacio Hernández G. (ed.), *Estudios sobre la reforma del Estatuto de Transición de 2022 y la continuidad constitucional en Venezuela* (Caracas, Iniciativa Democrática España y las Américas – IDEA, 2022), p. 25.

¹¹⁶ National Assembly, Press Release: Approved the continuation of the NA and the acting presidency of Juan Guaidó, 2 January 2022. Available at: <https://www.asambleanacionalvenezuela.org/noticias/aprobada-la-continuidad-de-la-an-y-de-la-presidencia-encargada-de-juan-guaido>; Deutsch Welle, Parlamento Venezuela extiende su período por un año, 27 December 2020. Available at: <https://www.dw.com/es/parlamento-venezuela-extiende-por-un-a%C3%B1o-su-per%C3%ADodo-y-su-reconocimiento-a-guaid%C3%B3/a-56065643/>.

¹¹⁷ Supreme Tribunal of Justice (Constitutional Chamber), Judgement no. 0274, no. exp. 17-0001, 30 December 2020, dispositive point no. 3. The judgment also decreed the “absolute nullity and lack of legal effects of the Law of partial reform of the Statute governing the transition to democracy to reestablish the validity of the Constitution of the Bolivarian Republic of Venezuela, adopted by the National Assembly. *Ibid.*, dispositive point no. 1.

¹¹⁸ CNE. Press release: Poder Electoral recibió notificación sobre la instalación de la nueva Asamblea Nacional, 6 January 2021. Available at: http://www.cne.gob.ve/web/sala_prensa/noticia_detallada.php?id=3906.

¹¹⁹ National Assembly, Speech: La nueva AN será el epicentro de la reconciliación nacional, 9 January 2021. Available at: <https://www.asambleanacional.gob.ve/noticias/la-nueva-an-sera-el-epicentro-de-la-reconciliacion-nacional-dijo-en-su-discurso-inaugural>.

¹²⁰ National Assembly, Press Release: Maduro ante la AN: 2020 estuvo marcado por la pandemia y el Gobierno demostró su humanismo, 12 January 2021. Available at: <https://www.asambleanacional.gob.ve/noticias/maduro-ante-la-an-2020-estuvo-marcado-por-la-pandemia-y-el-gobierno-demostró-su-humanismo>.

b) January 2021-January 2022: escalation of attacks on civil society and the new electoral cycle

71. Between January and April 2021, new attacks against non-governmental organizations (NGOs) were recorded.¹²¹ Some of these incidents are discussed in depth below (see chapter IV below).

72. On January 12, the premises of the humanitarian NGO Azul Positivo were raided and six of its members detained by officials of the Directorate General of Military Counter-intelligence (DGCIM by its Spanish acronym). Five of the six detainees faced charges of alleged fraudulent handling of smart cards, money laundering and criminal association¹²². The Inter-American Commission on Human Rights (IACHR) denounced the escalation of stigmatizing speeches against human rights defenders by high-level State authorities and through social networks.¹²³ The journalists who covered the so-called “Güiria shipwreck” - in which 33 Venezuelan migrants died - were subject to harassment from authorities¹²⁴.

73. The Government implemented a series of legal reforms aimed at regulating the operation of NGOs (see chapter IV.B below). On 22 February 2021, National Office against Organized Crime and Financing of Terrorism (ONCDOFT by its Spanish acronym) adopted Administrative Ruling number 001-2021, which established a new process for the registration, inscription and identification of the source of financing and beneficiaries of NGOs and other associations.¹²⁵ The regulation was widely criticized both nationally and internationally for the use of anti-terrorism legislation to criminally prosecute and control the work of the civil society. Following the criticism, in May, ONCDOFT issued Administrative Ruling number 002-2021, which repealed some of the most controversial aspects of the previous ruling, such as the requirement to identify the beneficiaries of the organizations and the penalty system applicable for failure to register with RUSO-ONCDOFT¹²⁹.

¹²¹ National Electoral Council (CNE by its Spanish acronym), Press release: 25/21. The IACHR and the SRFOE condemn attacks against human rights defenders and journalists, and warn about the closure of democratic spaces in Venezuela, 5 February 2021. Available at: <https://www.oas.org/es/CIDH/jsForm/?File=/es/cidh/prensa/comunicados/2021/025.asp>. Front Line Defenders, Six members of humanitarian organization Azul Positivo detained,

19 January 2020, Available at: <https://www.frontlinedefenders.org/en/case/six-members-humanitarian-organisation-azul-positivo-detained-members-humanitarian-organisation-azul-positivo-detained/>. Also see A/HRC/45/CRP.8, para. 222.

¹²³ IACHR, Press Release no. 025/21: The IACHR and the OSRFE condemn attacks against human rights defenders and journalists, and warn about the closure of democratic spaces in Venezuela, 5 February 2021.

¹²⁴ The “so-called Güiria shipwreck” refers to the shipwreck that occurred on 12 December 2020 in which 19 people, including two boys and two girls, died while trying to reach neighbouring Trinidad and Tobago. See El Pitazo, “Naufragio en Güiria genera lamentaciones y ataques a periodistas por redes sociales”, 13 December 2020. Available at: <https://www.elpitazo.net/sucesos/naufragio-en-guiria-genera-lamentaciones-y-ataques-a-periodistas-por-redes-sociales/>.

¹²⁵ Ruling whereby the Regulations for the Unified Registry for Reporting Entities before the National Office Against Organized Crime and Financing of Terrorism (RUSO-ONCDOFT) are issued, Official Gazette No. 453.054 of 30 March 2021.

¹²⁶ Transparencia Venezuela, Organizaciones de la sociedad civil declaran su rechazo rotundo y exigen la derogación de la nueva providencia de registro por terrorismo y otros delitos en Venezuela, 20 April 2021. Available at: <https://transparenciave.org/wp-content/uploads/2021/04/Comunicado-OSC-Providencia-No-001-2021-20-04-2021.pdf>; Acceso a la justicia, Nueva providencia precalifica como terroristas a las ONG, 19 April 2021. Available at: <https://accesoalajusticia.org/nueva-providencia-precalifica-como-terroristas-a-las-ong/>.

¹²⁷ Communication from the United Nations Special Procedures, OL VEN 8/2021, November 19, 2021; IACHR, Press Release no. 108: The IACHR and OSRFE reject the registration of non-profit organizations with Venezuela’s National Office Against Organized Crime and Financing of Terrorism, 30 April 2021. Available at: <https://www.oas.org/en/CIDH/jsForm/?File=/es/cidh/prensa/comunicados/2021/108.asp>.

¹²⁸ United Nations Communication reports of Special Procedures, no. OL VEN 8-21, 19 November 2021.

74. On 23 February 2021, the Venezuelan Comptroller General's Office disqualified 27 deputies of the National Assembly of the IV Legislature from holding public office for a period of up to 15 years, allegedly for failing to submit their sworn declarations of assets.¹³⁰ The disqualification included opposition leader Juan Guaidó, declared acting president by the National Assembly of the IV Legislature (see Case 22 below)¹³¹.

75. During this period, the government began to implement military operations against the so-called "Armed Colombian Terrorist Drug Traffickers" (TANCOL by its Spanish acronym).¹³² In March 2021, armed confrontations took place between the Army and armed groups belonging to the dissidents of the Revolutionary Armed Forces of Colombia-People's Army (FARC-EP) around the town of La Victoria and other border areas of the State of Apure.¹³³ The fighting caused the displacement of more than 5,000 people to Colombia,¹³⁴ while human rights organizations reported abuses against the civilian population at the hands of the army and pressures on the journalists who covered the clashes.¹³⁵ President Maduro would later denounce the involvement of the Colombian government in the activities of the TANCOL.¹³⁶

76. On 16 April 2021, the Civil Cassation Chamber of the Supreme Court of Justice ordered the newspaper *El Nacional* to pay 237,000 petros (more than USD 13 million) in compensation for moral damages for the crime of defamation and slander against Diosdado Cabello Rondón, a deputy of the ruling party.¹³⁷ The case originated in a complaint filed by Cabello in connection with an article published by the newspaper linking him to drug trafficking activities.¹³⁸ The decision, ratified by the Constitutional Chamber of the Court,¹³⁹ led to the complete confiscation of the newspaper's assets (see Case 39: Miguel Henrique Otero, below).¹⁴⁰

¹²⁹ Ruling whereby the Regulations for the Unified Registry for Reporting Entities before the National Office against Organized Crime and Financing of Terrorism (RUSO-ONCDOFT) are issued (Reprinted due to failure in the originals), Official Gazette No. 42.118 of 3 May 2021.

¹³⁰ See Comptroller General of the Bolivarian Republic of Venezuela, Press release: "Contralor General inhabilitó a diputados salientes por negarse a realizar la DJP ante el Máximo Órgano de Control Fiscal", 23 February 2021.

¹³¹ *Ibid.*

¹³² Insight Crime, *The Tancol: Venezuela's Phantom Enemy*, 4 June 2023. Available at: <https://insightcrime.org/news/tancol-venezuela-phantom-enemy/>.

¹³³ Insight Crime, *The Battle for Apure: Chavismo and the ex-FARC*, 13 October 2021. Available at: <https://insightcrime.org/investigations/battle-apure-chavismo-ex-farc/>. Fundaredes, *Apure: cronología de un conflicto armado en la frontera venezolana*, 20 April 2021. Available at: <https://www.fundaredes.org/2021/04/20/apure-cronologia-de-un-conflicto-armado-en-la-frontera-venezolana/>.

¹³⁴ Tal Cual Digital, *Colombia informed the UN of more than 5,000 people were displaced from Venezuela*, 14 April 2021. Available at: <https://talcualdigital.com/colombia-informo-a-la-onu-que-mas-de-5-000-personas-fueron-desplazadas-desde-venezuela/>.

¹³⁵ Tal Cual Digital, *NGO denounced that a similar massacre to that of the Amparo has been committed in Apure*, 26 March 2021. Available at: <https://talcualdigital.com/ong-denuncian-que-violacion-de-ddhh-en-apure-parece-reeditar-masacre-de-el-amparo/>; Runrun.es, *Fundaredes alerta de ataque contra civiles en Apure durante combates en frontera*, 27 March 2021. Available at: <https://runrun.es/noticias/439640/fundaredes-alerta-de-ataque-contra-civiles-en-apure-durante-combates-en-frontera/>.

¹³⁶ Ministry of People's Power for Foreign Affairs (MPPRE), Press release: *President denounces infiltration of a terrorist group in Venezuelan territory TANCOL*, 30 September 2021.

¹³⁷ The Civil Cassation Chamber of the Supreme Court of Justice, judgement no. AVOC. 0081, no. exp. 21-008 (AA20-C-2021-000008), 16 April 2021. Diosdado Cabello, a retired military officer, is a deputy of the National Assembly and vice-president of the Unified Socialist Party of Venezuela (PSUV) and an influential figure in Venezuelan government and politics. His weekly television program "Con el Mazo Dando" is often used as a platform for the stigmatization of people opposed to the government or perceived as such.

¹³⁸ IACHR, Press Release no. 096/21: *The IACHR and its Office of the Special Rapporteur for Freedom of Expression express concern over the decision ordering the Venezuelan newspaper El Nacional to pay more than US\$13 million*, 21 April 2021.

¹³⁹ Supreme Tribunal of Justice (Constitutional Chamber), Judgement no. 0302, no. exp. 21-0234, 22 July 2021.

¹⁴⁰ BBC, *Las autoridades venezolanas embargan la sede del diario El Nacional por la demanda de Diosdado Cabello*, 15 May 2021. Available at: <https://www.bbc.com/mundo/noticias-america-latina-57124130/>.

77. On 5 May 2021, the National Assembly appointed three new principal members to the National Electoral Council out of the five that make up this constitutional body.¹⁴¹ Two new principal male members and a new principal female member took up office. The two new male members are people associated with the opposition, which was interpreted as a sign of political openness.¹⁴²

78. Shortly after its constitution, the new National Electoral Council called for regional and municipal elections to be held in November of the same year.¹⁴³ In contrast to the parliamentary elections of December 2020, on 4 October 2021, the Council admitted, as an exception, the presence of foreign institutions and organizations as international observers.¹⁴⁴

79. On 2 July 2021, the director of the human rights NGO Fundaredes, Javier Tarazona, was detained by members of the Bolivarian National Intelligence Service (SEBIN) along with three other activists.¹⁴⁵ A month before his arrest, Tarazona had denounced to the Attorney General's Office the alleged complicity of Venezuelan authorities with Colombian unregulated armed groups.¹⁴⁶ While his colleagues were later released, Tarazona continues to be detained at SEBIN headquarters in El Helicoide.¹⁴⁷

¹⁴¹ CNE, Press Release: New Electoral Board installed, in accordance with constitutional mandate, 5 May 2021.

¹⁴² CNN in Spanish, Asamblea Nacional venezolana de mayoría oficialista designa los nuevos rectores del Consejo Nacional Electoral en la previa a elecciones, 5 May 2021. Available at: <https://cnnespanol.cnn.com/2021/05/05/asamblea-nacional-venezuela-rectores-consejo-nacional-electoral-orix/>.

¹⁴³ CNE, Press release: El 21N podrán votar 21.159.846 electoras y electores, 26 August 2021.

¹⁴⁴ CNE, Press release: CNE admite excepcionalmente esquema para la observación internacional, 4 October 2021.

¹⁴⁵ Interview with Rafael Tarazona, 1 June 2023; COFAVIC, Ataques a la defensa de los derechos humanos durante el año 2021, 2021, p. 23; Acceso a la Justicia, Cronología del caso de la ONG Fundaredes, 25 April 2023. Available at: <https://accesoalajusticia.org/cronologia-del-caso-de-la-ong-fundaredes/>.

¹⁴⁶ Fundaredes, Fundaredes denunció la existencia de casas seguras para la operatividad de la guerrilla en Venezuela, 1 June 2021. <https://www.fundaredes.org/2021/06/01/fundaredes-denuncio-la-existencia-de-casas-seguras-para-la-operatividad-de-la-guerrilla-en-venezuela/>; El Estímulo. “¿Por qué y por quién sigue preso Javier Tarazona?”, 28 January 2022. Available at: <https://elestimulo.com/venezuela/2022-01-28/por-que-y-por-quien-sigue-preso-javier-tarazona-fundaredes/>.

¹⁴⁷ Tal Cual Digital, 600 días encarcelado: Fundaredes solicita libertad plena de su director Javier Tarazona, 22 February 2023. Available at: <https://talcualdigital.com/600-dias-encarcelado-fundaredes-solicita-libertad-plena-de-su-director-javier-tarazona/>

80. Negotiations between the government and the opposition parties resumed during this stage. From 13 to 14 August 2021, a new round of negotiations between the Government and the opposition political parties grouped in the Unitary Democratic Platform was held in Mexico City and facilitated by the Norwegian Government.¹⁴⁸ As a result, the parties agreed to “a comprehensive and incremental process of dialogue and negotiation” with a view to future regional and municipal elections.¹⁴⁹ On 16 October of that year, the government suspended its participation in the negotiations in protest against the extradition to the United States of Alex Saab, the Colombian-Venezuelan businessman, who was being held in Cape Verde.¹⁵⁰

81. On 16 September 2021, the National Assembly announced a partial reform of the Organic Code of Military Justice, which prohibited the trial of civilians in military courts and transferred court cases involving civilians to the jurisdiction of ordinary courts.¹⁵¹ Although the reform was well received, it was also criticized because it continued to exclude serious human rights violations committed by members of the armed forces from ordinary criminal jurisdiction.¹⁵² The impact of the reform was further limited by a December 2021 ruling of the Supreme Court of Justice, which allowed military courts to continue to exercise jurisdiction over civilians, with the sole requirement of a reasoned order by a military judge.¹⁵³

82. On 21 November 2021, regional and municipal elections were held to elect 23 governors and 335 mayors.¹⁵⁴ According to official reports, there was a significant abstention rate that reached 57.74% of the registered voters.¹⁵⁵ The Great Patriotic Pole bloc, made up of the PSUV and related parties, has been proclaimed winner in 18 governorships and 205 municipalities, with 46.12% of the votes. The opposition won in four governorships and 117 municipalities.¹⁵⁷

¹⁴⁸ See the information page of the Norwegian Ministry of Foreign Affairs regarding the negotiation process between the Venezuelan government and the opposition. Available at: https://www.regjeringen.no/en/topics/foreign-affairs/peace-and-reconciliation-efforts/norways_engagement/venezuela_negotiations/id2674295/

¹⁴⁹ Memorandum of Understanding, 13 August 2021. Available at: <https://www.regjeringen.no/contentassets/d62443bc624041238af2902d356f949c/memorando-de-entendimiento.pdf>

¹⁵⁰ Delegación de la República Bolivariana de Venezuela ante la Mesa de Diálogo y Negociación, press release, 16 October 2021. Available at: <https://www.asambleanacional.gob.ve/storage/documentos/documentos/delegacion-del-gobierno-bolivariano-suspende-su-participacion-en-mesa-de-dialogo-en-mexico-20211017000333.pdf>.

Alex Nain Saab Morán (Alex Saab) is a Colombian-Venezuelan businessman close to President Maduro who acted as an intermediary in several international transactions on behalf of the Venezuelan Government. 51 See A/HRC/2/CRP.11, paras. 131. Saab is currently facing trial in the United States of America on money laundering charges, after being extradited from Cape Verde in October 2021. See Department of Justice (United States of America), Press release: Colombian Businessman Charged with Money Laundering Extradited to the United States from Cabo Verde, 18 October 2021 Available at: <https://www.justice.gov/opa/pr/colombian-businessman-charged-money-laundering-extradited-united-states-cabo-verde>.

¹⁵¹ Organic Law for the Partial Reform of the Organic Code of Military Justice, Official Gazette No. 6676 of 17 September 2021.

¹⁵² IACHR, Press Release no. 273/02. IACHR Welcomes Reform of Venezuela's Military Criminal Court System, Calls for Effective and Immediate Implementation, 14 October 2021.

¹⁵³ Supreme Tribunal of Justice (Constitutional Chamber), Sentence no. 0735, no. exp. 19-479, 9 December 2021.

¹⁵⁴ CNE, Results: Regionals and Municipals 2021. Available at: <https://www2.cne.gob.ve/rm2021>.

¹⁵⁵ *Ibid.*

¹⁵⁶ *Ibid.*

¹⁵⁷ *Ibid.* The four blocs formed by the political opposition parties to run in the elections were: Alianza Democrática (coalition of 12 political parties); Centrados (coalition of five political parties), Coalición Nacional Independiente (alliance of two political parties); Democratic Unity Roundtable (MUD) (unitary platform of 4 political parties).

83. In its preliminary report, the European Union Election Observation Mission concluded that the elections took place in “better conditions” than in previous elections.¹⁵⁸ However, it identified a series of “structural deficiencies”, such as the lack of judicial security, including the judicial intervention of political parties and the “arbitrary political disqualification” of opposition candidates; the electioneering use of state resources and unequal access to the media.¹⁵⁹ A few days later, President Maduro stated that the European Union mission was a “delegation of spies” that was trying to “stain the impeccable electoral process.”¹⁶⁰ The government did not extend visas to the mission members, preventing their post-election observation work.¹⁶¹

84. On 28 November 2021, after a week without declaring a winner for the governorship of the State of Barinas, the CNE appointed an ad hoc commission to “complete the contents of the missing tally sheets” in the State of Barinas.¹⁶² On that date, a difference of 300 votes was counted in favour of the opposition candidate Freddy Superlano.¹⁶³ The following day, the Supreme Court issued judgment number 79-2021, which confirmed the disqualification of Superlano previously decreed by the Office of the Comptroller General of the Republic, and annulled the elections in the State of Barinas.¹⁶⁴ (see Case 37: Freddy Superlano Salinas, *below*). On 1 December 2021, the CNE called for new elections in that State,¹⁶⁵ The election was held on 9 January 2022, and Sergio Garrido, the opposition candidate of the Democratic Union Roundtable (MUD), was elected governor with 55% of the valid votes.¹⁶⁶

85. Shortly after the regional elections, the National Assembly of the IV Legislature (elected for the period 2015-2020 and self-proclaimed in “administrative continuity”) ratified Juan Guaidó as “acting president” for the period 2022-2024.¹⁶⁷ The continuation of the government in charge was not supported by all opposition parties.¹⁶⁸

¹⁵⁸ European Union Electoral Observation Mission Bolivarian Republic of Venezuela, Preliminary Statement: A return to the electoral table of most political forces with improvements in electoral conditions, albeit with persistent structural deficiencies, 23 November 2021, p. 1. Available at: https://www.ceas.europa.eu/eom-venezuela-2021/declaracion-preliminar-un-retorno-la-mesa-electoral-de-la-mayor-ada-de-las-fuerzas_es?s=4434

¹⁵⁹ *Ibid.*

¹⁶⁰ Europa Press, Maduro acusa a la misión electoral de la UE de ser “espías” que buscaban ‘manchar’ los comicios venezolanos, 29 November 2021. Available at: <https://www.europapress.es/internacional/noticia-maduro-acusa-mision-electoral-ue-ser-espias-buscaban-manchar-comicios-venezolanos-20211129002057.html/>.

¹⁶¹ Confidencial, Venezuela expulsa a observadores electorales de la Unión Europea, 3 December 2021. Available at: <https://confidencial.digital/mundo/venezuela-expulsa-a-observadores-electorales-de-la-union-europea/>.

¹⁶² CNE, Press release: Designada comisión AD HOC que totalizará actas del cargo a gobernador de Barinas, 28 November 2021.

¹⁶³ European Union Election Observation Mission, Mission Report: *Venezuela. Elecciones regionales y municipales, 21 November 2021* (2022), p. 44.

¹⁶⁴ Judgement no. 79-2021, no. exp. 2021-000063, 29 November 2021; CNE, Press release: Suspendida totalización del cargo de gobernador de Barinas en acatamiento a medida del TSJ, 29 November 2021.

¹⁶⁵ CNE, Resolution no. 211130-0102, Electoral Gazette No. 1002 of 1 December 2022.

¹⁶⁶ CNE, Press release: Junta Regional Electoral anunció resultados de Elección Barinas 2022, 9 January 2022.

¹⁶⁷ CNE, Press release: AN legítima instaló período 2022-2023 y ratificó la Junta Directiva presidida por Juan Guaidó, 5 January 2022. Available at: <https://asambleanacionalvenezuela.org/noticias/an-legitima-instalo-periodo-2022-2023-y-ratifico-la-junta-directiva-presidida-por-juan-guaido/>.

¹⁶⁸ Tweet de Vente Venezuela [@VenteVenezuela], 27 December 2022. Available at: <https://twitter.com/VenteVenezuela/status/1475505962526154758/>.

86. On 19 January 2022, the National Assembly reformed the Organic Law on the Supreme Court of Justice.¹⁶⁹ The reform reduced the number of magistrates - from 32 to 20 - and modified the membership of the Judicial Nominations Committee, the majority of which is now made up of members of the National Assembly.¹⁷⁰ The reform was criticized for its negative impact on judicial independence.¹⁷¹ The reform also opened the door to the re-election of active magistrates, who otherwise would not have been able to continue in office beyond the 12-year limit stipulated in the Constitution.¹⁷²

c) February-December 2022: international reopening and end of the acting presidency

87. In March 2022, the National Budget Office (ONAPRE by its Spanish acronym) approved a “technical directive” that made adjustments to the wage remuneration system, bonuses and premiums in the public sector and in the calculation of pensions. ONAPRE’s directive violated the terms of the collective bargaining agreements and, according to the unions, exacerbated labor disputes and protests throughout the country.¹⁷⁴

88. In April 2022, the first session of the Social Dialogue Forum was held, bringing together the Government, employers’ organizations and trade unions, with the support of a technical mission from the International Labor Organization (ILO).¹⁷⁵ The forum discussed the implementation of the recommendations issued by the ILO Commission of Inquiry in 2019, which documented violations of the guarantees set forth in No. 26 (minimum wage), No. 87 (freedom of association) and No. 144 (tripartite consultation).¹⁷⁶

¹⁶⁹ Organic Law for the reform of the Organic Law on the Supreme Court of Justice, Official Gazette (Extraordinary) no. 6.684 of 19 January 2022 (LOTSJ, 2022).

¹⁷⁰ See <https://accesoaljusticia.org/reforma-de-la-ley-organica-del-tribunal-supremo-de-justicia/>. The Judicial Nominations Committee is the advisory body of the National Assembly responsible for proposing new appointments to the Supreme Court of Justice. See 1999 Constitution, art. 264 According to the system established in the Organic Law of 2010, the Commission was composed of 11 members, five appointed by the Assembly and six appointed by civil society. Organic Law on the Supreme Court of Justice, Official Gazette No. 39.522 of 1 October 2020, art. 65. The 2022 reform increased the number of members to 21, 11 deputies and 10 designated by civil society. LOTSJ, 2022, art. 7.

¹⁷¹ See IACHR, Press Release no. 034-2022: The IACHR expresses concern about the reform to the Organic Law on the Supreme Court of Justice of Venezuela, 17 February 2022.

¹⁷² A/HRC/51/43, para. 11.

¹⁷³ Decree no. 4,653, whereby the Mandatory Minimum Monthly Wage is increased, as well as the amount of Retirement and Pensions; Decree No. 4,654, by means of which the benefit of the Socialist Basket (Cestaticket Socialista) is increased, Official Gazette No. 6691 (Extraordinary) of 15 March 2022.

¹⁷⁴ IACHR, Annual Report 2022, Chap. VI.B - Venezuela, para. 81. Also see PROVEA, ¿Qué es el Instructivo ONAPRE?, la impopular medida de Maduro que genera el rechazo de los trabajadores venezolanos, 7 August 2022. Available at: <https://provea.org/actualidad/que-es-el-instructivo-onapre-la-impopular-medida-de-maduro-que-genera-el-rechazo-de-los-trabajadores-venezolanos>.

¹⁷⁵ ILO. Progress report on developments concerning the Social Dialogue Forum set up to give effect to the recommendations of the Commission of Inquiry with respect to the Government of the Bolivarian Republic of Venezuela, Institutional Section, 346th Session, (Geneva, October-November 2022), 31 October 2022.

¹⁷⁶ ILO, Report of the Commission of Inquiry appointed under article 26 of the Constitution of the International Labour Organization to examine the observance by the Government of the Bolivarian Republic of Venezuela of the Minimum Wage-Fixing Machinery Convention, 1928 (no. 26), the Freedom of Association and Protection of the Right to Organize Convention, 1948 (no. 87) the Tripartite Consultation (International Labour Standards) Convention, 1976 (no. 144): “Por la reconciliación nacional y la justicia social en la República Bolivariana de Venezuela” (2019).

89. Between 4 and 7 July 2022, union leaders Néstor Astudillo, Gabriel Blanco, Alcides Bracho, Reynaldo Cortés, Alonso Meléndez and Emilio Negrín, who had led protests against the “ONAPRE directive”, were arrested in different parts of the country.¹⁷⁷ All of them faced felony charges, such as conspiracy, terrorism and criminal association.¹⁷⁸ The IACHR granted precautionary measures for the six trade unionists, while the trade union movement denounced the persecution by the State.¹⁷⁹ (see Case 16: Six union leaders, below).

90. During this phase, there were signs of international reopening. In August 2022, the Bolivarian Republic of Venezuela resumed full diplomatic relations with Bolivia, Colombia, Spain and Peru. Between March and June 2022, two high-level delegations from the Government of the United States of America visited Caracas.¹⁸⁰ In October, there was an exchange of inmates with the United States of America.¹⁸¹ Brazil resumed diplomatic relations on 1 January 2023¹⁸². On 25 May of the that year, Chile designated a new ambassador in Caracas for the first time since 2018.¹⁸³

¹⁷⁷ Interview OOI057.

¹⁷⁸ International Federation for Human Rights (FIDH), Urgent Appeal: *Venezuela*. Detención arbitraria del sindicalista y trabajador humanitario Gabriel Blanco, 15 July 2022. Available at: <https://www.fidh.org/es/temas/defensores-de-derechos-humanos/venezuela-detencion-arbitraria-del-sindicalista-y-trabajador/>.

¹⁷⁹ Comunicado de organizaciones de la sociedad civil, sindicatos y las organizaciones miembros de la Alianza para la Defensa de los derechos laborales en Venezuela [signed by 108 unions and associations], 11 July 2022. Reproduced at: <https://provea.org/actualidad/derechos-civiles-y-politicos/organizaciones-de-la-sociedad-civil-y-sindicatos-venezolanos-exigen-libertad-de-defensores-de-ddhh-y-dirigentes-sindicales-detenido-2/>.

¹⁸⁰ YouTube Video - La Casa Blanca, Conferencia de prensa de la secretaria de prensa Jen Psaki, 7 March 2022. Available at: https://www.youtube.com/watch?v=7jj_aQzemFg minuto 4:58; YouTube Video, Euronews, Venezuela y Estados Unidos retoman el diálogo en el marco de la crisis energética mundial, 8 March 2022. Available at: <https://www.youtube.com/watch?v=YIDTa8wFAzs>; U.S. Department of State, Department Press Conference, Spokesman Ned Price (last three paragraphs), 16 March 2022. Available at: <https://www.state.gov/briefings/department-press-briefing-march-16-2022/#post-325172-Venezuela>; Tweet by Nicolás Maduro [@NicolasMaduro], 27 June 2022. Available at: <https://twitter.com/NicolasMaduro/status/1541609599391997952>.

¹⁸¹ On 1 October 2022, Joe Biden, President of the United States, announced the decision to release Efrain Antonio Campo Flores and Franqui Francisco Flores de Freitas from prison. Both, nephews of President Maduro's wife, Cilia Flores, who were sentenced on 18 November 2017 to 216 months in prison for drug trafficking (conspiracy to import cocaine). In exchange, President Maduro's administration released six U.S. businessmen detained in 2019 and a former Marine detained in 2020. See The White House, Statement from President Joe Biden on the Return of Americans Wrongfully Detained in Venezuela, 1 October 2022.

¹⁸² See SwissInfo, Brasil restablecerá relaciones con Venezuela a partir del 1 de enero, 14 December 2022. Available at: https://www.swissinfo.ch/spa/brasil-venezuela_brasil-restablecer%C3%A1-relaciones-con-venezuela-a-partir-del-1-de-enero/48134916/.

¹⁸³ Ministry of People's Power for Foreign Affairs (MPPRE), Press release: Llegó a Venezuela Jaime Gazmuri embajador chileno designado por el presidente Boric, 1 July 2017.

91. As part of this openness and against the backdrop of an international energy crisis exacerbated by the invasion of Ukraine by the Russian Federation, the sanctions imposed on the Bolivarian Republic of Venezuela by other countries were relaxed. In November 2022, the U.S. Treasury Department relaxed the sanctions regime that affected the Venezuelan oil sector, allowing the transnational company Chevron to carry out limited operations.¹⁸⁴ Subsequently, the United States authorized the European companies Eni and Repsol to export Venezuelan oil to Europe.¹⁸⁵ However, the rest of the sanctions, including targeted sanctions against members of the government and security forces involved in acts of political repression, remained in place.¹⁸⁶

92. At this stage, the country entered a pre-electoral cycle in the run-up to the 2024 presidential elections. On 15 November 2022, the opposition parties grouped in the Unitary Democratic Platform formed a National Commission of Primaries,¹⁸⁷ with the mandate to organize primary elections to “elect the unitary candidate for the Presidency of the Republic for the next presidential election.”¹⁸⁸ In December of that year, the Commission formally approached the CNE to request its technical support in organizing the elections¹⁸⁹.

93. On 26 November 2022, in Mexico City, the Government and the United Democratic Platform of Venezuela resumed dialogue and negotiations with the mediation of Norway, for the first time since the Government decided to suspend its participation in October 2021. As a result of these talks, both parties ratified a Second Partial Agreement on the Social Protection of the Venezuelan People.¹⁹⁰ This agreement included the establishment of a trust fund fed with resources frozen in the international financial system, to be administered by the United Nations system, to “support the implementation of social protection measures for the Venezuelan people.”¹⁹¹

¹⁸⁴ Office of Foreign Assets Control (United States of America), Press release: Issuance of Venezuela-Related General Licenses and Frequently Asked Questions, 26 November 2011.

¹⁸⁵ Reuters, U.S. to let Eni, Repsol ship Venezuela oil to Europe for debt, 6 June 2022. Available at: <https://www.reuters.com/business/energy/exclusive-us-let-eni-repsol-ship-venezuela-oil-europe-debt-sources-2022-06-05/>.

¹⁸⁶ During this period, the United States maintained the individual sanctions imposed on Venezuelan individuals, with the sole exception of the removal of sanctions against Carlos Maplica Flores (niece of Cilia Flores), which were lifted in June 2022. See Congressional Research Service (United States), In Focus: *Venezuela*. Overview of U.S. Sanctions, 30 November 2022. The sanctions imposed by Canada, the United Kingdom and the European Union were not modified during this period.

National Commission of Primaries, Reglamento marco para elegir por Primaria a la candidata o candidato presidencial unitario para las elecciones presidenciales de 2024, 6 October 2022. Available at: <https://drive.google.com/file/d/1MYWT4TAnBLdX8YHlpEATgOgAVpNILIkW/view/>.

¹⁸⁸ *Ibid.*, art. 1.

¹⁸⁹ Letter from the National Commission of Primaries to the National Electoral Council, 1 February 2023. Available at: <https://drive.google.com/file/d/1m0Zgy1mUWKHdRQbOuUsRUfdbrIEDyHgY/view/>.

¹⁹⁰ Ministry of Foreign Affairs of Mexico, Press release No. 468: Reanudación del proceso de diálogo y negociación entre el Gobierno y la Plataforma Unitaria de Venezuela, 26 November 2022. Memorandum de entendimiento entre el Gobierno de Venezuela y la Plataforma Unitaria de Venezuela, 26 November 2022.

¹⁹¹ *Ibid.*, p. 2.

94. On 30 December 2022, the National Assembly of Legislature IV (2015- 2020), self-proclaimed in “administrative continuity”, approved the reform of the Statute Law regulating the Transition to Democracy, which eliminated the acting government headed by Juan Guaidó and dissolved all designated agencies and officials.¹⁹² As a result of the suppression of the government in charge, the Assembly took over the management of the board of directors of the state-owned company CITGO, a subsidiary of *Petróleos de Venezuela (PDVSA)*.¹⁹³

d) January-August 2023: new phase of unrest

95. On 1 January 2023, Decree 4753 on job security came into force, which guarantees job stability in the public and private sectors for a period of two years.¹⁹⁴ However, the wage freeze, coupled with high inflation rates, continued to aggravate the loss of purchasing power among the working and retired population.¹⁹⁵

96. Inadequate wages and pensions generated a new wave of protests between January and February 2023, especially in the education and health sectors, as well as in the metallurgical and oil industries.¹⁹⁶ According to the Venezuelan Observatory of Social Conflict, in the first three months of 2023, protests increased by 47% compared to the same period of the previous year.¹⁹⁷

97. On 11 January 2023, members of the SEBIN and the DGCIM detained 18 union leaders and employees of the companies *Siderúrgicas del Orinoco “Alfredo Maneiro” C. A. (Sidor)* and *CVG Bauxita Venezolana C. A. (Bauxiven)* in Ciudad Guayana, Bolívar State, after five days of protest for wage claims.¹⁹⁸ On 14 January, following negotiations between the authorities and the unions, the workers were released and placed under alternative precautionary measures, including a ban on participating in protests.¹⁹⁹

¹⁹² Press release: Aprobada 2da discusión Reforma de Ley de Estatuto que rige la Transición propuesta por AD, PJ, UNT y MVP que elimina el Gobierno interino y toda referencia a la usurpación, 31 December 2022. Available at: <https://www.asambleanacionalvenezuela.org/noticias/aprobada-2da-discusion-reforma-de-ley-de-estatuto-que-rige-la-transicion-propuesta-por-ad-pj-unt-y-mvp-que-elimina-el-gobierno-interino-y-toda-referencia-a-la-usurpacion>.

¹⁹³ Press release: AN legítima aclara situación sobre CITGO Petroleum, 5 May 2023. Available at: <https://www.asambleanacionalvenezuela.org/noticias/an-legitima-aclara-situacion-sobre-citgo-petroleum/>.

¹⁹⁴ Decree no. 4.753, Official Gazette No. 6,723 (Extraordinary) of 20 December 2022.

Central de Trabajadores y Trabajadoras Alianza Sindical Independiente de Venezuela (Central ASI Venezuela), Press release: Central ASI Venezuela rechaza política de congelamiento salarial impuesta por el Ejecutivo, 23 February 2023. Available at: <https://centralasive.org/central-asi-venezuela-rechaza-politica-de-congelamiento-salarial-impuesta-por-el-ejecutivo/>.

¹⁹⁶ El País, Maduro se enfrenta a un nuevo pico de protestas por los bajos sueldos en Venezuela, 16 January 2023. Available at: <https://elpais.com/internacional/2023-01-16/maduro-enfrenta-un-nuevo-pico-de-conflictividad-por-el-rezago-salarial-en-venezuela.html/>.

¹⁹⁷ Venezuelan Observatory of Social Conflict (OVCS) Conflictividad durante el primer trimestre de 2023. Available at: <https://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/conflictividad-durante-el-primer-trimestre-de-2023>.

¹⁹⁸ Provea, Gobierno canjeó como rehenes a trabajadores detenidos por reclamar derechos laborales en Sidor. Available at: <https://provea.org/actualidad/gobierno-canjeo-como-rehenes-a-trabajadores-detenido-por-reclamar-derechos-laborales-en-sidor/>.

¹⁹⁹ Primicia, “Trabajadores fueron liberados bajo régimen de presentación”, 15 January 2023. Available at: <https://primicia.com.ve/sucesos/trabajadores-fueron-liberados-bajo-regimen-de-presentacion/>; Provea, Gobierno canjeó como rehenes a trabajadores detenidos por reclamar derechos laborales en Sidor. Available at: <https://provea.org/actualidad/gobierno-canjeo-como-rehenes-a-trabajadores-detenido-por-reclamar-derechos-laborales-en-sidor/>.

98. On 24 January 2023, the National Assembly adopted at the first reading the draft Law on Control, Regularization, Operations and Financing of Non-Governmental and Related Organizations (NGO Law),²⁰⁰ which was met with widespread national and international rejection.²⁰¹ The Mission indicated that, if adopted, the law would place “formal requirements on existing and prospective NGOs which are so onerous that, in practice, it would grant the State a quasi-permanent power to suppress them”, and warned that passing the law could represent “a point of no return in the closure of the civic and democratic space in Venezuela”²⁰².

99. In March, the National Assembly’s Standing Committee on Foreign Policy, Sovereignty and Integration adopted at first reading the Draft Law on “International Cooperation.”²⁰³ Just as with the NGO Law, the Draft Law on International Cooperation, originally Like the NGO Law, the draft Law on International Cooperation, originally submitted in May 2022, raised concerns regarding the imposition of arbitrary limitations on the operation of civil society entities.²⁰⁴

100. On March 20, 2023, Venezuela's oil minister, Tarek El Aissami, resigned amid a corruption scandal linked to an embezzlement, bribery and money laundering scheme related to State-owned companies PDVSA and Corporación Venezolana de Guayana (CVG). According to unofficial sources, in the case of PDVSA alone, internal audits are said to have identified US\$21.2 billion in accounts receivable, corresponding to 84% of oil export collections since January 2020.²⁰⁵ Between 5-8 April 2023, the Attorney General issued 67 arrest warrants and search warrants nationwide, leading to the arrest of 58 individuals in connection with alleged corruption schemes.²⁰⁶

101. In June 2023, dozens of community members of the Yupka people closed the General Rafael Urdaneta bridge in Maracaibo, the largest in the country, in protest against the alleged prohibition of transporting their handicrafts to Caracas²⁰⁷. The protest led to violent confrontations with the Bolivarian National Police, which left eight policemen injured.²⁰⁸

²⁰⁰ National Assembly, Press Release: AN aprueba en primera discusión ley para regular las ONG, 24 January 2023.

Available at: <https://www.asambleanacional.gob.ve/noticias/an-aprueba-en-primera-discusion-ley-para-regular-las-ong>.

²⁰¹ IACHR, Press Release no. UN High Commissioner for Human Rights Volker Türk concludes official mission to Venezuela, 28 January 2023 (“strongly” urging the authorities to take into account the High Commissioner’s comments from a human rights perspective”); IACHR, Press release no. 036/23: CIDH y RELE expresan preocupación por proyecto de ley que limita participación ciudadana en Venezuela, 6 March 2023; Espacio Público, Press release: Foro por la Vida rechaza proyecto de ley que criminaliza la solidaridad, 27 January 2023. Available at: <https://espaciopublico.org/foro-por-la-vida-rechaza-proyecto-de-ley-que-criminaliza-las-ongs/>.

²⁰² Press release: *Venezuela*. Venezuela: Draft NGO law, reaching a point of no return in the closure of the civic space, 30 January 2023 Available at: <https://www.ohchr.org/en/press-releases/2023/01/venezuela-draft-ngo-law-reaching-point-no-return-closure-civic-space>.

²⁰³ National Assembly, Press Release: Comisión de Política Exterior aprueba Proyecto de Ley de Cooperación Internacional, 1 March 2023. Available at: <https://www.asambleanacional.gob.ve/noticias/comision-de-politica-exterior-aprueba-proyecto-de-ley-de-cooperacion-internacional>

²⁰⁴ IACHR, Press Release no. 130/22: IACHR and Its Special Rapporteurship for Freedom of Expression Urge Venezuela to Not Pass International Cooperation Bill, 8 June 2022. Available at: <https://www.oas.org/es/CIDH/jsForm/?File=/es/cidh/prensa/comunicados/2022/130.asp#:~:text=Washington%2C%20D.C.%20%E2%80%93%20La%20Comisi%C3%B3n%20Interamericana,arbitrarias%20a%20la%20labor%20de>.

²⁰⁵ World Energy Trade, PDVSA tiene US\$ 21.200 millones en facturas sin cobrar por ventas de petróleo, 22 March 2023. Available at: <https://www.worldenergytrade.com/oil-gas/general/venezolana-pdvsa-facturas-sin-cobrar-ventas-petroleo/>.

²⁰⁶ Tweet by Tarek Wiliam Saab (@TarekWiliamSaab), 8 April 2023. Available at: https://twitter.com/TarekWiliamSaab/status/1644909387163529217?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1644909387163529217%7Ctwgr%5E4e34f79140292c4224cf47973881ebbc2453e2a6%7Ctwcon%5Es1_&ref_url=https%3A%2F%2Fnoticias24carabob.com%2Fministerio-publico-solicita-67-ordenes-de-aprehension-por-caso-de-corrupcion%2F/.

²⁰⁷ El Diario.com, ¿A qué se debe el conflicto entre indígenas yukpas y funcionarios policiales en el estado Zulia?, 15 June 2023. Available at: <https://eldiario.com/2023/06/15/teexplicamos-conflicto-entre-indigenas-yukpas-y-funcionarios-policiales/>; El Nacional, Ocho funcionarios de la PNB heridos por enfrentamiento con indígenas yukpas en Maracaibo, 12 June 2023. Available at: <https://www.elnacional.com/venezuela/ocho-funcionarios-de-la-pnb-heridos-tras-enfrentamientos-con-indigenas-yukpas-en-maracaibo/>; El Pitazo, Zulia, Policía Nacional cierra puente sobre el lago para impedir paso de los yukpas, 12 June 2023. Available at: <https://elpitazo.net/occidente/zulia-yukpas-cierran-el-puente-sobre-el-lago-de-maracaibo-este-12jun/>; Notifalcon, Zulia: Yukpas se enfrentan a la PNB: ocho funcionarios resultaron heridos, 11 June 2023. Available at: <https://notifalcon.com/2023/06/11/zulia-yukpas-se-enfrentan-a-la-pnb-ocho-funcionarios-resultaron-heridos/>.

²⁰⁸ *Ibid.*

102. In April 2023, the Government of Colombia called for an “International Conference on the Political Process in Venezuela” in Bogotá. The final statement of the Conference emphasized “[t]he need to establish an electoral timetable that allows for the holding of free, transparent elections with full guarantees,” bearing in mind the recommendations of the European Union’s Electoral Observation Mission of 2021.²⁰⁹ After allegedly entering Colombia irregularly,²¹⁰ opposition leader Juan Guaidó relocated to the United States to face the supposed threat of being deported to his country.²¹¹

103. On 1 May 2023, on the occasion of Labor Day, unions called nationwide protests to demand wage increases.²¹² During the march called by the PSUV and the Workers’ Socialist Center (Central Bolivariana Socialista de los Trabajadores y Trabajadoras, CBST), President Maduro announced new emergency bonuses, although he ruled out an increase in the minimum wage.²¹³

104. At the beginning of June, a strike began at the Sidor company’s Pellas plant in Ciudad Guayana, demanding wage increases and improved employment conditions. On 11 June, union leaders Leandro Azócar and Daniel Romero were arrested by Directorate General of Military Counter-intelligence (DGCIM by its Spanish acronym) officials in the vicinity of the plant and brought to justice at the DGCIM headquarters in Puerto Ordaz (see Case 17 below). Both were later transferred to the DGCIM headquarters in Boleíta, Caracas.²¹⁴

²⁰⁹ Ministry of Foreign Affairs (Colombia), Declaración Final Conferencia Internacional sobre el Proceso Político en Venezuela, 25 April 2023, para. 1.

²¹⁰ YouTube Video, Colombian Ministry of Foreign Affairs (@CancilleriaGovCol), Declaración a medios del Canciller Álvaro Leyva sobre el ciudadano venezolano Juan Guaidó, 25 April 2023. Available at: <https://www.youtube.com/watch?v=Bw2Pn6fpGYk&t=12s/>.

²¹¹ YouTube Video, Juan Guaidó Márquez (@jguaidom), Miami Press Conference, 27 April 2023. Available at: <https://www.youtube.com/watch?v=ZllrnoKDIRc>.

²¹² El País, Los venezolanos exigen en la calle un salario digno mientras Maduro decreta bonos de emergencia, 01 May 2023. Available at: <https://elpais.com/internacional/2023-05-02/los-venezolanos-exigen-en-la-calle-un-salario-digno-mientras-maduro-decreta-bonos-de-emergencia.html/>.

²¹³ YouTube Video- Luigino Bracci Roa, Maduro este 1 mayo 2023 en acto por el Día del Trabajador: Anuncios importantes, 1 May 2023. Available at: <https://www.youtube.com/watch?v=3BMsauJRnQE/>. France 24, Maduro descarta aumento de salario mínimo, pero anuncia bonos por USD 60, 1 May 2023. Available at: <https://www.france24.com/es/minuto-a-minuto/20230501-marchan-contra-salarios-de-indigencia-en-venezuela-en-el-1-de-mayo/>.

²¹⁴ El Nacional, Sindicalistas de Sidor fueron trasladados a la DGCIM de Boleíta, 23 June 2023. Available at: <https://www.elnacional.com/venezuela/sindicalistas-de-sidor-fueron-trasladados-a-la-dgcim-de-boleita/>.

105. Opposition parties continued to prepare for the 2024 presidential elections. In June, the opposition's National Commission of Primaries opened the call period for the nomination of candidates for the primary elections, scheduled for 22 October 2023.²¹⁵

106. A few weeks later, the members of the CNE resigned without stating their reasons.²¹⁶ The National Assembly accepted their resignation, which initiated the procedure for the appointment of the CNE members through the creation of a preliminary commission of the Electoral Nominating Committee.²¹⁷ In reaction, the National Commission of Primaries announced that the primary process would be “self-managed” and without official support from the CNE.²¹⁸

107. On 27 June 2023, at the request of a representative of the National Assembly, the Office of the Comptroller General informed by official letter that the national political coordinator of Vente Venezuela, María Corina Machado, is disqualified from holding any public office for a period of 15 years in accordance with the Organic Law of the Comptroller General and the National System of Fiscal Control.²¹⁹ The disqualification generated fierce rejection from various political figures and human rights defenders, both nationally and internationally.²²⁰ Following the passing of a condemnatory resolution by the European Parliament,²²¹ the President of the Venezuelan National Assembly stated that, from now on, he would not issue an invitation to the European Union to deploy an Electoral Observation Mission.²²²

²¹⁵ National Commission of Primaries, Primary Electoral Timetable. Available at:

https://drive.google.com/file/d/1ojhbbshEGxszfkdqz4atHQpfl7t2l_Z5/view. See also:

<https://www.vozdeamerica.com/a/se-inicia-en-venezuela-la-inscripci%C3%B3n-de-pre/7138383.html>;

²¹⁶ Descifrado, AN aceptó renuncia de rectores del CNE y designó comisión preliminar del Comité de Postulaciones Electorales, 15 June 2023. Available at: <https://www.descifrado.com/2023/06/15/an-acepto-renuncia-de-rectores-del-cne-y-designo-comision-preliminar-del-comite-de-postulaciones-electorales-2/>.

²¹⁷ Acuerdo mediante el cual se designa a las ciudadanas Diputadas y a los ciudadanos Diputados que en él se mencionan, como integrantes de la Comisión Preliminar del Comité de Postulaciones Electorales 2023, *Daily Oficial Gazette* no. 42.652 of 16 June 2023. National Assembly, Press Release: Instalada Comisión Preliminar del Comité de Postulaciones Electorales, 16 June 2023.

²¹⁸ Runrun.es, Comisión de Primaria confirma que el proceso será autogestionado y la votación manual, 16 June 2023. Available at: <https://runrun.es/noticias/503487/comision-de-primaria-confirma-que-el-proceso-sera-autogestionado-y-la-votacion-manual/>.

²¹⁹ Comptroller General of the Bolivarian Republic of Venezuela, Directorate General of Special Procedures, Document no. DGPE-23-08-00-008, 27 July 2023. Available at: <https://www.scribd.com/document/656364981/Chavismo-inhabilita-por-15-anos-a-Maria-Corina-Machado#>.

²²⁰ Acceso a la Justicia, Los cinco vicios que hacen nula la inhabilitación de María Corina Machado, 10 July 2023. Available at: <https://accesoalajusticia.org/cinco-vicios-hacen-nula-inhabilitacion-maria-corina-machado/>; IACHR, Press Release no. 155/23, Venezuela: IACHR Condemns Politically Motivated Persecution of Individuals in Run-Up to Elections, 14 July 2023 La Nación, Paraguay y Uruguay condenaron la inhabilitación a Corina Machado en Venezuela, 4 July 2023;

²²¹ European Parliament resolution, Texts adopted: “The political disqualifications in Venezuela”, 13 June 2023. Available at: https://www.europarl.europa.eu/doceo/document/TA-9-2023-0288_EN.html.

²²² National Assembly, AN repudia resolución del Parlamento Europeo sobre inhabilitaciones políticas en Venezuela, 13 June 2023, para. 9. Available at: <https://www.asambleanacional.gob.ve/noticias/an-repudia-resolucion-del-parlamento-europeo-sobre-inhabilitaciones-politicas-en-venezuela>.

108. On 1 August 2023, the 2nd Court of First Instance of the Metropolitan Area of Caracas with exclusive jurisdiction to rule and hear cases of terrorism, corruption and organized crime on a national level ruled in the case of the six trade unionists detained in July 2022 (Astudillo, Blanco, Bracho, Cortés, Meléndez and Negrín) (see Case 16: Six union leaders, below)²²³. The union members were sentenced to 16 years in prison for the crimes of conspiracy²²⁴ and association to commit a crime²²⁵ with political disqualification as a secondary sentence. The sentence was met with widespread national²²⁶ and international criticism²²⁷.

109. 4 August 2023, the Supreme Court of Justice issued judgment 1057, in which it ordered the termination of the National Committee of the Venezuelan Red Cross and established, as a precautionary measure, the creation of an ad hoc restructuring board with the power to administer the organization's assets and call for internal elections.²²⁸ Judicial involvement in the organization was both nationally²²⁹ and internationally rejected.²³⁰

110. A few days later, on 10 August 2023, the Constitutional Chamber of the Supreme Court of Justice agreed to suspend the board of directors of the Communist Party of Venezuela (PCV by its Spanish acronym).²³¹ In these rulings, the Court dismissed the boards of directors of these parties and decided to appoint *ad hoc* boards of directors, with the power to use the “polling card, logo, symbols, emblems, colors and any other concept” of these parties.²³² The ruling was widely rejected nationally.²³³

²²³ Transparencia Venezuela, Con pruebas que violan el debido proceso condenaron a sindicalistas, 3 August 2023. Available at: <https://transparenciave.org/condenados-sindicalistas-con-pruebas-ilegales/>; Infobae, Seis sindicalistas venezolanos fueron condenados a 16 años de cárcel por conspiración: denuncian persecución política, 2 August 2023. Available at: <https://www.infobae.com/venezuela/2023/08/02/seis-sindicalistas-venezolanos-fueron-condenados-a-16-anos-de-carcel-por-conspiracion-denuncian-persecucion-politica/>.

²²⁴ Criminal Code, art. 132, *Oficial Gazette* no. 5.494, 20 October 2000

²²⁵ Organic Law Against Organized Crime and Financing of Terrorism, art. 37, *Official Gazette* no. 39.912, 30 April 2012.

²²⁶ Tweet by Provea [@Provea], 1 August 2023. Available at: <https://twitter.com/Provea/status/1686497697526624258>; Acceso a la Justicia, La persecución contra el movimiento sindical se agudiza mientras aumenta la conflictividad social en Venezuela, 9 August 2023. Available at: <https://accesoaljusticia.org/persecucion-contra-movimiento-sindical-agudiza-mientras-aumenta-conflictividad-social-venezuela/>.

²²⁷ Press release: “Venezuela: UN experts condemn use of counter-terrorism laws to convict trade unionists and labour leaders”, 11 August 2023. Available at: <https://www.ohchr.org/es/press-releases/2023/08/venezuela-un-experts-condemn-use-counter-terrorism-laws-convict-trade>.

²²⁸ Supreme Court of Justice, Judgement no. 1057, 4 August 2022. Available at: <http://historico.tsj.gob.ve/decisiones/scon/agosto/327890-1057-4823-2023-23-0802.HTML>

²²⁹ Acceso a la Justicia, Con la intervención judicial de la Sociedad Venezolana de la Cruz Roja se agrava el patrón de violaciones contra la libertad de asociación en Venezuela, 10 August 2023. Available at: <https://accesoaljusticia.org/con-intervencion-judicial-sociedad-venezolana-cruz-roja-agrava-patron-violaciones-contra-libertad-asociacion-venezuela/>; Acceso a la Justicia, Intervención judicial de la Cruz Roja Venezolana, 4 August 2023. Available at: <https://accesoaljusticia.org/intervencion-judicial-de-la-cruz-roja-venezolana/>; CEPAZ, Intervención judicial de la Sociedad Venezolana de la Cruz Roja agrava el patrón de violaciones contra la libertad de asociación. 10 August 2023. Available at: <https://cepaz.org/noticias/intervencion-judicial-de-la-sociedad-venezolana-de-la-cruz-roja-agrava-el-patron-de-violaciones-contra-la-libertad-de-asociacion/>.

²³⁰ IACHR RFOE, “IACHR and RFOE Reject Attacks on Freedom of Association in Venezuela”, 21 August 2023.

²³¹ (Constitutional Chamber of the) Supreme Court of Justice, Judgement 1160, no. exp. - 23-0708, 11 August 2023. Available at: <http://historico.tsj.gob.ve/decisiones/scon/agosto/328317-1160-11823-2023-23-0708.HTML>

²³² *Ibid.*

²³³ Acceso a la Justicia, Descabezado el gallo rojo: el PCV es el último partido disidente del chavismo en ser intervenido por el TSJ, 17 August 2023. Available at: <https://accesoaljusticia.org/descabezado-gallo-rojo-pcv-ultimo-partido-disidente-chavismo-intervenido-tsj/>.

111. On 24 August 2023, the National Assembly appointed new authorities of the National Electoral Council for the period 2023-2030²³⁴. According to media reports, the new board of directors was composed of three main directors considered to be close to the government (including the then Comptroller General, Elvis Amoroso)²³⁵ and two other directors considered to be close to the opposition²³⁶.

B. Progress in Accountability and Justice for Victims

112. Since its establishment by Human Rights Council resolution 42/25 in 2019, the Mission has been mandated to conduct investigations with a view to “ensuring full accountability of perpetrators and justice for victims.”²³⁷ In its 2020 resolution, the Council added to the mandate that investigations should be aimed at “combating impunity.”²³⁸ While the Mission has no mandate to initiate investigations or criminal prosecutions in specific cases, from the Mission’s perspective, the findings of its investigations have played a positive role in accountability and justice processes for victims both domestically and internationally.

1. The Mission’s impact on the International Criminal Court’s investigations

113. Since the publication of the Mission’s first report in 2020, significant progress has been made in the accountability efforts within the framework of the International Criminal Court (ICC) and its investigations into crimes against humanity in Situation I of the Bolivarian Republic of Venezuela.²³⁹

114. On 8 February 2018, the then ICC Prosecutor, Fatou Bensouda, decided *proprio motu*, based on Article 15 of the Rome Statute, to open a preliminary examination into the situation of the Bolivarian Republic of Venezuela for crimes allegedly committed in this State Party since at least April 2017.²⁴⁰ The decision was based on “a careful, independent and impartial review of a number of communications and reports documenting alleged crimes potentially falling within the jurisdiction of the International Criminal Court.”²⁴¹

²³⁴ National Assembly, Jorge Rodríguez: Nuevo CNE es resultado de un amplio consenso, 5 September 2023. Available at: <https://www.asambleanacional.gob.ve/noticias/diputado-jorge-rodriguez-asegura-que-nuevo-cne-es-resultado-de-un-amplio-consenso>.

²³⁵ Tal Cual Digital, Estos son los nuevos rectores designados para preparar la elección presidencial 2024, 25 August 2023. Available at: <https://talcualdigital.com/estos-son-los-nuevos-rectores-designados-para-preparar-la-eleccion-presidencial-2024/> (Elvis Amoroso, Rosalba Gil Pacheco y Carlos Quintero, ocuparon importantes cargos en el gobierno de Maduro).

²³⁶ *Ibid.* Jaime Nogal and Juan Carlos Delpino were linked to opposition parties

²³⁷ In resolution 42/25 of 27 September 2019, the Council decided to “dispatch that mission urgently to the Bolivarian Republic of Venezuela to investigate extrajudicial executions, enforced disappearances, arbitrary detentions and torture and other cruel, inhumane or degrading treatment since 2014 with a view to ensuring full accountability for perpetrators and justice for victims.” 42/25; A/HRC/RES/45/20, para. 24.

²³⁸ In its resolution 45/20 of 6 October 2020, the Council decided to “extend the mandate of the independent international fact-finding mission for a period of two years, to enable the mission to continue to investigate gross violations of human rights, including extrajudicial executions, enforced disappearances, arbitrary detention, torture and other cruel, inhuman or degrading treatment, including those involving sexual and gender-based violence, committed since 2014, with a view of combating impunity and ensuring full accountability for perpetrators and justice for victims [...]”. 45/20; A/HRC/RES/45/20, para.15. In its resolution 51/29, 7 October 2022, the Council decided to “extend the mandate of the independent international fact-finding mission on the Bolivarian Republic of Venezuela, as set out in Human Rights Council resolution 45/20, for a period of two years, with a view to combating impunity and ensuring full accountability for perpetrators and justice for victims [...]”. A/HRC/RES/51/29, para. 10.

²³⁹ CPI, Información para las víctimas. Available at: <https://www.icc-cpi.int/victims/informacion-para-las-victimas-de-la-situacion-de-venezuela-i>.

²⁴⁰ Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, on opening Preliminary Examinations into the situations in the Philippines and in Venezuela

115. On 27 September 2018, a group of six States party to the Rome Statute and members of the group known as the “Lima Group” - Argentina, Canada, Colombia, Chile, Paraguay and Peru - referred the situation in the Bolivarian Republic of Venezuela to the Prosecutor.²⁴² In accordance with Article 14 of the Rome Statute, the referring States requested that the Prosecutor should open an investigation into crimes against humanity allegedly committed in the territory of the Bolivarian Republic of Venezuela since 12 February 2014.²⁴³ Meanwhile, the Prosecutor continued her preliminary examination that began in February 2018.

116. On 25 September 2020, the Mission submitted its first report to the Human Rights Council, in which the Mission concluded that it had reasonable grounds to believe that human rights violations and crimes against humanity were committed in the Bolivarian Republic of Venezuela.²⁴⁴

117. On 13 October 2020, the Governments of Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Haiti, Honduras, Panama, Paraguay and Peru, referred to as the “Lima Group”, together with Ecuador and El Salvador as observer countries, issued a joint statement calling for those responsible for the “crimes [documented by the Mission] to be brought to justice and for the victims and witnesses to receive due reparation and protection.”²⁴⁵ In addition, the statement noted that “the report of the International Independent Mission [could] be the subject of the preliminary examination of the situation in Venezuela carried out by the Office of the Prosecutor of the International Criminal Court.”²⁴⁶

the Prosecutor of the International Criminal Court, Fatou Bensouda, on opening Preliminary Examinations into the situations in the Philippines and in Venezuela, 8 February 2018. Available at: <https://www.icc-cpi.int/news/statement-prosecutor-international-criminal-court-fatou-bensouda-opening-preliminary-0>. in the context of demonstrations and related political unrest. In particular, it has been alleged that State security forces frequently used excessive force to disperse and put down demonstrations, and arrested and detained thousands of actual or perceived members of the opposition, a number of whom would have been allegedly subjected to serious abuse and ill-treatment in detention. It has also been reported that some groups of protestors resorted to violent means, resulting in some members of security forces being injured or killed.” More than a decade earlier, ICC investigations date back to 9 February 2006, when the then Prosecutor of the Court, Luis Moreno-Ocampo, determined, based on the analysis of twelve communications received by the Court, that the requirements for requesting authorization to initiate an investigation into the situation in Venezuela were met. OTP response to communications received concerning Venezuela, 9 February 2006. Available at: <https://www.legal-tools.org/doc/c90d25/>.

²⁴¹ Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, on opening Preliminary Examinations into the situations in the Philippines and in Venezuela, 8 February 2018. Available at: <https://www.icc-cpi.int/news/statement-prosecutor-international-criminal-court-fatou-bensouda-opening-preliminary-0>. [traducción no oficial]. In 2019, the OTP continued to review the situation, see “Report on Preliminary Examination Activities 2019”, 5 December 2019, paras. 57-83. Available at: <https://www.legal-tools.org/doc/lq7j94/>.

²⁴² Letter refers the Prosecutor to the situation in the Bolivarian Republic of Venezuela since 12 February 2014, 26 September 2018. Available at: https://www.icc-cpi.int/sites/default/files/itemsDocuments/180925-otp-referral-venezuela_ENG.pdf. (Unofficial translation)

²⁴³ Rome Statute of the International Criminal Court, art. 14.

²⁴⁴ A/HRC/45/33, para. 160; A/HRC/45/CRP.11, paras. 2086-2088.

²⁴⁵ Digital platform of the Peruvian State, “Declaración del Grupo de Lima”, 13 October 2020. Available at: <https://www.gob.pe/institucion/rree/noticias/306996-declaracion-del-grupo-de-lima>; Digital platform of the Peruvian State, “Declaración del Grupo de Lima”, 14 August 2020. Available at: <https://www.gob.pe/institucion/rree/noticias/292712-declaracion->

118. Shortly afterwards, in its 14 December 2020 report on the activities carried out in the framework of its preliminary examination, the ICC Office of the Prosecutor, “following a thorough assessment and analysis of the information available”, concluded that “there is a reasonable basis to believe that crimes within the jurisdiction of the Court have been committed in Venezuela since at least April 2017.”²⁴⁷ Furthermore, the OTP concluded that it had a “reasonable basis to believe that members of the security forces [were] allegedly responsible for the commission of these alleged crimes.”²⁴⁸ In her declaration, the Prosecutor “took note” of the Mission’s report and a report of the Government of the Bolivarian Republic of Venezuela, in addition to referring to a report of the Organization of American States.²⁴⁹

119. The Mission presented its second report to the Human Rights Council on 16 September 2021. The report focused both on the role of the justice system in the investigation and prosecution of persons opposed to the Government, or perceived as such, and on the perpetuation of impunity for human rights violations and crimes committed against them,²⁵⁰ the Mission concluded that “the State is not taking tangible, concrete and progressive steps to remedy violations, combat impunity and provide the victims with redress through domestic investigations and prosecutions.”²⁵¹

120. Shortly afterwards, on 3 November 2021, the Government of the Bolivarian Republic of Venezuela signed a Memorandum of Understanding with the Office of the Prosecutor of the International Criminal Court, in relation to strengthening the effectiveness of the administration of justice, cooperation with the Prosecutor, “genuine national proceedings” in accordance with Article 17 of the Rome Statute and the principle of complementarity²⁵².

121. On 16 April 2022, the Prosecutor notified the Pre-Trial Chamber that he had received a request from the Bolivarian Republic of Venezuela to defer the investigation of the Office of the Prosecutor.²⁵³ In accordance with article 18(2) of the Rome Statute, the Prosecutor must defer to such a request, unless the Pre-Trial Chamber decides to resume investigations at the request of the Prosecutor.²⁵⁴

del-grupo-de-lima. “Reiteran su condena a las sistemáticas violaciones a los derechos humanos perpetradas por el régimen ilegítimo de Nicolás Maduro, documentadas en la última actualización del informe presentado por la Alta Comisionada de Naciones Unidas para los Derechos Humanos en julio pasado; e instan al Consejo de Derechos Humanos de las NNUU a que renueve la Misión Internacional Independiente de determinación de los hechos sobre la República Bolivariana de Venezuela”.

²⁴⁶ *Ibid.*

²⁴⁷ Report on Preliminary Examination Activities 2020, 14 December 2020. Available at: <https://www.legal-tools.org/doc/fa25zp/>. 198-214, para. 202. “Subject-matter assessment”

²⁴⁸ *Ibid.*, para 205.

²⁴⁹ *Ibid.*, para 211. The OTP “regrets the tone and manner of the report issued by the General Secretariat of [the OAS]”.

²⁵⁰ A/HRC/48/69, para. 3; A/HRC/48/CRP.5.

²⁵¹ A/HRC/48/69, para. 116; A/HRC/48/CRP.5.

Memorandum of Understanding between the Bolivarian Republic of Venezuela and the Office of the Prosecutor of the International Criminal Court, 3 November 2021 Available at: <https://www.icc-cpi.int/sites/default/files/itemsDocuments/otp/acuerdo/acuerdo-eng.pdf>

²⁵³ ICC, Mr Karim A.A. ICC Prosecutor, Karim A.A. Khan QC, notifies Pre-Trial Chamber I of a request from the Bolivarian Republic of Venezuela to defer his investigation under article 18, para 2 of Rome Statute, 21 April 2022. Available at: <https://www.icc-cpi.int/news/icc-prosecutor-karim-aa-khan-qc-notifies-pre-trial-chamber-i-request-bolivarian-republic>.

²⁵⁴ Rome Statute, art.18(2).

122. On 1 November 2022, the Prosecutor filed a request with Pre-Trial Chamber I seeking authorization to resume the investigation in the Situation in the Bolivarian Republic of Venezuela.²⁵⁵ The OTP analysis quoted extensively from the 2020, 2021 and 2022 Mission reports and statements by its Chair, substantially concurring with the Mission's determinations.²⁵⁶ The OTP cited the Mission's analysis of incidents, victims and specific crimes (including sexual violence).²⁵⁷ In some cases, the Mission was the only source cited or the only source of first-hand interviews with victims.²⁵⁸

123. In its November 2022 request, the OTP cited the findings of the 2021 Mission report regarding the Venezuelan justice system, and the OTP's view concurred with the Mission's findings that legal and institutional reforms related to the justice system have been insufficient and have had limited implementation.²⁵⁹

124. On 28 February 2023, the Bolivarian Republic of Venezuela sent a letter to the ICC rejecting the "fallacies of the media and geopolitical aggression set in motion to accuse Venezuela of alleged crimes against humanity."²⁶⁰ In the letter, the Government denounced the alleged irregularities to the due process committed by the Prosecutor's Office of the Court.²⁶¹

125. On 10 June 2023, the ICC Prosecutor, on an official visit to the country, signed a second Memorandum of Understanding with the Government. In this Memorandum, the establishment of an ICC office in the country was agreed upon.²⁶²

126. On 27 June 2023, Pre-Trial Chamber I of the Court decided to authorize the Office of the Prosecutor to continue the investigation in Situation in Venezuela I.²⁶³ In reaching this decision, the Chamber examined the Prosecution's request, the observations submitted by the Government of the Bolivarian Republic of Venezuela and the communication from 1875 victims.²⁶⁴

127. The Chamber concluded that the domestic criminal investigations and proceedings conducted by the Bolivarian Republic of Venezuela were insufficient with respect to the "scope of [the] Prosecution's intended investigation."²⁶⁵ In this regard, the Chamber highlighted the lack of investigation of "the factual allegations underlying the contextual elements of crimes against humanity" by the judicial authorities, as well as the "focus of the domestic investigations appear to generally be on direct/low level perpetrators"²⁶⁶. On 3 July 2023, the Bolivarian Republic of Venezuela appealed the decision of the Pre-Trial Chamber to the Appeals Chamber of the ICC²⁶⁷.

²⁵⁵ Office of the Prosecutor (OTP), Prosecution request to resume the investigation into the situation in the Bolivarian Republic of Venezuela I pursuant to article 18(2), no. ICC-02/18-18, 1 November 2022.

²⁵⁶ *Ibid.*, paras. 21, 23, 102, 105, 108, 109, 111, 113, 125-165.

²⁵⁷ For example, *ibid.*, paras. 109, 125.

²⁵⁸ For example, *ibid.*, paras. 113, 150, 161.

²⁵⁹ *Ibid.*, paras. 125-165.

²⁶⁰ Communiqué, Government of the Bolivarian Republic of Venezuela, 28 February 2023.

Available at: <https://mppre.gob.ve/wp-content/uploads/2023/02/Comunicado-Venezuela-28-de-febrero-de-2023.pdf>. Unofficial translation

²⁶¹ *Ibid.*

²⁶² ICC Prosecutor's Office, Press Release: ICC Prosecutor, Karim A.A. Khan KC concludes official visit to Venezuela, signing MoU on establishment of in-country office, 13 June 2023. Available at: <https://www.icc-cpi.int/news/icc-prosecutor-karim-aa-khan-kc-concludes-official-visit-venezuela-signing-mou-establishment>.

²⁶³ Decision authorizing the resumption of the investigation pursuant to article 18(2) of the Statute, ICC-02/18-45, 27 June 2023.

²⁶⁴ *Ibid.*, para 1.

²⁶⁵ *Ibid.*

²⁶⁶ *Ibid.*, On 20 July 2023, Pre-Trial Chamber I decided to reject the Bolivarian Republic of Venezuela's request for suspensive effect pending its appeal. See ICC-02/18-53, 20 July 2023.

²⁶⁷ Bolivarian Government of Venezuela, Ministry of People's Power for Foreign Affairs (MPPRE), Comunicado: Venezuela notifica a la CPI su apelación ante la reanudación de la investigación en el asunto denominado "Venezuela I", 4 July 2023. Available at: <https://mppre.gob.ve/comunicado/venezuela-notifica-cpi-apelacion-reanudacion-investigacion-asunto-denominado-venezuela-i/>.

128. In accordance with the Manual of Best Practices for Cooperation between the United Nations and the International Criminal Court, the Mission is under a legal obligation to cooperate with the ICC, taking into account the general principles of cooperation and the essential contacts policy set out in the Manual.²⁶⁸ The Mission notes that, in previous situations brought before the ICC, arrest warrants have been issued against suspects on the basis of evidence including that collected by United Nations investigative bodies. In his 11 May 2023 report on the Situation in Libya, Prosecutor Karim Khan stated that the United Nations Independent Fact-Finding Mission in Libya had directly supported the identification of additional witnesses relevant to the Court's investigations. Khan also referred to the Libya Mission's close relationship with victims and civil society as a crucial factor in delivering justice to victims.²⁶⁹

2. The Mission's impact on domestic court proceedings

129. The Mission's reports and the information gathered can be an asset in the context of investigations and prosecutions of international crimes in national courts based on the principle of universal jurisdiction, particularly in light of the urgency of judicial proceedings. According to this type of jurisdiction, certain crimes are crimes against humanity and therefore fall within the jurisdiction of any country that so determines, so that the national criminal courts of a State may investigate and prosecute the perpetrators of these crimes. The Mission's findings can contribute to advancing accountability at the national level both directly, when the information and analysis gathered through its investigations provide an evidentiary basis for national proceedings, and indirectly, when its findings contribute to broader efforts to ensure accountability for serious human rights violations.

130. The Mission is aware that at least two proceedings have been initiated before the criminal courts of Argentina in connection with international crimes allegedly committed in the Bolivarian Republic of Venezuela. At the time of writing this report, both proceedings were ongoing.

131. The first of these cases refers to a complaint filed in the federal courts of Argentina by the NGO Argentine Forum for Democracy in the Region (FADER by its Spanish acronym) against the presidents of Venezuela, Nicolás Maduro; of Cuba, Miguel Díaz Canel; and from Nicaragua, Daniel Ortega²⁷⁰. The complaint, according to information reviewed by the Mission, was filed with Federal Court No. 7 and Prosecutor's Office No. 11, and is based on "numerous reports from prestigious international [human rights] organizations" documenting the "political persecution of civil organizations and individuals"²⁷¹.

²⁶⁸ Best Practices Manual for United Nations – International Criminal Court Cooperation, 26 September 2016. Available at: <https://www.un.org/sites/www.un.org.ola/files/documents/2018/10/best-practice-guidance-un-icc-cooperation-public.pdf>. (hereinafter referred to as the "Best Practices Manual"); Rome Statute of the International Criminal Court, art. 2; General Assembly Resolution 58/318, A/RES/58/318, 16 September 2004.

²⁶⁹ Twenty-fifth report of the Prosecutor of the International Criminal Court to the United Nations Security Council pursuant to resolution 1970 (2011), 11 May 2023, p. 3, para. 32.
Press release: 'Cause for Optimism' in Delivering Justice to Libyan People, International Criminal Court Prosecutor Tells Security Council, Citing Progress in Past Six Months, 11 May 2023. Available at: <https://press.un.org/en/2023/sc15280.doc.htm/>.

²⁷⁰ Infobae, Cumbre de la CELAC: el Foro por la Democracia denunció a Maduro, Ortega y Díaz Canel y repudió la invitación del Gobierno, 18 January 2023. Available at: <https://www.infobae.com/politica/2023/01/18/cumbre-de-la-celac-el-foro-por-la-democracia-denuncio-a-maduro-ortega-y-diaz-canel-y-repudio-la-invitation-del-gobierno/>.

²⁷¹ Ibid.

132. On 14 June 2023, the NGO Clooney Foundation for Justice (CFJ) filed a complaint before the Argentine federal courts requesting the investigation of systematic and gross human rights violations committed in Venezuela based on the principle of universal jurisdiction.²⁷² The complaint accused commanders of the Venezuelan security forces of alleged responsibility in crimes against humanity of extrajudicial executions against two victims of the 2014 protests.²⁷³ On 25 August 2023, CFJ announced that the organization and some of the victims' families it represents had been admitted as plaintiffs in the investigation.²⁷⁴

133. The complaint alleged that the similarity in the way the two victims were killed demonstrated the existence of “a systematic plan.”²⁷⁵ The complaint quoted extensively from the Mission's investigations and cited the findings of previous reports regarding the context of the allegations, the specific alleged crimes and the lack of action by Venezuelan investigative and prosecution authorities²⁷⁶. On 12 July 2023, Federal Prosecutor Carlos Stornelli initiated an investigation in response to the complaint²⁷⁷.

²⁷² Clooney Foundation for Justice, CFJ Calls on Argentina to Investigate Crimes Against Humanity Committed in Venezuela, 14 June 2023. Available at: https://cfj.org/news_posts/cfj-calls-on-argentina-to-investigate-crimes-against-humanity-committed-in-venezuela/.

²⁷³ AP, Prosecutor in Argentina launches investigation into alleged human rights crimes in Venezuela, 12 July 2023. Available at: <https://apnews.com/article/clooney-foundation-venezuela-human-rights-fd5510ec23e5f6a581d6cd8df0cad423>; Denunciation of crimes against humanity, Mission Document, UUDC001. The CFJ's complaint argues that Argentina is an appropriate jurisdiction given its well-established commitment to universal jurisdiction, as Argentine federal courts have previously applied the principle of universal jurisdiction to cases such as the 2010 case, in which an Argentine federal judge initiated a criminal investigation into alleged crimes against humanity committed in Spain by the Franco regime (1936-1977). This resulted in an exhumation order by the court that allowed the daughter of a victim to recover her father's remains, something the Spanish courts had not done. In 2021, again applying universal jurisdiction, an Argentine federal judge initiated an investigation into the alleged genocide committed against the Rohingya community in Myanmar.

²⁷⁴ Tweet by Clooney Foundation for Justice [@ClooneyFDN], 25 August 2023. Available at: <https://twitter.com/ClooneyFDN/status/1695090572057276805>.

²⁷⁵ AP, Prosecutor in Argentina launches investigation into alleged human rights crimes in Venezuela, 12 July 2023. Available at: <https://apnews.com/article/clooney-foundation-venezuela-human-rights-fd5510ec23e5f6a581d6cd8df0cad423>; UUDC001, “Formulamos Denuncia Por Crímenes De Lesa Humanidad. Solicitamos Competencia Por El Principio De Jurisdicción Universal. Solicitamos Constitución En Partes Querellantes” [Confidential complaint shared with the Mission]. The CFJ's complaint argues that Argentina is an appropriate jurisdiction given its well-established commitment to universal jurisdiction, as Argentine federal courts have previously applied the principle of universal jurisdiction to cases such as the 2010 case, in which an Argentine federal judge initiated a criminal investigation into alleged crimes against humanity committed in Spain by the Franco regime (1936-1977). This resulted in an exhumation order by the court that allowed the daughter of a victim to recover her father's remains, something the Spanish courts had not done. In 2021, again applying universal jurisdiction, an Argentine federal judge initiated an investigation into the alleged genocide committed against the Rohingya community in Myanmar.

²⁷⁶ *Ibid.*

²⁷⁷ AP, Prosecutor in Argentina launches investigation into alleged human rights crimes in Venezuela, 12 July 2023. Available at: <https://apnews.com/article/clooney-foundation-venezuela-human-rights-fd5510ec23e5f6a581d6cd8df0cad423>.

134. In Spain, prior to the establishment of the Mission, there was also a proceeding opened against high-ranking officials of the Bolivarian Republic of Venezuela under the principle of universal jurisdiction. The case concerned the arbitrary detention of Spanish-Venezuelan politician Yon Goicoechea, a member of the Voluntad Popular party. The case was dismissed in 2017 in accordance with reforms to universal jurisdiction laws in Spain in 2017.²⁷⁸

3. Other impacts of the Mission's investigations

135. Along with progress in accountability before national courts and the International Criminal Court, the Mission's investigations have had other impacts on efforts at ensuring accountability, as well as promoting justice for victims and their protection. This is particularly evident in the complementarity between the Mission's investigations and international and regional human rights mechanisms.

136. The IACHR has on several occasions cited the Mission's reports to document its resolutions of precautionary measures issued in relation to Venezuela in cases in which individuals are in "a serious and urgent situation of suffering irreparable harm". For example, on 20 July 2023, the IACHR granted precautionary measures in favour of Franklin Alfredo Caldera Cordero, one of the cases analysed by the Mission.²⁷⁹ The IACHR cited the findings of previous Mission reports and echoed the Mission's concern about the persecution and intimidation of human rights defenders and those working in civil society organizations.²⁸⁰

137. On 13 March 2023, in its opinion on the case of José Alberto Vásquez López, the Working Group on Arbitrary Detention referred to the Mission's findings regarding the common practice of Venezuelan courts to issue arrest warrants on the same day or after apprehension has already taken place. The Mission's findings corroborated the pattern on which the allegation of Vásquez López's arbitrary detention was based²⁸¹.

138. In addition to its specific impact on the accountability of perpetrators of human rights violations and crimes, the Mission sees its contribution as part of the objective of providing justice for victims, including in relation to recognized refugees, asylum seekers and other persons in need of international protection who have left the Bolivarian Republic of Venezuela.

²⁷⁸ El País, La Audiencia Nacional rechaza investigar las torturas al español Goicoechea, preso de Maduro, 26 October 2017. Available at: https://elpais.com/internacional/2017/10/26/actualidad/1509017512_603142.html

²⁷⁹ IACHR, Resolution 40/2023, Precautionary Measures no. 409-23, 20 July 2023. Available at: https://www.oas.org/es/cidh/decisiones/mc/2023/res_40-23_mc_409-23_ve_es.pdf.

²⁸⁰ *Ibid.*, para 20.

²⁸¹ Working Group on Arbitrary Detention, Opinion no. 87/2022, concerning José Alberto Vásquez López (Bolivarian Republic of Venezuela), A/HRC/WGAD/2022/87, 13 March 2023, para. 84: "Regarding arrest warrant no. 040-22, which the Government included in its response [...], this was issued on the same day of his arrest. The source notes that it is common practice for courts to issue arrest warrants on the same day or after an arrest has already been made. This situation has been alerted by the independent international fact-finding mission on the Bolivarian Republic of Venezuela [...]." (Unofficial translation)

139. In 2021, the U.S. Department of Homeland Security referred to the findings of the Mission's 2020 report in the rationale for its decision to recognize temporary protected status for Venezuelan citizens in the United States²⁸². The Mission's reports have also been widely cited by domestic courts²⁸³, UN agencies²⁸⁴ and international human rights NGOs²⁸⁵ as evidence of the human rights crisis in the country.

III. Repression mechanisms: main violations and crimes

A. Introduction

140. By resolution 42/2542/25 of 27 September 2019, the Human Rights Council established the mandate of the Mission "to investigate extrajudicial executions, enforced disappearances, arbitrary detentions and torture and other cruel, inhumane or degrading treatment since 2014."²⁸⁶

141. In its first report, published in 2020, the Mission concluded that it had reasonable grounds to believe that, in the Bolivarian Republic of Venezuela, human rights violations and international crimes were committed as part of a widespread and systematic attack directed against a civilian population, with knowledge of the attack, pursuant to or in furtherance of two separate State policies:

- i. a policy to "silence, discourage and quash opposition to the Government of President Maduro, including by targeting individuals who, through various means, demonstrated their disagreement with the Government, or who were perceived as being against the Government", in addition to their relatives and friends;²⁸⁷
- ii. and a policy to "combat crime", [including] the elimination of persons considered "criminals, through extrajudicial executions"²⁸⁸.

²⁸² Federal Register, The Daily Journal of the United States Government, Designation of Venezuela for Temporary Protected Status and Implementation of Employment Authorization for Venezuelans Covered by Deferred Enforced Departure, 9 March 2021. Available at: <https://www.federalregister.gov/documents/2021/03/09/2021-04951/designation-of-venezuela-for-temporary-protected-status-and-implementation-of-employment>.

²⁸³ National High Court, Chamber for Contentious Administrative proceedings (Spain), Judgement 2212/2023 of 25 April 2023, p. 4/5 (citing the 2022 Mission report as evidence of the "political, social and humanitarian crisis" in the country). Available at: <https://www.poderjudicial.es/search/AN/openDocument/9b679e61cf00b89aa0a8778d75e36f0d/20230519/>.

²⁸⁴ UNDP Peru, Diagnóstico de oportunidades para la población refugiada, migrante y de acogida en el sector público y privado en Lima Metropolitana, 12 May 2021. Available at: <https://www.undp.org/es/peru/publications/diagnostico-de-oportunidades-para-la-poblacion-refugiada-migrante-y-de-acogida-en-el-sector-publico-y-privado-en-lima-metropolitana>, p. 1.

²⁸⁵ Human Rights Watch, Venezuela: Now is not the time to reduce global scrutiny, 26 August 2022. Available at: <https://www.hrw.org/news/2022/08/26/venezuela-now-not-time-reduce-global-scrutiny>; Amnesty International, Venezuela: New UN Fact-Finding Mission report confirms systemic impunity, 16 September 2021. Available at: <https://www.amnesty.org/en/latest/news/2021/09/venezuela-new-un-fact-finding-mission-report-confirms-systemic-impunity/>; International Commission of Jurists, Venezuela: Human rights organizations call on UN Human Rights Council to extend and strengthen Fact-Finding Mission. Available at: <https://www.icj.org/wp-content/uploads/2020/08/Venezuela-UN-HRC-Joint-Statement-2020-ENG.pdf>

²⁸⁶ A/HRC/RES/42/25, para. 24.

²⁸⁷ A/HRC/45/33, para. 160; A/HRC/45/CRP.11, paras. 2086-2088.

²⁸⁸ Ibid. The findings of the Mission's 2021 report are also relevant to the policy of silencing the opposition, insofar as it addressed the role of the agents of the

142. According to the Mission's report, the policy to “silence, discourage and quash” the opposition manifested itself in human rights violations and international crimes committed by State agents in two different frameworks. On the one hand, the selective repression of people who oppose or are perceived as opponents.²⁸⁹ In this context, the Mission documented violations and crimes committed particularly by the state intelligence services, the Bolivarian National Intelligence Service (SEBIN) and the General Directorate of Military Counterintelligence (DGCIM).

143. On the other hand, the policy of silencing opposition to the government was embodied in the State's coordinated response to the protests. In this context, the Mission also documented violations and crimes²⁹⁰ committed by the Bolivarian National Guard (GNB by its Spanish acronym) and other State forces, such as the Scientific, Criminal and Forensic Investigations Corps (CICPC), the Bolivarian National Police (PNB) and SEBIN,²⁹¹ as well as by non-State actors - the so-called “colectivos” - acting with the acquiescence or support of the State.²⁹²

144. In October 2020, the Human Rights Council broadened the scope of the Mission's mandate to cover “gross violations of human rights [...] including those involving sexual and gender-based violence.”²⁹³ The Mission was renewed in October 2022, with the same broad mandate.²⁹⁴

145. This chapter continues by outlining the Mission's findings on the main human rights violations and international crimes committed in the framework of the State's policy to “silence, discourage and quash” the opposition, as identified in its first report. The chapter covers the period from 1 January 2020, complementing the research carried out by the Mission for previous periods.

146. The year 2020 marked a shift with regard to the patterns of human rights violations and crimes documented in previous periods. As was observed by the Mission in its previous report,

[...] over time and given the brutality of the execution of the plan, political dissent was largely crushed, which, compounded by the impact of the coronavirus disease (COVID-19) pandemic over people's ability to protest, has resulted in an overall decrease [of illegal detentions followed by torture].²⁹⁵

147. As discussed above, following the outbreak of the COVID-19 pandemic in March 2020, mass, coordinated protests with explicitly political demands that had been organized during the 2014, 2017, and 2019 crises did not recur.²⁹⁶ According to the Venezuelan Observatory of Social Conflict (OCVS), in 2020 the number of protests decreased by 42% compared to the previous year, and the percentage of protests of a political nature fell by 80%.²⁹⁷

Venezuelan Public Ministry and Judiciary in the repression of real or perceived opponents of the Government. A/HRC/48/CRP.5, paragraphs 469, 487. The Mission's 2022 report also addressed the role of intelligence services in human rights violations and international crimes committed in the context of the targeted repression of opponents or perceived opponents; A/HRC/51/43, paras. 5, 119 A/HRC/51/CRP.3, paras. 10, 457.

²⁸⁹ A/HRC/45/CRP.11, paras. 240-997.

²⁹⁰ A/HRC/45/CRP.11, paras. 1592-1607.

²⁹¹ *Ibid.*, para 2063.

²⁹² *Ibid.*, para 2076.

²⁹³ A/HRC/RES/45/20, para. 15.

²⁹⁴ A/HRC/RES/51/29, para. 10.

²⁹⁵ A/HRC/51/43, para. 26.

²⁹⁶ See chapter II.C *above*.

²⁹⁷ Observatorio Venezolano de Conflictividad Social (OVCS), Informe Anual Conflictividad Social Venezuela 2020, 25 January 2021. Available at:

<https://www.observatoriodeconflictos.org.ve/oc/wp-content/uploads/2021/01/INFORMEOVCS-ANUAL2020.pdf>

148. The effective implementation of the policy to silence the opposition was also reflected in the reduction of alleged attempts at military uprisings. While the list is not exhaustive, the Mission estimated that between 2017 and 2019 the Government conducted 15 counterinsurgency operations for alleged conspiracies in which abuses were documented against the military members allegedly involved and/or their associates.²⁹⁸ The year 2020 was the last year in which such large-scale counterinsurgency operations took place, including Operation Black First (in response to the so-called “Operation Gideon”), which began in May, and Operation Boycott in December of that year.

149. For the analysis of this chapter, the Mission documented 124 instances of arbitrary deprivations of life, short-term enforced disappearances, arbitrary detentions, torture and other cruel, inhuman or degrading treatment, and sexual and gender-based violence committed against opponents or perceived opponents during the period 2020-2023. The victims of these acts were 72 people (47 men and 25 women including one transgender woman). Nineteen new case studies that the Mission researched in depth for this report are included at the end of the chapter. Some of these cases involve several human rights violations.

150. This chapter is limited to the analysis of human rights violations in the framework of the policy to silence the real or perceived opposition, an aspect that has been methodologically prioritized by the Mission over other acts perpetrated against persons not perceived as opponents of which the Mission has become aware. These include cases of alleged violations and crimes committed during security operations in the framework of the “fight against crime”, which, however, continue to be investigated by the Mission.

B. Arbitrary deprivation of life

1. Legal framework

151. According to international human rights law, the right to life is a supreme and irrevocable right.²⁹⁹ States must ensure that security forces and public officials use deliberate “potentially lethal force” only in cases involving “extreme gravity.”³⁰⁰ In circumstances in which the authorities knew or should have known about potentially unlawful deprivations of life, they have a duty to investigate and, where appropriate, prosecute the perpetrators³⁰¹. There is a special duty to investigate when potentially lethal force has been used in the context of demonstrations³⁰².

²⁹⁸ A/HRC/45/CRP.11, paras. 257-258.

²⁹⁹ ICCPR, art. 6(1); Convention on the Rights of the Child, art. 6; Convention on the Rights of Persons with Disabilities, art. 10; Universal Declaration of Human Rights, art. 3; American Declaration of the Rights and Duties of Man, art. 1; American Convention on Human Rights, art. 4; Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, 9 June 1994 (hereinafter “Convention of Belém do Pará”); art. 4; European Convention for the Protection of Human Rights and Fundamental Freedoms, art. 2; Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, ECOSOC resolution 1989/65, 24 May 1989; Minnesota Protocol on the Investigation of Potentially Unlawful Killings, 2016. The Mission considers that its mandate includes the investigation of acts of extrajudicial executions and other forms of arbitrary deprivation of life. A/HRC/45/CRP.11, note 11.

³⁰⁰ Human Rights Committee, General Comment No. 36 (Right to life), CCPR/C/GC/36, para. 12; Code of Conduct for Law Enforcement Officials [hereinafter “Code of Conduct”], A/RES/34/109, 17 December 2019, art. 3; Basic Principles on the Use of Force and Firearms by Law Enforcement Officials [hereinafter “Basic Principles”], 7 September 1990. See also Inter-American Court of Human Rights, *Montero-Aranguren et al. (Catia Detention Center) v. Venezuela*, 5 July 2005, Series C, No. 150, paras. 68-69; Inter-American Court of Human Rights, *Zambrano Vélez y otros v. Ecuador*, 4 July 2007, Series C, no. 166, para. 84.

³⁰¹ Human Rights Committee, *González v. Argentina*, 17 March 2011, CCPR/C/101/D/1458/2006, para. ⁹⁽⁴⁾; Human Rights Committee, General Comment No. 36 (Right to life), CCPR/C/GC/36, para. 27.

³⁰² Human Rights Committee, *Olmedo v. Paraguay*, CCPR/C/104/D/1828/2008, paragraphs 3(1)- 3(8), 7(5). See also Human Rights Committee, *Umetaliyev y Tashtanbekova v. Kirguistán*, CCPR/C/94/D/1275/2004, paragraphs 2(2), 9(4). States' obligations include ensuring effective protection for individuals and groups of individuals at risk of extrajudicial, arbitrary or summary executions, including persons threatened with death. See Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, Economic and Social Council resolution 1989/65, 24 May 1989, para. 4; Human Rights Committee, General Comment on the Protection of Human Rights and Fundamental Freedoms, para. 4.4; Human Rights Committee, General Comment No. 36 (Right to life), CCPR/C/GC/36, para. 12.

152. According to the definition of the United Nations Human Rights Committee, arbitrary deprivation of life entails “intentional or otherwise foreseeable and preventable life-terminating harm or injury, caused by an act or omission.”³⁰³ The notion of extrajudicial execution involves “acts and omissions by representatives of States that constitute a violation of the general recognition of the right to life,”³⁰⁴ or by “other groups or individuals who cooperate with or are tolerated by the government.”³⁰⁵ In addition, it must be arbitrary, in the sense that it “lacks a legal basis or is incompatible with laws or procedures that protect life,”³⁰⁶ including domestic regulations on the use of force and the use of firearms.³⁰⁷

153. The Venezuelan legal system reflects international standards on arbitrary deprivation of life.³⁰⁸ Although there is no specific crime of extrajudicial executions in Venezuelan criminal law, the Penal Code includes malice aforethought and abuse of authority as aggravating circumstances for homicide.³⁰⁹ Venezuelan law recognizes that the right to life cannot be restricted even in states of emergency.³¹⁰

154. In Article 7(1)(a) of the Rome Statute, the provisions on crimes against humanity criminalize the act of killing or causing the death of one or more persons in the context of a widespread or systematic attack against a civilian population, with knowledge of the attack.³¹¹ The Rome Statute does not contain any specific provision on extrajudicial executions.

³⁰³ Human Rights Committee, General Comment No. 36: “Article 6: right to life”, 3 September 2019, CCPR/C/GC/36, para. 6.

³⁰⁴ OHCHR, Fact Sheet no. 11 (Rev.1) - *Summary of Arbitrary Executions* (1997), p.

4.

³⁰⁵ *Ibid.*, p. 7.

³⁰⁶ CCPR/C/GC/36, para. 17.

³⁰⁷ *Ibid.*, para 19.

³⁰⁸ 1999 Constitution, art. 43; and its violation is criminalized under the 2005 Criminal Code, arts. 405 and those that follow.

³⁰⁹ 2005 Criminal Code, arts. 77(1) and 77(8).

³¹⁰ Organic Law on States of Exception 2001, art. 7(1).

³¹¹ Rome Statute, art. 7(1)(a); Elements of Crimes, art. 7(1)(a)(1): The expression “given death” is interchangeable with the expression “caused death”; A/HRC/45/CRP.11, para.³¹ A/HRC/48/CRP.5, paras. 337.

2. Previous cases of extrajudicial executions and arbitrary deprivations of life

155. Most of the extrajudicial executions investigated by the Mission in the 2020 report took place in the context of security and social control operations (that is, in the framework of the state policy aimed at eliminating alleged “criminals”).³¹² A smaller number of cases recorded in the 2020 report concerned cases of arbitrary deprivation of life committed in the context of the repression or silencing of real or perceived opponents.³¹³

156. In particular, the Mission investigated 36 cases of deaths in the context of anti-government demonstrations carried out in 2014, 2017 and 2019,³¹⁴ and concluded that, in at least eight of the cases investigated, security forces used lethal force against victims when it was not strictly unavoidable in order to protect lives.³¹⁵ The Mission also documented two deaths in custody as part of the targeted repression. These were considered arbitrary deprivations of life.³¹⁶

3. New cases of extrajudicial executions and arbitrary deprivations of life

157. In the period 2020-2023, the Mission investigated nine cases of alleged arbitrary deprivations of life. Three of these deaths occurred in the context of the repression of protests. Four cases were committed against civil society actors and were investigated with a view to determining both possible state responsibility and the possible motivation of political repression behind the deaths. The last two deaths occurred due to lack of timely medical attention - due diligence - to persons deprived of liberty.

a) Deaths in the protests

158. The Mission investigated three cases of deaths that occurred in the context of protests in the period 2020-2023. All of the cases investigated occurred in the context of demonstrations for socioeconomic demands, such as fuel shortages and lack of food and drinking water. The events took place outside the capital, in municipalities of the states of Anzoátegui, Aragua and Zulia. Two of them occurred at service stations in Isla de Toas, Almirante Padilla municipality, Zulia State, and in the Aragua community, Barcelona, Anzoátegui State.³¹⁷

159. The deceased, who were male, were between 18 and 47 years of age. Also, in all cases, according to the sources consulted, the responsibility was attributed to officials from the Bolivarian National Guard (GNB), the DGCIM and the Coast Guard³¹⁸.

³¹² A/HRC/45/CRP.11, paras. 998-1502, 1006-1014. These were large-scale joint police and military security operations. (A/HRC/45/CRP.11, para. 1019) and other targeted security operations carried out by police forces.⁴⁵ A/HRC/11/CRP.11, paras. 998, 1267. The Special Action Forces (FAES by their Spanish acronym) played an important role in the killings and the Mission recommended dismantling them, given the high number of extrajudicial executions carried out by this police force since its creation. A/HRC/45/CRP.11, p. 410.

³¹³ A/HRC/45/CRP.11, paras. 240-997.

³¹⁴ A/HRC/45/CRP.11, paras. 1559, 1592, 1593, 1600, 1601. The Mission identified 18 cases in which the GNB was identified as responsible, in five cases the PNB, in three cases the local police, in one case the FANB and in one case the SEBIN. The Mission also examined seven cases in which “colectivos” were responsible for the use of lethal weapons that caused the death of demonstrators.

³¹⁵ A/HRC/45/CRP.11, paras. 1592, 1597.

³¹⁶ A/HRC/45/CRP.11, paras. 289, 670, 925. In the case of Fernando Albán, who died in custody in what the authorities claimed was a suicide, the Mission found reasonable grounds to believe that public officials were involved in his death, which amounts to arbitrary deprivation of life. ⁴⁵ A/HRC/11/CRP.11, paras. 275, 644 and those that follow, 670. In the case of Captain Acosta Arevalo, the Mission found reasonable grounds to believe that torture and cruel, inhumane and degrading treatment were committed against Captain Acosta Arevalo to the extent of causing his death. ⁴⁵ A/HRC/11/CRP.11, paras. 900 and those following, para. 925.

³¹⁷ See Case 5: Junior Enrique Chaparro. Document OODC040: Case of José Luis Albornoz; Document OODC041: Case of Carlos Ernesto Chaparro.

³¹⁸ *Ibid.*

160. In two of the three cases analysed, the Mission notes that the gunshot wounds that caused the death of the victims hit the thorax or the head. In addition, two of the deceased persons received more than one gunshot wound to their bodies: one received two gunshot wounds,³¹⁹ and the other person seven.³²⁰ In both cases, the Mission concludes that the security agencies that intervened in the protests did not follow protocols on the use of force and firearms.

161. Such data is indicative of the excessive use of force by the security forces responsible for controlling the demonstrations, a pattern that was reported in the Mission's first report.³²¹ A former member of the GNB interviewed by the Mission, and who actively participated in actions to control protests in the period 2018- 2020, confirmed that, for the control of public order at protests, GNB officers received orders to first use tear gas to regain control of the situation.³²² If this was not enough, they could use less lethal ammunition, namely rubber bullets. Finally, as a last resort to disperse a demonstration when it was neither under control nor dissipating, lethal ammunition could be used to “*to eliminate the people who are in protest.*”³²³ However, according to the same source, in reality, some GNB commanders directing operations at the protests gave orders to shoot demonstrators with lethal ammunition, sometimes as a first resort.³²⁴

b) Targeted repression

162. The Mission investigated the deaths of four civil society actors that occurred during the period 2020-2023. The Observatory of Killed Journalists of the United Nations Educational, Scientific and Cultural Organization (UNESCO) recorded the death of two Venezuelan journalists during this period: José Carmelo Bislick Acosta, murdered on 18 August 2020 in the city of Güiría, Sucre State,³²⁵ and Andrés Eloy Nieves Zacarías, murdered on 21 August of the same year in the municipality of Cabimas, Zulia State.³²⁶

As regards the case of José Carmelo Bislick Acosta, PSUV member and radio show host of the programme *El Pueblo en Combate*³²⁷, the Mission's investigation was unable to determine the circumstances, motives and who was involved in the murder of this person. With regard to the case of Andrés Eloy Nieves Zacarías, journalist for Guacamaya TV, a digital media company in the municipality of Cabimas, Zulia State, the Mission has reasonable grounds to believe that the motive for his murder is not related to targeted political repression. According to a source interviewed by the Mission³²⁸, the alleged motive was that Guacamaya TV had information about extortion activities of the CICPC and that it would release it to the public.³²⁹ CICPC and FAES officials allegedly agreed that the latter would murder Andrés Eloy Nieves Zacarías and that the former would cover up for them in the criminal investigations by modifying the crime scene.³³⁰ However, the Public Prosecutor's Office charged six FAES officers with homicide³³¹ and three were sentenced in December 2021 to 18 and 21 years in prison, although the sentence was annulled by the Caracas State Court of Appeals, which ordered a new oral trial.³³²

³¹⁹ Document OODC041: Case of Carlos Ernesto Chaparro.

³²⁰ See Case 5: Junior Enrique Chaparro.

³²¹ A/HRC/45/CRP.11, paras. 1595-1607.

³²² Interview with Luis José Jiménez Rodríguez, 7 May 2022.

³²³ Ibid.

³²⁴ Ibid.

³²⁵ UNESCO. Observatory of Killed Journalists. José Carmelo Bislick. Available at: <https://www.unesco.org/en/safety-journalists/observatory/jose-carmelo-bislick/>.

³²⁶ UNESCO. Observatory of Killed Journalists. Andrés Eloy Nieves. Available at: <https://www.unesco.org/en/safety-journalists/observatory/andres-eloy-nieves-zacarias/>.

³²⁷ Infobae, El brutal asesinato de un dirigente chavista que denunció el negocio del combustible y las drogas: qué hicieron la policía y los funcionarios, 26 August 2020. Available at: <https://www.infobae.com/america/venezuela/2020/08/26/el-brutal-asesinato-de-un-dirigente-chavista-que-denuncio-el-negocio-del-combustible-y-las-drogas-que-hicieron-la-policia-y-los-funcionarios/>.

³²⁸ Interview OOIV076.

³²⁹ Ibid.

³³⁰ Ibid.

³³¹ Ibid.

³³² Ibid.

163. The Mission also investigated the case of the murder of José Gregorio Urbina on 10 January 2022, which took place in the Codazzi parish of the Pedro Camejo municipality in the State of Apure, on the border with Colombia. Urbina was a communicator and a militant of the Venezuelan Communist Party.³³³

164. The Mission also investigated the case of Virgilio Trujillo, Uwottüja leader and defender of the rights of indigenous peoples, which occurred on 30 June 2022, when he was walking through the El Escondido neighbourhood in Puerto Ayacucho, capital of the State of Amazonas. Virgilio Trujillo was shot at least three times in the head by persons, so far unidentified, who were traveling in a vehicle.³³⁴ Trujillo was known for his role as an indigenous Territorial Guard and his condemnation of illegal mining in indigenous territories.

165. In July 2022, a CICPC investigative team from Caracas travelled to the State of Amazonas to investigate the case.³³⁵ According to a source, during interrogations with members of the indigenous community of Pendare, where Trujillo was from, CICPC officials intimidated community members.³³⁶ From that moment on, as the Mission pointed out, no progress was made in the investigation.³³⁷ In February 2023, the indigenous community of Pendare repeatedly denounced that they were suffering harassment and threats from armed groups, and that impunity for the Trujillo murder has left the community even more vulnerable.³³⁸

166. The Mission does not have sufficient information to establish the identity of the persons responsible for the murder of Virgilio Trujillo Arana. The Mission reiterates its call presented in March 2023 to the Human Rights Council that this case be thoroughly investigated.

167. There is no official data on murders of human rights defenders. Front Line Defenders, which lists killings of human rights defenders, did not identify any in the period 2020-2023, in contrast with the 2014-2019 period in which it recorded the murder of six defenders by various actors³³⁹.

³³³ See Case 14: José Urbina.

³³⁴ Entrevista PPIV050; PROVEA, Tras un año el asesinato del líder indígena Virgilio Trujillo sigue impune, 30 June 2023. Available at: <https://provea.org/actualidad/tras-un-ano-el-asesinato-del-lider-indigena-virgilio-trujillo-sigue-impune/>.

³³⁵ Tweet by Douglas Rico [@DouglasRicoVzla], 5 July 2022. Available at: <https://twitter.com/DouglasRicoVzla/status/1544397418631946243>; Entrevista PPIV050.

³³⁶ Interview PPIV050.

³³⁷ Ibid.

³³⁸ Interview with Olnar Ortiz, 3 March 2023; Crónica Uno, Denuncian nuevo hostigamiento a comunidad indígena de Amazonas, 9 February 2023. Available at: <https://cronica.uno/denuncian-nuevo-hostigamiento-a-comunidad-indigena-de-amazonas/>; UCV Noticias, Premian a defensores de derechos humanos en Venezuela, 3 May 2023. Available at: <https://ucvnoticias.blog/2023/03/05/premian-a-defensores-de-derechos-humanos-en-venezuela/>.

c) **Deaths in custody**

168. The Mission identified two cases of deaths in custody of opponents or perceived opponents during the period covered by this report.³⁴⁰

169. The first case was the death of retired General Raúl Isaías Baduel, a case on which the Mission has already commented.³⁴¹ Baduel was arrested in 2017 and prosecuted for treason and incitement to rebellion. According to the version of Attorney General Tarek William Saab, the cause of the General's death in the El Helicoide detention centre was “a cardiorespiratory arrest resulting from COVID-19, while he was receiving the appropriate medical care and the first dose of the vaccine.”³⁴² However, Baduel's relatives have disputed this version. His widow denied that her husband had COVID-19 and the family informed the Mission that, 13 days before his death, the General had been transferred from “La Tumba”, located in the SEBIN headquarters in Plaza Venezuela, to El Helicoide,³⁴³ and that since then he had several ailments such as lower back pain, poor physical strength and loss of appetite.³⁴⁴

170. Ten days before his death, two of his daughters had visited him and found that his health was seriously deteriorated, and his face, hands and body were swollen³⁴⁵. Baduel told one of his daughters that many of the symptoms he was suffering from stemmed from an improvised inguinal hernia operation he underwent on 23 December 2020 in a tent outside the military hospital of Fuerte Tiuna. Three hours after the operation, Baduel was returned to prison where he did not receive medical assistance, medicines or post-surgical care.³⁴⁶

171. One of the daughters, a nurse, also palpated a baseball-sized solid mass above the groin area of her father's body, and a 30cm incision. She realized that her father could die within a few days if he did not receive immediate medical care.³⁴⁷ His son, imprisoned with his father for being implicated in Operation Gideon, pleaded with SEBIN officials for medical care for his father, but was denied. Four days before his death, Baduel could no longer walk, he died in his son's arms on 12 October 2021.³⁴⁸ The Mission has reasonable grounds to believe that the personnel of El Helicoide did not take all appropriate measures regarding Baduel's health in a life-threatening situation, and that, having been denied the medical care requested by his son, they did not comply with their duty of diligence, leading to the presumption of arbitrary deprivation of life.

³³⁹ Human Rights Defenders Memorial, Celebrating those who were killed defending human rights. Available at: https://hrdmemorial.org/es/?filter-form=submitted®ion=212&country=773&state=&s=&nickname=&sex=&start_date=&end_date=&submit=.

³⁴⁰ Statement of the International Independent Fact-Finding Mission on the Bolivarian Republic of Venezuela on the death in custody of General Baduel, 18 October 2021. Available at: <https://www.ohchr.org/es/statements/2021/10/statement-independent-international-fact-finding-mission-bolivarian-republic>.

³⁴¹ Ibid.

³⁴² Tweet by Tarek William Saab [@TarekWilliamSaab], 12 October 2021. Available at: <https://twitter.com/TarekWilliamSaab/status/1448053025793323008?s=20>.

³⁴³ A/HRC/45/33CRP.11, paras. 292-294.

³⁴⁴ Document HHDC099; Document HHDC100: Testimony of Nayeska Baduel; Interview with Raúl Emilio Baduel, 5 July 2023; Interview with Andreina Baduel, 5 July 2023.

³⁴⁵ Document HHDC100: Testimony of Nayeska Baduel; Interview with Andreina Baduel, 5 July 2023; PROVEA, Informe – La muerte lenta de Raúl Isaías Baduel. An emblematic case of the violation of the rights to life, personal integrity and justice in Venezuela, 12 October 2022. Available at: <https://provea.org/wp-content/uploads/2022/10/Informe-Baduel-4.pdf>.

³⁴⁶ Document HHDC100: Testimony of Nayeska Baduel.

³⁴⁷ Ibid.; PROVEA, Informe – La muerte lenta de Raúl Isaías Baduel. An emblematic case of the violation of the rights to life, personal integrity and justice in Venezuela, 12 October 2022. Available at: <https://provea.org/wp-content/uploads/2022/10/Informe-Baduel-4.pdf>.

³⁴⁸ Document HHDC099; Interview with Raúl Emilio Baduel, 5 July 2023.

172. The second case concerns Salvador Fernando Franco Pérez, a member of the Pemón indigenous people of the Kumarakapay Community (San Francisco de Yuruani), located in the Municipality of Gran Sabana, Bolívar State. Franco was part of the indigenous territorial guard of Kumarakapay, known as Aretauka.³⁴⁹ Franco was arrested on 30 December 2019 for his alleged participation in the so-called Operation Aurora, an armed raid of the premises of the Jungle Infantry Battalion “Mariano Montilla” in Luepa, Municipality of Gran Sabana. The events took place on 22 December, and allegedly involved several members of the Kumarakapay Community.³⁵⁰

173. Franco remained detained at the DGCIM Boleíta Headquarters in Caracas until 13 May 2020 when he was transferred to the Rodeo II Judicial Prison. His lawyer, family members, and other people who were detained with Franco in DCGIM Boleíta, denounced that Franco was beaten and mistreated by unidentified DGCIM officials.³⁵¹ Franco's relatives told the Mission that he complained of having several fractures in his body as a result of the blows he received, which made his mobility difficult.³⁵²

174. Franco's transfer to the Rodeo II Judicial Prison took place without prior notification to his lawyers and family members.³⁵³ This prison is located in the State of Miranda, 1,200 km from Kumarakapay, which was a serious obstacle for Franco in terms of receiving visits from his family and basic supplies for his food, hygiene and health.³⁵⁴

175. A person who was detained with Franco at the Rodeo II Judicial Prison told the Mission that, upon arrival at the detention centre, Franco was already in poor health, and began to become more acutely ill, complaining of chest pains and coughing a lot. Despite having requested medical attention from the prison guards, this person affirms that Franco was never taken to be seen by a doctor, nor did any doctor come to see him at the prison, and that the guards did not provide him with medication either.

176. In December 2020, family members were able to visit him at Rodeo II, and observed that he was very ill, coughing up blood and had not received any medical care, which was reported on social networks.³⁵⁶ The NGO Foro Penal also repeatedly requested his transfer to a medical centre because his health had deteriorated.³⁵⁷ These requests were never heeded and Franco died in prison on 3 January 2021 as a result of the lack of medical care at the Rodeo II Judicial Prison. According to information published by his lawyers, Franco's autopsy showed that “he died as a result of cerebral edema, septic shock and other complications due to tuberculosis and malnutrition.”³⁵⁸

³⁴⁹ Interview HHIV030; Interview HHIV031; Interview PPIV014; Interview PPIV011; Venezuelan Violence Observatory (OVV), Operación Aurora: Cronología de la justicia al pueblo Pemón, 26 February 2021. Available at: <https://observatoriodeviolencia.org.ve/news/operacion-aurora-cronologia-de-la-justicia-al-pueblo-pemon/>; See A/HRC/51/43, paras. 293 and 296.

³⁵⁰ Interview with Olnar Ortiz, 20 July 2022; Interview PPIV014; Interview HHIV031; Interview HHIV030; Venezuelan Violence Observatory (OVV), Operación Aurora: Cronología de la justicia al pueblo Pemón, 26 February 2021. Available at: <https://observatoriodeviolencia.org.ve/news/operacion-aurora-cronologia-de-la-justicia-al-pueblo-pemon/>.

³⁵¹ Interview with Olnar Ortiz, 20 July 2022; Interview PPIV011; Interview PPIV014; Interview PPIV095; Foro Penal, Reporte sobre la Represión Política en Venezuela - Año 2020, 22 January 2021, p.18. Available at: <https://foropenal.com/reporte-sobre-la-represion-en-venezuela-ano-2020>.

³⁵² Interview HHIV030; Interview HHIV031; Interview PPIV095.

³⁵³ Interview with Olnar Ortiz, 20 July 2022; Interview HHIV031; Amnesty International, Venezuela: Venezuela: Detention conditions of Indigenous people must adhere to international standards, 5 June 2020, p. 1. Available at: <https://www.amnesty.org/en/documents/AMR53/2488/2020/en/>.

³⁵⁴ Red Amazónica, Salvador Franco Comunicqué, 3 January 2021. Available at: <https://redamazonica.org/wp-content/uploads/Comunicado-Caso-Salvador-Franco-version-final.pdf>.

³⁵⁵ Interview PPIV014.

³⁵⁶ Interview with Olnar Ortiz, 20 July 2022; Interview HHIV031; Interview PPIV095; Tweet by Olnar Ortiz Bare [@olnarortizBARE], 22 December 2020. Available at: <https://twitter.com/olnarortizBARE/status/1341533034181496833?s=20>.

³⁵⁷ Foro Penal, Reporte sobre la Represión Política en Venezuela - Año 2020, 22 January 2021, p. 4. Available at: <https://foropenal.com/reporte-sobre-la-represion-en-venezuela-ano-2020>; La Gran Aldea, Las muchas muertes de Salvador Franco, 10 January 2021. Available at: <https://lagranaldea.com/2021/01/10/las-muchas-muertes-de-salvador-franco/>.

³⁵⁸ *Ibid.* Efecto Cocuyo, Autopsia del pemón Salvador Franco revela que murió por tuberculosis y desnutrición, 5 January 2021. Available at: <https://efectococuyo.com/politica/autopsia-del-pemon-salvador-franco-revela-que-murio-por-tuberculosis-y-desnutricion/>.

177. In light of the above facts, the Mission has reasonable grounds to believe that both Baduel and Franco died in custody as a consequence of not having received the medical assistance required by their state of health. Authorities were aware of the serious health conditions of both men, having been informed on several occasions, both by their legal representatives and their families, but did not take the necessary measures to remedy the situation and try to save their lives.

178. The Mission notes that, according to international standards, it is the authorities' responsibility to ensure adequate medical care for detainees, including prompt access in emergencies and transfer to specialized medical facilities³⁵⁹ or civilian hospitals where necessary.³⁶⁰ According to the jurisprudence of the Human Rights Committee, there is a presumption that death in custody is an arbitrary deprivation of life for which the State is responsible and has the obligation to investigate the facts and punish the persons responsible.³⁶¹

³⁵⁹ Human Rights Committee, *Umarova c. Uzbekistán*, CCPR/C/100/D/1449/2006, para. 8.7; Human Rights Committee, *Toussaint c. Canada*, CCPR/C/123/D/2348/2014, para. 11; Human Rights Committee, *Williams c. Jamaica*, CCPR/C/61/D/609/1995. In the case brought before the IACHR Court concerning the Judge María Lourdes Afuni with respect to Venezuela, given the particular circumstances of Afuni's detention and the conduct of the State, the Court considered that without prejudice to the medical care that could be provided by State institutions, the State should have adopted the appropriate measures so that Afuni would be treated by physicians of her choice in the event that she should need specialized medical care (Whereas 12 and Resolutive Points 2 and 3).

³⁵⁹ The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), Rules 22 to 27 and Rule 27.1: "All prisons shall ensure prompt access to medical attention in urgent cases. Prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals. Where a prison service has its own hospital facilities, they shall be adequately staffed and equipped to provide prisoners referred to them with appropriate treatment and care"; CteIDH, *Montero Aranguren y otros (Retén de Catia) v. Venezuela*, Judgement of 5 July 2006 (hereinafter "CteIDH, *Montero Aranguren v. Venezuela*"). Series C No. 150, para. 102; See also, Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Principle 1; Pan American Health Organization, CD50/R.8 "About the right to health and human rights," 29 September 2010; and Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Annual report submitted to the Commission on Human Rights (now Council), E/CN.4/2004/56, adopted 23 December 2003, para. 56.

³⁶⁰ *Ibid.*

³⁶¹ Human Rights Committee, *Zhumbaeva v Kyrgyzstan*, CCPR/C/102/D/1756/2008.

C. Short-term enforced disappearances

1. Legal framework

180. Under international human rights law, as reflected in the Inter-American Convention on Forced Disappearance of Persons, to which the Bolivarian Republic of Venezuela is a party, an enforced disappearance involves three elements: (i) the deprivation of liberty against the will of the victim or victims; (ii) the participation of agents of the State or of persons or groups of persons acting with the authorization, support or acquiescence of the State; (iii) the failure or refusal to acknowledge the deprivation of liberty or the concealment of the fate or whereabouts of the disappeared person.³⁶² The Bolivarian Republic of Venezuela is not a State Party to the United Nations Convention for the Protection of All Persons from Enforced Disappearance.³⁶³

181. As the Mission has previously noted, international human rights law does not require a minimum time limit for an enforced disappearance.³⁶⁴ However, according to the Rome Statute, enforced disappearance, in order to be considered a crime against humanity, requires the intent to remove the individual from the protection of the law “for a prolonged period of time.”³⁶⁵ In previous reports, the Mission has described several cases as “short-term” enforced disappearances to differentiate them from the situations experienced in the region where the remains never appear or appear after many years.³⁶⁶

³⁶² Inter-American Convention on Forced Disappearance of Persons, 1994, art. II. Inevitably, an enforced disappearance also constitutes arbitrary detention. See Human Rights Committee, *Sarma c. Sri Lanka*, CCPR/C/78/D/950/2000, 31 July 2003, para. 9.3.

³⁶³ The Bolivarian Republic of Venezuela signed the Convention on 21 October 2008, but has not deposited an instrument of ratification. Convention for the Protection of All Persons from Enforced Disappearance, 2006. See UN Treaty Collection, <https://treaties.un.org/>.

³⁶⁴ According to the Committee on Enforced Disappearances and the Working Group on Enforced or Involuntary Disappearances, an enforced disappearance may occur when a person's deprivation of liberty is not acknowledged or his or her whereabouts are not disclosed at the time the person is due to appear before a judge or other official authorized by law to exercise judicial power. See A/HRC/45/CRP.11, para. 314; A/HRC/39/46, para. 143; Committee on Enforced Disappearances, *Yrusta c. Argentina*, CED/C/10/D/1/2013, paras. 2.3, 10.3-10.6. See Working Group on Enforced or Involuntary Disappearances, A/HRC/39/46, para. 143. in which it highlights that “there is no time limit, no matter how short, for an enforced disappearance to occur and that accurate information on the detention of any person deprived of liberty and their place of detention should be made available promptly to family members”.

³⁶⁵ Rome Statute, art 7 (2)(i) establishes that “Enforced disappearance of persons” means the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time”. Enforced disappearance may constitute a crime against humanity under the Rome Statute if it is committed in the context of a widespread or systematic attack against a civilian population, with knowledge of such an attack. See also Elements of Crimes, 2002, art. 7 (1) (i). The Mission notes that the Inter-American Convention also recognizes that enforced disappearance can constitute a crime against humanity. See Inter-American Convention on Forced Disappearance of Persons, 1994, preamble.

³⁶⁶ A/HRC/45/CRP.11, para. 38.

182. Venezuela's 1999 Constitution prohibits forced disappearances,³⁶⁷ a prohibition that may not be suspended during a state of emergency.³⁶⁸ Likewise, the Venezuelan Criminal Code sanctions the crime of forced disappearance when "[the] public authority, whether civilian or military, or any person in the service of the State who illegitimately deprives a person of his or her liberty, and refuses to acknowledge the detention or to provide information on the fate or situation of the disappeared person, impeding the exercise of his or her constitutional and legal rights and guarantees."³⁶⁹ The crime of enforced disappearance is not subject to the statute of limitations and perpetrators cannot be pardoned or granted amnesty.³⁷⁰

2. Previous patterns of enforced disappearance

183. In its 2020 and 2021 report, the Mission found reasonable grounds to believe that the Venezuelan state apparatus used short-term enforced disappearance as a form of targeted repression.³⁷¹ In seven cases, SEBIN agents and other authorities denied holding individuals or told the detainees' families and lawyers that they had no information, and even suggested that they consult the hospital and the morgue.³⁷² The whereabouts of these individuals remained unknown for periods ranging from a few days to several weeks.³⁷³

184. The Mission also investigated 19 short-term forced disappearances of military dissidents and their relatives, for periods ranging from five to seven days, in which the DGCIM was implicated.³⁷⁴ The Mission established that "DGCIM frequently detained people in secret or unofficial detention facilities, especially in the first hours or days of detention."³⁷⁵ In its 2021 report, which analysed the Venezuelan justice system's responses to cases of human rights violations and crimes, the Mission concluded that there were reasonable grounds to believe that the request for and issuance of *ex post facto* detention orders had been used to cover periods of incommunicado detention or, as the case may be, short-term enforced disappearance, against persons in opposition or perceived to be in opposition.³⁷⁶

³⁶⁷ Constitution of the Bolivarian Republic of Venezuela, Official Gazette No. 36.860 of 30 December 1999 (hereinafter, "1999 Constitution"), art. 45.

³⁶⁸ Organic Law on States of Exception, *Official Gazette* no. 37.261 of 15 August 2001, art. 7(6).

³⁶⁹ Criminal Code of Venezuela, art. 132, *Official Gazette* no. 5.494 of 20 October 2000 (hereinafter "Código Penal de 2000"), art. 180-A. With respect to non-State actors, the crime under Article 180-A of the Criminal Code also applies to "members or members of groups or associations with terrorist, insurgent or subversive purposes, who, acting as members or collaborators of such groups or associations, cause the forced disappearance of a person, by means of kidnapping or abduction". The Criminal Code does not provide for criminal liability of persons or groups of persons acting under the control, collaboration or acquiescence of the State. Similarly, by limiting protection against enforced disappearances to the "unlawful" deprivation of liberty, the Criminal Code does not provide protection against enforced disappearances in any context of deprivation of liberty. See IACourtHR, *Blanco Romero and others v. Venezuela*, Series C, no. 138, 28 November 2005, para. 105.

³⁷⁰ Law for the Partial Reform of the Penal Code, *Official Gazette* No. 5.763 of 16 March 2005 (hereinafter, "2005 Criminal Code"), art. 180-A.

³⁷¹ A/HRC/45/CRP.11, paras. 240, 242(7), 262, 276-278, 313-315. The Mission concluded in the 2020 report that enforced disappearances had been committed in violation of international human rights law.⁴⁵ A/HRC/11/CRP.11, paras. 2087(b), 2092. In addition, one case was classified as a crime against humanity: the emblematic Barlovento case that took place in October 2016, in which the perpetrators intended to remove the affected person from the protection of the law "for a prolonged period of time"; A/HRC/45/CRP.11, para. 2092.

³⁷² A/HRC/45/CRP.11, paras. 276-278.

³⁷³ A/HRC/45/CRP.11, para. 277.

³⁷⁴ A/HRC/48/CRP.5, para. 243 A/HRC/45/CRP.11, paras. 313-315.

³⁷⁵ A/HRC/45/CRP.11, paras. 314-315.

³⁷⁶ A/HRC/48/CRP.5, para. 476.

3. Evolution of patterns of enforced disappearance

185. The Mission investigated the cases of 14 people who were victims of short-term enforced disappearances (10 men and 4 women) between 2020 and 2023, in which the victims were missing for between a few hours and 10 days, despite the fact that their relatives and/or lawyers had requested information on their whereabouts from the authorities who were holding them, and the authorities refused to provide it.³⁷⁷

186. The Mission observed a reduction in the practice of short-term enforced disappearances from 2020 onwards, coinciding with a reduction in the number of systematic arbitrary arrests, particularly during protests.

187. These disappearances are often related to other human rights violations, such as previous arbitrary detentions. In some cases, persons subjected to short-term enforced disappearance were subsequently tortured or subjected to other cruel, inhuman or degrading treatment or punishment.³⁷⁸ Short-term enforced disappearances were committed as part of the targeted repression, including that of human rights defender Javier Tarazona³⁷⁹ and persons arrested in connection with the case known as “Gringo Spy,”³⁸⁰ as well as during the protests, as in the case of four Voluntad Popular activists and five other people who were associated with them.³⁸¹ In all these cases, the Mission has reasonable grounds to believe that they were intended to repress individuals who were in opposition or perceived as such.

188. In several of the cases investigated, the Mission has reasonable grounds to believe that the administrators of justice consciously delayed the official date of arrest, keeping it in line with legal time limits. In these cases, the relatives of the missing persons had already begun to search for them through different government agencies³⁸². In some cases, family members had released alerts and news of the arrests prior to the official dates of arrest provided by the Prosecutor's Office³⁸³.

189. For example, in the case of Carla Da Silva,³⁸⁴ her family had been trying to locate her since 5 May 2020, after she was requested to go to the FAES La Quebradita headquarters in Caracas, where she was detained. After spending 10 days missing, Da Silva was brought before a court on 15 May and the court records show 14 May as the date of her arrest.³⁸⁵

190. The Mission has also analysed cases in which individuals were initially detained in one detention centre and then transferred to another, even to different states, without family members or defence attorneys being informed of their destinations.³⁸⁶ In some cases, family members learned the whereabouts of the detained person at one point, but hours or days later, the person was transferred to another facility and the family was denied information about the new location. Subsequently, when next of kin became aware of the new place of detention, there were further transfers and so on and so forth³⁸⁷.

³⁷⁷ See Case 1: Operation Constitution, illustrated by the cases of John Jairo Gasparini and Jhonatan Rangel; Case 4: Operation Gideon; Case 6: Matthew John Heath and eight others - “Gringo Spy” case; Case 12: Freddy Guevara; Case 15: Young Voluntad Popular activists; and Case 19: José Antonio Cádiz Morales.

³⁷⁸ See Case 1: Operation Constitution, illustrated by the cases of John Jairo Gasparini and Jhonatan Rangel; Case 4: Operation Gideon; Case 6: Matthew John Heath and eight others - “Gringo Spy” case; Case 19: José Antonio Cádiz Morales.

³⁷⁹ See Case 11: Javier Tarazona and other Fundaredes activists.

³⁸⁰ See Case 6: Matthew John Heath and eight others - “Gringo Spy” case.

³⁸¹ See Case 14: Young Voluntad Popular activists; and Case 19:

³⁸² See Case 4: Operation Gideon.

³⁸³ *Ibid.*

³⁸⁴ *Ibid.*

³⁸⁵ Interview with Miriam Marrero, 19 May 2023.

³⁸⁶ See Case 15: Young activists of Voluntad Popular

³⁸⁷ See Case 6: Matthew John Heath and eight others - “Gringo Spy” case.

191. In several cases, the Mission has reasonable grounds to believe that the manifestly illegal practice of taking detainees to clandestine houses before they are brought to an official detention centre persists.³⁸⁸ This is the case with John Jairo Gasparini Ferbans, arrested on 18 March 2020 by DGCIM agents. Gasparini Ferbans was held for nine days, until 27 March, in a building at an unknown location where he was tortured by DGCIM agents, before being transferred to the DGCIM headquarters in Boleíta.³⁸⁹ His family searched for him for 10 days in detention centres, including Boleíta and El Helicoide, in hospitals and in the morgue, where officials always denied that Gasparini Ferbans had been detained. On 27 March, the CICPC informed the family that Gasparini Ferbans was detained in Boleíta.³⁹⁰

192. In the cases of enforced disappearances reported in the Mission's previous reports, the individuals are still missing. Among these cases is that of Juan Antonio Hurtado Campo, who disappeared in 2018.³⁹¹

D. Arbitrary detentions

1. Legal framework

193. The International Covenant on Civil and Political Rights (ICCPR), to which the Bolivarian Republic of Venezuela is a State Party, prohibits arbitrary arrest or detention, as well as unlawful deprivation of liberty or deprivation of liberty imposed in a manner inconsistent with the procedures established by law.³⁹² A detention is considered arbitrary under the ICCPR when it is not in accordance with domestic law or the relevant international standards set out in international instruments ratified by the State concerned.³⁹³ Deprivation of liberty as a derivative punishment of the legitimate exercise of rights guaranteed by the ICCPR - for example, the right to freedom of opinion and expression, freedom of association, and/or on the grounds of discrimination based on political or other opinions - is arbitrary.³⁹⁴

³⁸⁸ See Case 1: Operation Constitution, illustrated by the cases of John Jairo Gasparini and Jhonatan Rangel; and Case 6: Matthew John Heath and eight others - "Gringo Spy" case.

³⁸⁹ See Case 1: Operation Constitution, illustrated by the cases of John Jairo Gasparini and Jhonatan Rangel.

³⁹⁰ See Case 1: Operation Constitution, illustrated by the cases of John Jairo Gasparini and Jhonatan Rangel.

³⁹¹ A/HRC/51/CRP.3, para. 95.

³⁹² ICCPR, art. 9. Article 14 establishes the right to a fair trial and due process of law.

³⁹³ Human Rights Committee, General Comment No. 35. Article 9: Liberty and Security of the Person, CCPR/C/GC/35 (2014), para. 12. According to the Committee, the notion of "arbitrariness" includes elements of inappropriateness, injustice, lack of predictability and due process of law as well as reasonableness, necessity and proportionality. According to the Working Group on Arbitrary Detention, there are three categories of arbitrary detention, firstly when it is clearly impossible to invoke any legal basis justifying the deprivation of liberty, second when the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 10 and 21 of the Universal Declaration of Human Rights, as well as articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights insofar as States parties are concerned and the third when the total or partial non-observance of the international norms relating to the right to a fair trial, spelled out in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character. See Revised Fact Sheet No. 26 of the Working Group on Arbitrary Detention, 1 May 2020. See also Human Rights Committee, General Comment no. 29. Articles 4, 11, 15-16: States of emergency, in which it notes: it is "inherent in the protection of rights explicitly recognized as non-derogable", that these must be "secured by procedural guarantees, including, often, judicial guarantees". According to the Rome Statute, imprisonment or other severe deprivation of physical liberty constitutes a crime against humanity when committed as part of a widespread or systematic attack against a civilian population. Rome Statute, art. 7(1)(e); Elements of Crimes, art. 7(1)(e). See A/HRC/45/CRP.11, para. 43; A/HRC/48/CRP.5, para. 348. It is clear that the deprivation of liberty of the relatives of an alleged offender, who are not the subject of any accusation, constitutes arbitrary detention; See Human Rights Committee, General Comment No. 35 CCPR/C/GC/35, para. 16.

³⁹⁴ ICCPR, arts. 2(1) and 26 and Human Rights Committee, CCPR/C/GC/35, para. 17. Specifically, the detention of a person who expresses political opinions contrary to those of the Government is arbitrary, as the Human Rights Committee has stated. See *Zelaya Blanco c. Nicaragua*, CCPR/C/51/D/328/1988, 18 August 1994, para. 10.3.

194. The Venezuelan Criminal Code establishes that the crime of unlawful deprivation of liberty is punishable by imprisonment³⁹⁵. Preventive detention during criminal proceedings is a precautionary measure that can only be imposed by a well-founded judicial decision,³⁹⁶ under certain circumstances and respecting its exceptional character.³⁹⁷ That is to say, it cannot be ordered “when it appears disproportionate to the seriousness of the crime, the circumstances of its perpetration and the probable sanction.”³⁹⁸ Under Venezuelan law, a person must be brought before a judge or other official authorized by law to exercise judicial functions within 48 hours.³⁹⁹

195. The Mission notes that, under international human rights law, a detention is considered unlawful when “essential procedural standards” are not met, including those relating to the applicable limits set out in domestic law on the length of detention.⁴⁰⁰ The Mission also notes that a detention that complies with domestic laws and procedures may nevertheless be “arbitrary” when it violates international human rights law, such as in cases where the legal grounds or procedures for detention are unreasonable, inadequate or unjust, or the detention is unnecessary or disproportionate.⁴⁰¹

³⁹⁵ 2005 Criminal Code, art. 174 The provision establishes the length of imprisonment in specific circumstances: use of threats, cruelty or deception; for purposes of revenge or profit; religious pretexts; kidnapping to place a person in the military service of a foreign country; when the victim is a parent or spouse or certain public officials; serious damage to person, health or property; or when the offender has spontaneously released the person. According to Article 176 of the Criminal Code, the sentence for illegal deprivation of liberty is more severe when it is committed by a public official in abuse of his or her functions.

³⁹⁶ Organic Code of Criminal Procedure, *Official Gazette* No. 6.078 of 15 June 2012 (hereinafter, Code of Criminal Procedure 2012), art. 232.

³⁹⁷ Code of Criminal Procedure 2012, art. 229.

³⁹⁸ *Ibid.*, art. 230.

³⁹⁹ 1999 Constitution, art. 44(1): “No person may be arrested or detained except upon a warrant, unless caught in flagrante delicto. In this case, he or she shall be brought before an authority within a time not exceeding forty-eight hours from the time of arrest.” Code of Criminal Procedure 2012, art. 236(3): “Within forty-eight hours following his or her apprehension, the accused shall be brought before the Judge for the arraignment [...]”. The same term applies to terrorism cases, since, according to Article 63 of the Organic Law against Organized Crime and Financing of Terrorism of 2012, the procedure established in the Organic Code of Criminal Procedure applies to the crimes set forth in said law.

⁴⁰⁰ Human Rights Committee, *Israil v. Kazakhstan*, CCPR/C/103/D/2024/2011, para. 9.2; Human Rights Committee, *Gridin v. Russian Federation*, CCPR/C/69/D/770/1997, para. 8.1.

⁴⁰¹ Human Rights Committee, *A v. Australia*, CCPR/C/59/D/560/1993; Human Rights Committee, *Van Alphen v. Netherlands*, CCPR/C/39/D/305/1988; Human Rights Committee, *Fardon v. Australia*, CCPR/C/98/D/1629/2007, 18 March 2010, para. 7.3.

2. Previous patterns of arbitrary detentions

196. In its first report, the Mission concluded that, since at least 2014, security forces carried out a large number of acts of arbitrary detention.⁴⁰² Most of the cases occurred in the midst of the protests that took place between January 2014 and June 2020.⁴⁰³ The Mission reviewed 403 cases of detentions during protests⁴⁰⁴ (including 234 people in the case of the 2014 Caracas protest camps)⁴⁰⁵, and investigated 61 of them⁴⁰⁶. In the majority of these cases, the detainees were held incommunicado, were not informed of the reasons for their detention and were detained for more than 48 hours before being brought before a judge⁴⁰⁷.

197. In the same report, the Mission also identified arbitrary detentions carried out specifically in the context of targeted repression: 33 cases of detentions made by SEBIN, of which 13 were investigated in depth;⁴⁰⁸ and 77 cases of detentions made by DGCIM, of which eight were investigated in depth.⁴⁰⁹ These arbitrary arrests were used as part of the enforcement of the policy of silencing the opposition or those perceived as such. The victims of these arrests included mainly “social and political activists at the forefront of the protests” and opposition politicians,⁴¹⁰ including representatives of the National Assembly who belong to political parties of the opposition,⁴¹¹ as well as “military dissidents accused of rebellion, conspiracy to stage a coup d'état or otherwise.”⁴¹² According to the Mission's findings, this pattern of arbitrary detentions was systematic and not merely an accumulation of isolated or random acts.⁴¹³

198. In its 2021 report, the Mission investigated 73 additional arbitrary detentions, 19 of which took place from September 2020 onwards.⁴¹⁴ In the same report, the Mission concluded that Venezuelan prosecutorial and judicial actors committed irregularities that amounted to arbitrary detentions at all stages of the criminal proceedings.⁴¹⁵ In addition, the failure of these actors to prevent or fully address the violations and crimes directly contributed to their perpetration, while preventing victims from accessing effective legal and judicial remedies.⁴¹⁶ The Mission found that the procedural irregularities were especially prevalent in cases brought before specialized terrorism courts.⁴¹⁷ In its 2022 report, the Mission investigated another 55 cases of arbitrary detentions, 19 of which were made by SEBIN.⁴¹⁸

⁴⁰² A/HRC/45/CRP.11, Chapters III, IV, V.

⁴⁰³ A/HRC/45/CRP.11, para. 1580.

⁴⁰⁴ *Ibid.*, para 1569.

⁴⁰⁵ *Ibid.*, para 170 and those that follow; case 38: The protest camps in Caracas (May 2014),

⁴⁰⁶ A/HRC/45/CRP.11, para. 1559.

⁴⁰⁷ *Ibid.*, para 1568.

⁴⁰⁸ *Ibid.*, para 265.

⁴⁰⁹ *Ibid.*, para 306.

⁴¹⁰ *Ibid.*, para 243.

⁴¹¹ *Ibid.*, para 121.

⁴¹² *Ibid.*, para 243.

⁴¹³ *Ibid.*, para 262. The Mission's 2022 report continued to document arbitrary detentions, both in relation to the role of Venezuelan civilian military intelligence services and in relation to human rights violations in the Arco Minero region and other areas of Bolívar State. A/HRC/51/CRP.3, paras. 10, 457-460 A/HRC/51/CRP.2, paras. 694, 720, 728, 730 A/HRC/51/43, paras. 5, 119.

⁴¹⁴ A/HRC/48/CRP.5, para. 11.

⁴¹⁵ A/HRC/48/69, para. 58.

⁴¹⁶ A/HRC/48/69, paras. 58, 111, 113. The Mission concluded that “prosecutors and judges failed to protect real and perceived opponents of the Government from arbitrary arrest and detention made without warrants and often justified as in flagrante delicto when facts indicated otherwise”. More specifically, they have sustained “arrest warrants, pretrial detention orders and criminal charges based on facts and supporting evidence that did not involve criminal acts or individualize the defendant’s participation. In some cases, prosecutors and judges sustained detentions or charges on the basis of illegally obtained, manipulated or fabricated evidence, including evidence obtained through torture or coercion”.

⁴¹⁷ A/HRC/48/69, para. 110.

⁴¹⁸ A/HRC/51/CRP.3, para. 398.

199. Family members of persons deprived of their liberty for political reasons may also be subject to investigation and reprisals. In a case investigated by the Mission, the partner of a man deprived of liberty for political reasons was taken to the DGCIM headquarters in Boleíta after she had a telephone conversation with him from prison⁴¹⁹. According to her testimony, the woman was interrogated for 19 hours, during which DGCIM officials questioned her about the content of this private conversation. Finally, she was able to leave after being warned by the DGCIM officer who interrogated her: “If I see you again anywhere, I’m going to put you in the slammer (detain her)”⁴²⁰. The situation caused her considerable anguish and anxiety.⁴²¹

200. Yosida Vanegas de Monasterio, mother of Staff Sergeant Major Juan Carlos Monasterio - sentenced to 30 years for his alleged collaboration in the drone attack against President Maduro in 2018 - was arrested without an arrest warrant on 15 August 2023 at a GNB post in La Pedrera, Táchira State.⁴²² According to two sources, this situation also happened to Rafael Godoy, one of the legal representatives of Colonel Oswaldo García Palomo, in prison in connection with the Operation Constitution.⁴²³ In the absence of García Palomo's immediate family, all of whom were in exile, Godoy, who is the only person who visits him, was arrested by DAET officials at his home on 18 August 2023 and taken to the DGCIM headquarters in Boleíta, where he was interrogated by DGCIM agents about his connections with García Palomo. Godoy was subsequently released, but was not permitted to visit García Palomo.⁴²⁴

3. Evolution of patterns of arbitrary detentions

201. For this report, the Mission investigated the cases of 58 arbitrary detentions of persons who were opponents or considered as such. These occurred from 2020 onwards, both in the course of the protests and of the targeted repression against civilians and members of the military. Most of the arrests were made by the DGCIM, different units of the PNB, the SEBIN, and the rest by other security forces such as the GNB, the CICPC, the GOES, and the Municipal Police of Chacao.

⁴¹⁹ Interview IIIV029.

⁴²⁰ The original Spanish uses colloquial language referring to being detained (unofficial translation).

⁴²¹ Interview IIIV029.

⁴²² Tweet by Tamara Suju [@TAMARA_SUJU], 18 August 2023. Available at: https://twitter.com/TAMARA_SUJU/status/1692478964227354816; Tweet de JuyProVen, [@JuyPro], 24 de agosto de 2023. Available at: <https://twitter.com/juypro/status/1694665172600684720?s=48&t=Y-LFaGqoaHjXGMbiiODZEA>; Tweet de Justicia y Proceso Venezuela [@JuyPro], 24 August 2023. Available at: <https://www.vozdeamerica.com/a/venezuela-denuncian-desaparicion-forzada-de-madre-de-un-militar-considerado-presopol%C3%ADtico-/7230851.html>; Infobae, Luis Almagro pidió cesar las “inhumanas prácticas de tortura” en Venezuela ante la desaparición de la madre de un preso político, 18 August 2023. Available at: <https://www.infobae.com/venezuela/2023/08/18/luis-almagro-pidio-cesar-las-inhumanas-practicas-de-tortura-en-venezuela-ante-la-desaparicion-de-la-madre-de-un-presopolitico/>.

⁴²³ A/HRC/45/CRP.11, paras. 817-864.

⁴²⁴ Interview with Sorbay Padilla de Palomo, 13 September 2023; Tweet by Zair Mundaray [@MundarayZair], 13 September 2023. Available at: <https://twitter.com/MundarayZair/status/1702122515550683175?t=t1WSNQ91TyB1wpK3bboTSg&s=08>.

a) Typology of arbitrary detentions

(i) Arbitrary arrests in the course of the protests

202. The Mission investigated the cases of five people detained during protests.⁴²⁵ This number does not include arbitrary detentions of social leaders, such as union leaders, linked to the organization of the protests generally associated with labor demands and/or working conditions.

203. The number of arbitrary detentions in the course of protests investigated by the Mission for the period 2020-2023, represents a decrease of 92% compared to the detentions investigated by the Mission for the period 2014-2019. The decrease in the number of investigated cases is consistent with the decrease in coordinated mass protests of a political nature since the COVID-19 pandemic and the end of mass illegal detentions in this context.

(ii) Arbitrary arrests in the context of targeted repression

204. In the context of targeted repression, the Mission investigated the cases of 53 persons arbitrarily detained between 2020 and 2023. The arrests were made against labor union leaders,⁴²⁶ human rights defenders and members of human rights organizations and NGOs,⁴²⁷ journalists,⁴²⁸ members of opposition parties,⁴²⁹ teachers,⁴³⁰ and other people who, from different areas, expressed criticisms or claims against the Government, including demands related to employment.⁴³¹ The work and protests of these people were criminalized under accusations of having committed hate crimes, terrorism, treason or illicit trafficking, among others. The Mission also documented the detention of family members or close associates of opponents or persons perceived as such who were not directly related to the acts of which they were accused.⁴³²

205. Also, in the context of targeted repression, the Mission documented two cases of arbitrary detention with multiple victims allegedly involved in suspected attempts at military uprisings or operations described by the authorities as attempts to destabilize the Government. At least two of those detained were active military personnel. At least 10 people were also arbitrarily detained, most of them women, because they were partners or relatives of suspects.⁴³³

206. The Mission considers that the practice of arbitrary detention continues to be the main *modus operandi* employed by the Venezuelan authorities as a tool for targeted repression as part of their policy to silence, discourage, and quash opposition to the Government. In this sense, in addition to the primary objectives of arbitrary detentions, these were also used with a view to instil fear in the general population. This is reflected in the cases of women who were involved in criminal proceedings and deprived of their liberty solely because of their family or sentimental relationship with men who were the main targets of repression, despite the lack of evidence sufficient to justify the deprivation of liberty, either as a preventive detention or as a custodial sentence.⁴³⁴

⁴²⁵ See Case 3: Arnaldo Sumoza; and Case 15: Young Voluntad Popular activists.

⁴²⁶ See Case 16: Six union leaders; Case 17: Leonardo Azocar and Daniel Romero, SIDOR Unionists; and Case 8: Eudis Giro.

⁴²⁷ See Case 9: Diógenes Tirado, Juan Carlos Salazar, Luis Gonzalo Pérez and Rafael Hernández; Case 10: Orlando Moreno; Caso 11: Javier Tarazona and other Fundaredes activists.

⁴²⁸ See Case 9: Diógenes Tirado, Juan Carlos Salazar, Luis Gonzalo Pérez and Rafael Hernández.

⁴²⁹ See Case 7: Roland Carreño; and Case 12: Freddy Guevara.

⁴³⁰ See Case 13: Aidaliz Guarisma Mérida; and Case 16: Six union leaders.

⁴³¹ See Case 2: Wilfredo Rodríguez; and Case 18: Zikiu Rivas.

⁴³² See Case 4: Operation Gideon; and Case 6: Matthew John Heath and eight others - “Gringo Spy” case.

⁴³³ See Case 1: Operation Constitution, illustrated by the cases of John Jairo Gasparini and Jhonatan Rangel; and Case 4: Operation Gideon.

⁴³⁴ Interview with Stefania Migliori, 26 May 2023.

b) Forms of arbitrary detention

207. The cases of arbitrary detentions investigated by the Mission reflect similar patterns that suggest continuity with the patterns analysed in the Mission's first report. These include: (i) detentions without an arrest warrant; (ii) detentions to prolong pretrial detention beyond the time allowed by law; and (iii) detentions for non-execution of release orders.

(i) *Arbitrary detentions without arrest warrant*

208. In most cases, the officers who made the arrests did not inform the detainees of the reasons for their arrest nor did they present the corresponding court orders, as required by law.⁴³⁵ In other cases, the authorities claimed that the arrests were made in flagrante delicto,⁴³⁶ therefore the respective arrest warrants were not required. However, the detainees who were interviewed by the Mission denied having been detained *in flagrante delicto*⁴³⁷ and, in some cases, they denounced that the security forces fabricated incriminating evidence against them - particularly the introduction of firearms - to justify the argument of flagrancy.⁴³⁸

209. The Mission documented that when the arrests took place at the detainees' homes, the security forces officers did not display arrest warrants or search warrants, used excessive force and threatened detainees' family members.⁴³⁹ The agents also failed to inform the detainees of the place to which they would be taken, nor did they allow them to contact their families from the police stations or detention centres to which they were taken.⁴⁴⁰

210. In only exceptional cases were some detainees actually brought before a judge within the 48 hours established by Venezuelan procedural law. Others were brought before a judge up to 10 days after their arrest,⁴⁴¹ although the documentation in the criminal records contains false dates of detention to make it appear that legal deadlines have not been exceeded. In other cases, the security forces simulated the release of the missing persons, in order to arrest them immediately afterwards and pretend that the arrest was made in accordance with the law.⁴⁴² And in others, authorities from the Public Prosecutor's Office falsely reported to the public that the arrests took place at a later date than when they actually occurred.⁴⁴³ As the Mission has been able to establish, in the periods between the dates of "actual detention" and "official detention", some detainees suffered torture or other cruel, inhuman or degrading treatment, including sexual violence.⁴⁴⁴

211. The Mission has also documented cases in which a number of individuals claim that they were "invited", "requested" or "urged" to accompany security force agents to State agencies to give a statement or provide information concerning a case or an individual.⁴⁴⁵ While these individuals stated that the officers did not tell them that they were being detained, they also did not feel free and safe to refuse to accompany them for fear of violence against them or their families. Several of the individuals were actually detained after being taken to state facilities, and some of them remain, up to the preparation of this report, deprived of their liberty and are facing criminal proceedings.⁴⁴⁶

⁴³⁵ See Case 11: Javier Tarazona and other Fundaredes activists.

⁴³⁶ See Case 7: Roland Carreño; and Case 4: Operation Gideon.

⁴³⁷ See Case 7: Roland Carreño.

⁴³⁸ See Case 7: Roland Carreño; and Case 4: Operation Gideon.

⁴³⁹ See Case 2: Wilfredo Rodríguez; and Case 6: Matthew John Heath and eight others - "Gringo Spy" case; and Case 16: Six union leaders.

⁴⁴⁰ See Case 1: Operation Constitution, illustrated by the cases of John Jairo Gasparini and Jhonatan Rangel; Case 4: Operation Gideon; and Case 16: Six union leaders.

⁴⁴¹ See Case 4: Operation Gideon.

⁴⁴² *Ibid.*

⁴⁴³ See Case 12: Freddy Guevara.

⁴⁴⁴ See Case 1: Operation Constitution, illustrated by the cases of John Jairo Gasparini and Jhonatan Rangel; and Case 4: Operation Gideon.

⁴⁴⁵ See Case 4: Operation Gideon; Case 6: Matthew John Heath and eight others - "Gringo Spy" case; and Case 16: Six union leaders.

⁴⁴⁶ *Ibid.*

(ii) *Arbitrary detentions due to prolongation of pretrial detention beyond the time allowed by law*

212. The Mission has identified several cases of detentions because individuals were subsequently detained without legal basis. These include cases of preventive detention for longer than the maximum period established by law. The Mission identified this pattern in SEBIN and DGCIM headquarters,⁴⁴⁷ although it was also registered in other penitentiary centres in the country, as documented in the cases of at least 13 persons investigated by the Mission.⁴⁴⁸

213. Article 230 of the Organic Code of Criminal Procedure establishes that pretrial detention may not exceed the minimum penalty established for each crime, nor exceed the term of two years.⁴⁴⁹ Pre-trial detention may be extended for up to one year “[e]xceptionally and when there are serious causes that justify it for the maintenance of the personal coercive measures, which are close to their expiration.”⁴⁵⁰

214. One of the relevant cases is that of Emirlendris Benítez, who was pregnant when she was arrested, on 5 August 2018, for her alleged involvement in an attempt on President Maduro’s life. During her imprisonment, Benítez suffered acts of torture and gender-based violence that caused her to miscarry and resulted in severe physical and psychological damage.⁴⁵¹ On 30 September 2021, her legal representation requested the cessation of the preventive detention, a request that was never resolved. In February 2022, her detention was classified as arbitrary by the United Nations Working Group on Arbitrary Detention.⁴⁵² On 4 August 2022, Benítez was sentenced to 30 years in prison by the Court of First Instance with exclusive jurisdiction at a national level to hear cases related to terrorism offenses. At the time of her conviction, the maximum period during which a person may be held in pretrial detention had already been exceeded, in accordance with Article 230 of the Organic Code of Criminal Procedure.⁴⁵³

215. The Mission notes that, in recent decisions, the Supreme Tribunal of Justice of the Bolivarian Republic of Venezuela has interpreted that the maximum pretrial detention period of two years, extendable for an additional year, provided for in Article 230 of the Organic Code of Criminal Procedure, does not apply “automatically”, but that “multiple circumstances in the development of the criminal proceedings must be taken into account and analysed by the judge, such as the seriousness

⁴⁴⁷ A/HRC/48/CRP.5, Table 3: The Luis Sánchez Rangel case.

⁴⁴⁸ See Case 1: Operation Constitution, illustrated by the cases of John Jairo Gasparini and Jhonatan Rangel; Case 4: Operation Gideon.

⁴⁴⁹ 2012 Code of Criminal Procedure, art. 230.

⁴⁵⁰ *Ibid.*, art. 230. The provision continues: “provided that it does not exceed the minimum penalty established for the crime charged, and when there are several crimes charged, the minimum penalty established for the most serious crime shall be taken into account” and “[i]t may also be requested when such extension is due to unwarranted delays attributable to the accused or defendant, or his or her defense counsel”.

⁴⁵¹ Document IIDC052: Judicial Record, Magnicide Case; IACHR, resolution 26/2020, Precautionary Measures No. 751-19 of 17 June 2020.

⁴⁵² Working Group on Arbitrary Detention, Opinion no. 74/2021, concerning Emirlendris Benítez (Bolivarian Republic of Venezuela), A/HRC/WGAD/2021/74 (2021).

⁴⁵³ 2012 Code of Criminal Procedure, art. 230.

of the crime, the complexity of the case and the causes of the trial's delay"⁴⁵⁴. This means that, in practice, the courts have the possibility of allowing pretrial detention to exceed the legal limit of two years, extendable for a further year, especially in relation to more serious crimes (such as terrorism or high treason charges) for which the minimum sentences are more than two years⁴⁵⁵.

(iii) *Arbitrary detentions due to non-execution of release orders*

216. Various organizations have documented several cases in which persons deprived of liberty, even when they have release orders ordering their immediate release, continue to be held pending authorization from the Ministry of People's Power for the Penitentiary Service.⁴⁵⁶ As of June 2022, the Venezuelan Prison Observatory (OVP) had identified at least 25 people (four women and 21 men) in six prisons in Venezuela who continued to be deprived of their liberty despite having release papers.⁴⁵⁷ According to the NGO's allegations, despite the court order, "in most cases, prison directors refuse to release them until they have received authorization from the Ministry of Penitentiary Affairs."⁴⁵⁸

217. According to a source interviewed by the Mission, this pattern has a disproportionate impact on persons deprived of liberty for political reasons. The Council

⁴⁵⁴ Supreme Tribunal of Justice (Constitutional Chamber), *Nereo Vargas Case*, Judgement no. 121, 10 March 2023, p.13. Available at: <http://historico.tsj.gob.ve/decisiones/scon/agosto/323289-0121-10323-2023-22-0185.HTML>. See also previous Supreme Tribunal cases in which delays have been considered justifiable due to the defendant's conduct, e.g., failure to appear in court due to illness; Supreme Tribunal of Justice (Constitutional Chamber), *Harry Harlon Blanco Guevara Case*, Judgment no. 398, 4 April 2011. Although the two-year maximum term of Article 230 seems prima facie applicable to all cases, whether common crimes or not, the Supreme Court has interpreted said provision in such a way that it appears that the two-year term established in said article is inapplicable when the duration of the coercive measure (preventive detention) is exceeded by the minimum penalty foreseen for the most serious crime with which the accused was charged.

⁴⁵⁵ The Supreme Tribunal held that there was no constitutional violation in a case of preventive judicial deprivation of liberty for more than four years and 11 months, a case in which it analysed the rights to presumption of innocence and personal liberty of the defendants. The Tribunal affirmed that although it was true that the defendants had been deprived of their liberty for more than two years, and that the extension established in the former Article 244 of the 2012 Code of Criminal Procedure (currently Article 230) had already expired, it was no less true that, when the preventive detention was extended for the reasons stated by the Court in its decision, the constitutional rights of the plaintiff defendants were not harmed, given that the measure had not exceeded the time established as the minimum penalty for the most serious crime charged, i.e. the crime of kidnapping, for which there is a minimum penalty of ten (10) years. ⁴⁵⁴ Supreme Tribunal of Justice (Constitutional Chamber), *Nereo Vargas Case*, Judgement no. 121, 10 March 2023. Available at: <http://historico.tsj.gob.ve/decisiones/scon/agosto/323289-0121-10323-2023-22-0185.HTML>

⁴⁵⁶ Venezuelan Prison Observatory (OVP), *Informe Anual 2022 - El hambre es sinónimo de muerte en las cárceles venezolanas*, p. 38 and those that follow. Available at: <https://oveprisiones.com/informe-anual-2022-el-hambre-es-sinonimo-de-muerte-en-las-carceles-venezolanas/>

⁴⁵⁷ Centro de Formación hombres nuevos "Simón Bolívar" Distrito Capital; Internados Judiciales El Rodeo II y El Rodeo III; Internado Judicial de Carabobo (Tocuyito); el Instituto Nacional de Orientación Femenina (INOF); la Comunidad Penitenciaria Fénix Lara y el Centro Penitenciario de Occidente. See Venezuelan Prison Observatory (OVP), *En Venezuela le niegan la libertad a reclusos con boleta de excarcelación*, 27 June 2022. Available at: <https://oveprisiones.com/en-venezuela-le-niegan-la-libertad-a-reclusos-con-boleta-de-excarcelacion/>.

⁴⁵⁸ Interview with Venezuelan Prison Observatory, 19 April 2023. See *Justicia y Verdad Venezuela, OVP: En Venezuela le niegan la libertad a reclusos con boleta de excarcelación*, 1 July 2022. Available at: <https://www.justiciayverdad.org/ovp-en-venezuela-le-niegan-la-libertad-a-reclusos-con-boleta-de-excarcelacion/>

of State established the Special Commission for the Restructuring of the Justice System in the year 2021, to address the high levels of prison overcrowding, as well as procedural delays in pretrial detention centres. This Council is mandated to visit pretrial detention centres, “review pending cases and make the necessary judicial decisions” to reduce the number of inmates, including those granted release papers.⁴⁵⁹ However, according to sources that the Mission has consulted with, institutional efforts to release individuals with release orders have not benefited those detained for political reasons or those detained in politically biased processes and located in the areas known as “commotion zones” in detention centres.⁴⁶⁰

218. The Mission received information that release orders were not respected in the cases of seven people (four women and three men) who are opponents or perceived to be opponents.⁴⁶¹ This is the case, for example, of Carlos Germán Debiais García, a photographer arrested on 12 November 2021, accused of having filmed with a drone in the security zone of the Amuay Refinery of the Paraguaná Refinery Complex, in Falcón State. On 22 March 2022, Debiais was transferred to the Rodeo II Judicial Prison. On 12 April 2022, the Tenth Court of the Criminal Judicial Circuit of Caracas issued a release order in favour of Debiais, addressed to the Director of the Rodeo II Judicial Prison, ordering him to give Debiais his “Immediate Liberty.”⁴⁶² However, Debiais continued to be detained for almost another 14 months, despite having filed a writ of amparo and several letters to the Ministry of the Penitentiary Service requesting the enforcement of the release order.⁴⁶³ Debiais was finally released on 6 June 2023.

219. In another case, student Misael Estrella has been in custody for more than six years at the CICPC Mariana in Carabobo, for allegedly committing the crime of intentional homicide as a perpetrator when he participated in one of the demonstrations in 2017.⁴⁶⁴ On 22 May 2023, the Seventh Court of First Instance of the Criminal Judicial Circuit of the State of Carabobo issued a judgment of acquittal in his favour and ordered his immediate release.⁴⁶⁵ Up to the date of writing of this report, this order had not been executed.

⁴⁵⁹ Ministry of People’s Power for Ecosocialism, Press release: Comisión Especial para la Revolución Judicial establece un mes para visitar, 21 June 2021. Available at: <http://www.minec.gob.ve/comision-especial-para-la-revolucion-judicial-establece-un-mes-para-visitar-todos-los-centros-penitenciarios/>; Tal Cual Digital, ONG exigieron la liberación de la trabajadora de Pdvsa Johana González, 23 November 2022. Available at: <https://talcualdigital.com/ong-exigieron-la-liberacion-de-la-trabajadora-de-pdvsa-johana-gonzalez/>.

⁴⁶⁰ Interview with the Venezuelan Prison Observatory, 14 June 2023, Interview IIIV001; Interview PPIV082.

⁴⁶¹ Interview IIIV002; Document IIDC059; Document IIDC026; Document IIDC027; Document IIDC028; Document IIDC029; Document IIDC030; Document IIDC031; Document IIDC032.

⁴⁶² Document PPDC031: Release order.

⁴⁶³ Document PPDC030: The victim’s lawyer’s summary of the case

⁴⁶⁴ Document IIDC032: Misail Junior Estrella Release order.

⁴⁶⁵ Ibid.; El Carabobeño, Sigue tras las rejas preso político de 2017 pese a tener boleta de excarcelación, 23 May 2023. Available at: <https://www.el-carabobeno.com/sigue-tras-las-rejas-preso-politico-de-2017-pese-a-tener-boleta-de-excarcelacion/>; Tweet by Erika Guevara Rosas [@ErikaGuevaraR], 24 May 2023. Available at: <https://twitter.com/Naky/status/1661494518032527365>; El Carabobeño, Madre de preso político con boleta de excarcelación pide libertad de su hijo, 26 May 2023. Available at: <https://www.el-carabobeno.com/madre-de-preso-politico-con-boleta-de-excarcelacion-pide-libertad-de-su-hijo/>.

c) Transfer of custody of persons deprived of liberty from the DGCIM and SEBIN

220. On 12 May 2021, President Maduro issued Decree No. 4.610,⁴⁶⁶ whereby it was ordered that the DGCIM and the SEBIN transfer to the Ministry of the People's Power for the Penitentiary Service the functions of custody of persons deprived of liberty, within a period of 30 days as of 12 May 2021, the date when the Decree became effective. The Decree urged the Public Prosecutor's Office and the Judiciary to adopt the necessary measures for the implementation of the Decree, including, in its article 2, "the issuance of the pertinent authorizations for the transfer to other precincts of the persons currently deprived of liberty in the facilities of [...] DGCIM and [...] SEBIN". Likewise, the Decree ordered the DGCIM and SEBIN to adapt their structure and operating rules to implement the orders set forth therein.

221. This order was extended for an additional 30 days by Presidential Decree No. 4.528 of 11 June 2021,⁴⁶⁷ and for an additional 60 days, by Presidential Decree No.4.534 of 9 July 2021, until 12 September 2021.⁴⁶⁸

222. On 5 October 2021, by means of a Joint Resolution issued by the Ministries of the People's Power for the Interior, Justice and Peace, for the Penitentiary Service, and for the Defense,⁴⁶⁹ the guidelines for the execution of this transfer were agreed upon. The Resolution indicated that the transfer should take place immediately after coming into force on 5 October 2021. The transfer involves the custody of detainees under the responsibility of the DGCIM and SEBIN; the physical transfer of the facilities under the management, administration or possession of the DGCIM and SEBIN; a proposal for the adaptation of structures, operating rules and procedures; and the development of labor, legal and technical policies with respect to the personnel whose situation could be affected by the transfer. The entities involved were required to prepare documents recording the functions transferred and the transfers made, and so forth.⁴⁷⁰ The Resolution granted a period of 90 days (until January 2022) to emit all the administrative documents related to the transfer.

223. Despite all these regulatory frameworks, the statements made by the Government in the course of the Universal Periodic Review,⁴⁷¹ and, in some specific cases,⁴⁷² the Mission has not been able to confirm that the transfer of the management of the detention centres that were under the responsibility of the DGCIM and SEBIN has actually taken place, including the Helicoide and the detention centre in Boleíta, as well as the custody of the persons deprived of liberty held there.

⁴⁶⁶ *Official Journal* no. 42,125 of 12 May 2021.

⁴⁶⁷ *Official Journal* no. 42,147 of 11 June 2021.

⁴⁶⁸ *Official Journal* no. 42,165 of 9 July 2021.

⁴⁶⁹ Resolución Conjunta mediante la cual se establecen las Directrices para la ejecución de la transferencia al Ministerio del Poder Popular para el Servicio Penitenciario de las funciones y responsabilidad inherentes a la custodia de personas privadas de libertad actualmente en establecimientos a cargo de la DGCIM y el SEBIN, *Official Gazette* no. 454,700 of 5 October 2021 (hereinafter, "Joint Resolution").

⁴⁷⁰ Joint Resolution, art. 3.

⁴⁷¹ The Ministry of People's Power for the Penitentiary Service indicated during the Universal Periodic Review that "Since 2021, persons deprived of liberty by the Bolivarian National Intelligence Service and the General Directorate of Military Counterintelligence were under the responsibility of its Ministry"; See also A/HRC/50/8, para. 26.

⁴⁷² According to two people interviewed by the Mission, at least one group of women was transferred from SEBIN-Helicoide to the National Institute for Female Orientation (INOF by its Spanish acronym) on 2 June 2021, in compliance with the provisions of the Resolution. Interview IIV001; Interview IIV043; El Diario, Los presos políticos que fueron trasladados a cárceles comunes, 21 May 2021. Available at: <https://eldiario.com/2021/05/21/los-presos-politicos-que-fueron-trasladados-a-carceles-comunes/>.

E. Torture and other cruel, inhuman or degrading treatments or punishments

1. Legal framework

224. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) defines torture as acts that cause severe pain or suffering, whether physical or mental. These acts must be inflicted intentionally and with the direct or indirect participation of a public official.⁴⁷³ For acts to constitute torture, they must be committed for a specific purpose, such as extracting a confession, obtaining information, punishment, intimidation, humiliation, coercion or any reason based on discrimination⁴⁷⁴. The notion of cruel, inhuman or degrading treatment or punishment (or “ill-treatment”) is not defined in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).⁴⁷⁵ Ill-treatment can be distinguished from the higher threshold of torture when it involves a lesser degree of “severe pain or suffering”⁴⁷⁶ or when they do not entail the specific intent or purpose required for torture.⁴⁷⁷

225. According to the Rome Statute, torture constitutes a crime against humanity when committed in the context of a widespread or systematic attack against a civilian population, with knowledge of such an attack.⁴⁷⁸ Torture is defined as “intentionally causing severe pain or suffering, whether physical or mental, to a person in the custody or control of the accused”; however, torture does not include pain or suffering arising solely from, or as a normal or incidental consequence of, lawful sanctions.⁴⁷⁹ Unlike the Rome Statute’s provisions on war crimes, no “purpose” element is required for the crime against humanity of torture.⁴⁸⁰

226. In the Bolivarian Republic of Venezuela, the Special Law to Prevent and Punish Torture and Other Cruel, Inhuman and Degrading Treatment of 2013 defines torture as “acts by which pain or suffering, whether physical or mental, is intentionally inflicted on a person for the purpose of obtaining information or a confession from that person or from a third party, to punish him or her for an act he or she has committed, or to intimidate or coerce him or her or others, or for any reason based on discrimination of any kind, when such suffering is inflicted by or at the instigation of or with the consent of a public official or other person acting in an official capacity.”⁴⁸¹ The law provides for prison sentences of 15 to 25 years for the perpetration of the crime of torture,⁴⁸² and makes cruel treatment a crime⁴⁸³ and inhuman or degrading treatment degrading.⁴⁸⁴ Public officials also commit a crime if they cover up acts of torture⁴⁸⁵ or do not report them,⁴⁸⁶ and individuals may be punished for engaging in acts of torture in other ways.⁴⁸⁷

⁴⁷³ Under the Convention against Torture, States have a positive obligation to take effective measures to prevent all acts of torture and cruel, inhuman or degrading treatment or punishment, and to promptly investigate any allegations of such treatment. Convention against Torture, arts. 2, 16. See also ICCPR, art. 7.

⁴⁷⁴ Convention against Torture, art. 1.

⁴⁷⁵ Committee against Torture, General Comment No. 2, Implementation of Article 2 by States Parties, CAT/C/GC/2 (2008), para. 3.

⁴⁷⁶ *Ibid.*, para 10.

⁴⁷⁷ A/HRC/13/39/Add.5, paras. 187-188.

⁴⁷⁸ Rome Statute, art. 7(1)(f); A/HRC/45/CRP.11, para. 49.

⁴⁷⁹ Rome Statute, art. 7(2)(e); International Criminal Court, Elements of Crimes, PCNICC/2000/1/Add.2 (2000) (hereinafter, “Elements of crime”), 2000, art. 7(1)(f).

⁴⁸⁰ *Ibid.*, footnote 14 (stating that “it is understood that it is unnecessary to prove a specific purpose for this crime”).

⁴⁸¹ Special Law to Prevent and Punish Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment of 22 July 2013 [hereinafter “2013 Anti-Torture Law“], Official Gazette no. 40.212, art. 5(2).

⁴⁸² 2013 Anti-Torture Law, art.17.

⁴⁸³ *Ibid.*, arts. 5(3) and 18.

⁴⁸⁴ *Ibid.*, arts. 5(4) and 21.

⁴⁸⁵ *Ibid.*, art. 19.

⁴⁸⁶ *Ibid.*, art. 31.

⁴⁸⁷ *Ibid.*, art. 20.

2. Previous patterns of torture, cruel, inhuman or degrading treatments or punishments.

227. In its 2020 report, the Mission concluded that it had reasonable grounds to believe that Venezuelan state authorities had committed crimes against humanity such as torture and other acts of a similar nature as part of a policy to silence, discourage and quash opposition to the Government. Acts of torture were carried out on real or perceived opponents to the Government or perceived as such, who were arrested in the context of both targeted repression and protests.⁴⁸⁸ The acts of torture were perpetrated by agents of the civilian and military intelligence services - SEBIN and DGCIM.⁴⁸⁹

228. The Mission investigated 13 cases in which SEBIN agents tortured or subjected detainees to cruel, inhuman or degrading treatment or punishment, and received information from the former director of SEBIN that there was a “cultural behavior of torture” in that intelligence agency.⁴⁹⁰ The Mission also documented numerous violations arising from the detention conditions in the two SEBIN detention centres for political detainees: the SEBIN headquarters in Plaza Venezuela and El Helicoide.⁴⁹¹

229. The Mission also investigated 77 cases in which the DGCIM arrested, detained and tortured military officers, former military officers and civilians.⁴⁹² Numerous violations were also observed in the detention conditions in the DGCIM detention centres, including its headquarters in Boleíta, and in the National Center for Military Prisoners at Ramo Verde in the State of Miranda.⁴⁹³

230. The Mission’s 2021 report found that arrest warrants and pre-trial detention orders were issued despite the fact that these judges were aware of the risk of torture, ill-treatment or poor detention conditions, and even though they were informed that this had already occurred in the past.⁴⁹⁴ Overall, the Mission found reasonable grounds to believe that the prosecutorial and judicial actors could have “prevented many of the crimes and violations or, at least, placed rigorous impediments upon public security and intelligence services’ ability to commit them.”⁴⁹⁵

231. For its 2022 report, the Mission investigated the role of intelligence services and their role in the commission of crimes against humanity. For this investigation, the Mission investigated 122 cases of torture perpetrated by the DGCIM during the period 2017-2019⁴⁹⁶ and 51 cases perpetrated by SEBIN during the period 2014-2018.⁴⁹⁷ The Mission also documented the patterns of torture perpetrated by the officers of these corps.⁴⁹⁸

⁴⁸⁸ A/HRC/45/CRP.11, para. 2087.

⁴⁸⁹ *Ibid.*, paras. 242, 262.

⁴⁹⁰ *Ibid.*, paras. 279-290.

⁴⁹¹ *Ibid.*, paras. 291-305.

⁴⁹² *Ibid.*, para 306. Acts of torture in DGCIM facilities generally occurred during interrogations, shortly after arrest, while the detainees were held incommunicado and before the arraignment hearing. ⁴⁵ A/HRC/11/CRP.11, paras. 316 to 326.

⁴⁹³ A/HRC/45/CRP.11, paras. 327-347.

⁴⁹⁴ *Ibid.*, paras 476-479.

⁴⁹⁵ A/HRC/48/CRP.5, para. 486.

⁴⁹⁶ A/HRC/52/CRP.3, para. 103.

⁴⁹⁷ *Ibid.*, para 300.

⁴⁹⁸ A/HRC/48/CRP.5, paras. 103-115 (DGCIM torture patterns); paras. 300-312 [SEBIN torture patterns].

3. Evolution of the patterns of torture and cruel, inhuman or degrading treatments or punishments

232. The investigations conducted by the Mission for the period 2020-2023 indicate that Venezuelan State officials continued to use torture as part of State policy to silence, discourage and quash opposition to the Government, particularly in the context of targeted repression against social and political leaders, as well as against members of the military allegedly involved in operations to overthrow or destabilize the Government.

233. For the period covered by this report, the Mission investigated the cases of 28 persons (22 men and 6 women, including one transgender woman) who were victims of torture or ill-treatment against opponents or those perceived as such in the context of targeted repression.⁴⁹⁹ The Mission did not identify any cases of torture in cases of detention during protests. As documented in the Mission's previous reports, torture and ill-treatment occurred in combination with other human rights violations.

234. According to several testimonies, other victims of torture or ill-treatment have chosen not to file complaints against them, not to share details, or not to make the facts public for fear of reprisals against them or their family members. In addition, some of these individuals may have preferred to remain silent in the hope of obtaining an early release or some procedural benefit, particularly alternative measures to pretrial detention or those implemented to reduce prison overcrowding.

235. The acts of torture were committed against real or perceived opponents of the government, including human rights defenders and NGO activists,⁵⁰⁰ politicians,⁵⁰¹ unionists,⁵⁰² journalists,⁵⁰³ relatives of opposition members,⁵⁰⁴ and other individuals perceived as being in political opposition.⁵⁰⁵ Similarly, torture and ill-treatment were committed against military officers⁵⁰⁶ and civilians⁵⁰⁷ in the context of counterinsurgency operations. In all of the cases, the individuals were under the control of State security forces officials or held in official or clandestine detention centres operated by them.

⁴⁹⁹ See cases of targeted repression against social leaders, including during protests *infra*: Case 1: Operation Constitution, illustrated by the cases of John Jairo Gasparini and Jhonatan Rangel; Case 4: Operation Gideon; Case 6: Matthew John Heath and eight others

- "Gringo Spy" case; Case 8: Eudis Giro; Case 10 Orlando Moreno; Case 13: Aidaliz Guarisma Mérida; Case 16: Six union leaders.

⁵⁰⁰ See Case 10: Orlando Moreno; Caso 11: Javier Tarazona and other Fundaredes activists; Case 8: Eudis Giro; COFAVIC, Reporte – Ataques a la defensa de derechos humanos durante el año 2021, 2021. Available at: https://cofavic.org/wp-content/uploads/2022/04/Reporte_COFAVIC_2021_DefensaDDHH_Atiques.pdf

⁵⁰¹ Interview with Justicia y Proceso Venezuela, 8 February 2023.

⁵⁰² See Case 16: Six union leaders. Interview with Eudis Giro, 14 February 2023; Interview PPIV053.

⁵⁰³ Interview with Luis Carlos Díaz, 1 March 2023.

⁵⁰⁴ See Case 4: Operation Gideon.

⁵⁰⁵ Interview PPIV058; Interview with Martha Tineo, 13 March 2023.

⁵⁰⁶ See Case 1: Operation Constitution, illustrated by the cases of John Jairo Gasparini and Jhonatan Rangel. Document HHDC043, Document HHDC044, Document HHDC045 and Document HHDC046; Interview with Ignell Marín Chaparro, 15 February 2023; IACHR Resolution 61/2022, Precautionary Measures no. 54-22, 31 October 2022, paragraph 4.

⁵⁰⁷ See Case 1: Operation Constitution, illustrated by the cases of John Jairo Gasparini and Jhonatan Rangel; and Case 4: Operation Gideon.

a) Torture and other cruel, inhuman or degrading treatments or punishments

236. The acts of torture and ill-treatment against the physical integrity of people documented by the Mission for the period covered by this report include the following:

- Beatings (especially to the head, ribs, buttocks, testicles, legs, fingers and toes);⁵⁰⁸
- suspension from wrists or ankles;⁵⁰⁹
- asphyxia with bags over the head, sometimes sprayed with insecticide;⁵¹⁰
- ingestion of drinks containing narcotics;⁵¹¹
- overnight exposure to low temperature air-conditioning whilst the naked body is constantly being beaten and doused with cold water;⁵¹²
- electric shocks to the testicles;⁵¹³
- cigarette burns;⁵¹⁴
- chemical burns to the face;⁵¹⁵
- tear gas inhalation;⁵¹⁶
- sleep deprivation,⁵¹⁷ 24-hour constant light⁵¹⁸ and music at full volume;⁵¹⁹
- prolonged solitary confinement⁵²⁰ or in punishment cells;⁵²¹
- rape, threat of rape, and other acts against sexual integrity (discussed *infra*, section F).

⁵⁰⁸ See Case 1: Operation Constitution, illustrated by the cases of John Jairo Gasparini and Jhonatan Rangel; Case 6: Matthew John Heath and eight others - “Gringo Spy” case; Case 11: Javier Tarazona and other Fundaredes activists; Case 8: Eudis Giro; Case 13 Aidaliz Guarisma Mérida; and Case 4: Operation Gideon. Tweet by Keymer Ávila [@Keymer_Avila], 5 April 2023. Available at: https://twitter.com/Keymer_Avila/status/1643642978768920576; Working Group on Arbitrary Detention, Opinion no. 67/2022, concerning John Jairo Gasparini Ferbans (Bolivarian Republic of Venezuela); A/HRC/WGAD/2022/67 (2022), para. 8; Interview with SOS Libertad, 25 November 2022; Interview with Martha Tineo, 13 March 2023.

⁵⁰⁹ See Case 1: Operation Constitution, illustrated by the cases of John Jairo Gasparini and Jhonatan Rangel. A/HRC/WGAD/2022/67 (crushing detainees' fingers with a hammer), para. 9; Interview with SOS Libertad, 25 November 2022.

⁵¹⁰ See Case 4: Operation Gideon; Case 6: Matthew John Heath and eight others - “Gringo Spy” case; Case 11: Javier Tarazona and other Fundaredes activists; Case 13: Aidaliz Guarisma Mérida.

⁵¹¹ See Case 11: Javier Tarazona and other Fundaredes activists.

⁵¹² See Case 4: Operation Gideon; and Case 6: Matthew John Heath and eight others - “Gringo Spy” case.

⁵¹³ See Case 19: José Antonio Cádiz Morales.

⁵¹⁴ See Case 1: Operation Constitution, illustrated by the cases of John Jairo Gasparini and Jhonatan Rangel.

Tweet by Keymer Ávila [@Keymer_Avila], 5 April 2023. Available at:

https://twitter.com/Keymer_Avila/status/1643642978768920576.

⁵¹⁶ See Case 8: Eudis Giro. Interview with Eudis Giro, 14 February 2023.

⁵¹⁷ See Case 13: Aidaliz Guarisma Mérida. Interview with Foro Penal, 13 April 2023.

⁵¹⁸ See Case 8: Eudis Giro; and Case 16 Six union leaders. Interview with Foro Penal, 13 April 2023.

⁵¹⁹ See Case 1: Operation Constitution, illustrated by the cases of John Jairo Gasparini and Jhonatan Rangel.

⁵²⁰ See Case 8: Eudis Giro. Interview with Matthew John Heath, 4 September 2023; Document HHDC113: Detention conditions Franklin Caldera.

⁵²¹ See Case 1: Operation Constitution, illustrated by the cases of John Jairo Gasparini and Jhonatan Rangel; and Case 6: Matthew John Heath and eight others - “Gringo Spy” case.

237. These forms of torture and ill-treatment are consistent with the patterns documented by the Mission in its previous reports, which were inflicted by officials of SEBIN, the DGIM and other security forces.⁵²²

238. Along with the various forms of physical torture, the Mission also received information on the application of psychological torture, such as threats to detainees about harming their families⁵²³ or the infliction of worse detention conditions (e.g., threats of transfer to detention centres with common prisoners, threats of long periods of detention, or threats of torture or rape).⁵²⁴ Detainees and their families suffer reprisals, or fear reprisals, for reporting torture and ill treatment.⁵²⁵

239. The Mission has reasonable grounds to believe that these acts were meant to punish those detained for their trade union or human rights activities, for denouncing acts of corruption, for their political militancy in opposition, or for being accused of committing criminal acts against the government or its authorities. These reasons were expressly mentioned to several of the victims when they were being punished. Acts of torture and ill-treatment were also used to force detainees to sign false statements and extract false confessions or incriminating information about other people. In one case, a detainee was forced to ingest narcotics before an apparent confession was extracted from him.⁵²⁶ On several occasions, confessions were recorded by security agents and subsequently disseminated through the media and social networks to prove the guilt of the detainees.⁵²⁷

4. Response from state authorities

240. The Mission was informed about the lack of response from the authorities to allegations or well-founded signs of torture. Impunity for acts of torture and ill-treatment suffered by those deprived of liberty for political reasons is ongoing, as the Mission has established in consultation with the victims, their families or lawyers. The testimonies coincide in that neither the Public Prosecutor's Office, nor the judges, nor the Ombudsman's Office have acted diligently to shed light on these violations. One of the victims interviewed by the Mission, who was tortured in 2019 in El Helicoide, was called to testify on this matter by the 83rd Prosecutor's Office of the Caracas metropolitan area with jurisdiction over fundamental rights only in May 2022.⁵²⁸ The prosecutor assigned to the case dismissed the allegations of torture and told the victim, at several moments, “*you were not tortured*” y “*we don't use the word torture here.*”⁵²⁹

241. In its 2021 report, the Mission emphasized the lack of response from judges to allegations of torture.⁵³⁰ Along with this lack of response, a source interviewed by the Mission explained that when detainees who have been victims of torture are brought before a judge for the first time, they often refrain from denouncing the abuses, because those who take them to the hearings are the same officials who tortured them.⁵³¹ In at least two cases documented by the Mission, the prosecution's witnesses were the same people who were responsible for the torture.⁵³² Moreover, when the hearings are over, the detainees are taken back to the detention centre where they were tortured, which also tends to deter complaints.⁵³³

⁵²² A/HRC/45/33/CRP.11, paras. 285, 319, 1585 A/HRC/52/CRP.3, paras. 103-115 (DGCIM torture patterns); paras. 33-312 [SEBIN torture patterns].

⁵²³ See Case 4: Operation Gideon; Case 13: Aidaliz Guarisma Mérida; and Case 16: Six union leaders.

⁵²⁴ See Case 13: Aidaliz Guarisma Mérida. Interview with Franklin Caldera, 21 November 2022.

⁵²⁵ See Case 8: Eudis Girot; Interview with Franklin Caldera, 21 November 2022.

⁵²⁶ See Case 11: Javier Tarazona and other Fundaredes activists.

⁵²⁷ See Case 7: Roland Carreño.

⁵²⁸ Interview with Luis Carlos Díaz, 1 March 2023.

⁵²⁹ Ibid.

⁵³⁰ A/HRC/48/CRP.5, paras. 256-265.

⁵³¹ Interview with Justicia y Proceso Venezuela, 23 May 2023.

⁵³² Interview with Foro Penal, 13 April 2023 [referring to the Javier Tarazona case]; Interview with Family of Marco Antonio Garcés, 18 May 2023 [referring to the “Gringo spy” case].

⁵³³ Interview with Justicia y Proceso Venezuela, 23 May 2023.

242. After the Public Prosecutor files the criminal charges, the defendants have another opportunity, if they so request, to testify before a judge and denounce the torture and ill-treatment, if applicable.⁵³⁴ The Mission has received information regarding a detainee who complained of torture at this stage of the process.⁵³⁵

243. The time when defendants commonly report having been victims of torture and ill-treatment is during the preliminary hearing or the substantiation of the oral trial, but judges often refuse to hand over the records of the hearing to their lawyers or relatives to prevent the statements from being made public, particularly in cases before terrorism tribunals.⁵³⁶

244. These facts are consistent with the use of torture by state authorities to generate and perpetuate a climate of fear in Venezuelan civil society or to demonstrate the possible consequences of dissent. Some people interviewed by the Mission commented that even a small number of symbolic cases are used to terrorize society as a whole,⁵³⁷ as in the torture rooms of El Helicoide and the “Casa de los Sueños” in Boleíta, the existence of which is widely known.⁵³⁸

5. Detention conditions

245. Article 10.1 of the International Covenant on Civil and Political Rights, on detention conditions, imposes a positive obligation in favour of persons deprived of their liberty and complements the prohibition of torture and other ill-treatment provided for in article 7 of the Covenant. Consequently, persons deprived of their liberty may not only not be subjected to treatment incompatible with article 7, but also to hardship or restrictions other than those resulting from the deprivation of liberty; respect for the dignity of such persons must be guaranteed by the same conditions as those applicable to persons at liberty.⁵³⁹ When detention conditions do not meet these standards, they may be considered cruel, inhuman or degrading treatment, or even acts of torture when carried out for purposes prohibited by the Convention against Torture, or for any reason based on discrimination and involving severe pain or suffering for the person deprived of liberty.⁵⁴⁰

246. The Mission has documented the following detention conditions during the reporting period:

⁵³⁴ *Ibid.*

⁵³⁵ See Case 4: Operation Gideon.

⁵³⁶ Interview with Justicia y Proceso Venezuela, 23 May 2023.

⁵³⁷ Interview with Mercedes de Freitas, 1 March 2023; Interview with Franklin Caldera, 21 November 2022.

⁵³⁸ Interview with Ignell Marín Chaparro, 15 February 2023; Interview with Eudis Giro, 14 February 2023.

⁵³⁹ Human Rights Committee, General Comment No. 21: Article 10: Humane Treatment of Persons Deprived of Their Liberty, HRI/GEN/1/Rev.7 (1992), para. 3.

⁵⁴⁰ Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/HRC/31/57 (2016), paras. 16-33; OHCHR, Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), para. 145. Available at: <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F31%2F57&Language=E&DeviceType=Desktop&LangRequested=False>

- sleep deprivation,⁵⁴¹ 24-hour constant light⁵⁴² and music at full volume,⁵⁴³
- prolonged solitary confinement;⁵⁴⁴
- poor sanitary conditions, including lack of toilet facilities⁵⁴⁵ or presence of wastewater in the cells;⁵⁴⁶
- lack of fresh air⁵⁴⁷ and lack of sunlight;⁵⁴⁸
- overcrowded cells;⁵⁴⁹
- reduced space where standing or sitting is the only possible option;⁵⁵⁰
- invasive searches and forced nudity (discussed in section F *infra*);
- lack of access to medical treatment⁵⁵¹ or withholding of medication⁵⁵² which, in two cases, resulted in the death of the prisoners;
- lack of access to sexual and reproductive health services and hygiene products (discussed in chapter V *infra*);
- underfeeding⁵⁵³ or insufficient water;⁵⁵⁴
- arbitrary restrictions on family and legal visits;⁵⁵⁵
- discrimination of access to conjugal visits (chapter V *infra*), and
- violations of the rights of nursing mothers and women with children outside of prison who face additional challenges (chapter V *infra*).

247. In its 2020 report, the Mission identified that the SEBIN and DGCIM facilities are not adequately equipped or do not have a legal mandate to serve as detention centres. The Mission also recommended immediate discontinuation of solitary confinement, extreme temperatures, constant lighting or darkness, lack of access to toilets, inadequate food and water, and overcrowding, which could amount to torture or cruel, inhuman and degrading treatment.⁵⁵⁶

⁵⁴¹ See Case 13: Aidaliz Guarisma Mérida. Interview with Foro Penal, 13 April 2023.

⁵⁴² See Case 8: Eudis Giroto; and Case 16 Six union leaders. Interview with Foro Penal, 13 April 2023.

⁵⁴³ See Case 1: Operation Constitution, illustrated by the cases of John Jairo Gasparini and Jhonatan Rangel.

⁵⁴⁴ See Case 8: Eudis Giroto. Document HHDC113: Detention conditions Franklin Caldera; Interview with Matthew John Heath, 4 September 2023.

⁵⁴⁵ See Case 4: Operation Gideon; Case 6: Matthew John Heath and eight others - "Gringo Spy" case; Case 8: Eudis Giroto; and Case 16 Six union leaders. Interview with Joel García, 9 February 2023; Interview with Foro Penal, 13 April 2023.

⁵⁴⁶ See Case 8: Eudis Giroto. Document HHDC113: Detention conditions Franklin Caldera.

⁵⁴⁷ See Case 8: Eudis Giroto. Interview with Ignell Marín Chaparro, 15 February 2023; Document HHDC048: Detention conditions Luis de la Sotta.

⁵⁴⁸ See Case 4: Operation Gideon; Case 8: Eudis Giroto; and Case 11 Javier Tarazona and other Fundaredes activists. Interview with Ignell Marín Chaparro, 15 February 2023.

⁵⁴⁹ See Case 11: Javier Tarazona and other Fundaredes activists; Case 16: Six union leaders.

⁵⁵⁰ See Case 1: Operation Constitution, illustrated by the cases of John Jairo Gasparini and Jhonatan Rangel; and Case 6: Matthew John Heath and eight others - "Gringo Spy" case.

⁵⁵¹ See Case 1: Operation Constitution, illustrated by the cases of John Jairo Gasparini and Jhonatan Rangel; Case 6: Matthew John Heath and eight others - "Gringo Spy" case; Case 8: Eudis Giroto; Case 11 Javier Tarazona and other Fundaredes activists; cases of retired General Raúl Isaías Baduel and Salvador Fernando Franco Pérez in section B.3 *supra*. Interview with Ignell Marín Chaparro, 15 February 2023; Document HHDC106: Detention conditions Josnars Adolfo Baduel; Document HHDC048: Detention conditions Luis de la Sotta; Document HHDC108: State of health of Guillermo Zárraga; Interview with Ana Medina de Zárraga, 9 June 2023.

⁵⁵² See Case 16: Six union leaders.³³⁶ Interview PPIV053.

⁵⁵³ See Case 4: Operation Gideon; and Case 11: Javier Tarazona and other Fundaredes activists. Interview PPIV053; A/HRC/WGAD/2022/67 [John Jairo Gasparini Ferbans].

⁵⁵⁴ See Case 8: Eudis Giroto; and Case 11 Javier Tarazona and other Fundaredes activists. Interview with Foro Penal, 13 April 2023; Interview PPIV053; Interview with Ignell Marín Chaparro, 15 February 2023.

⁵⁵⁵ See Case 4: Operation Gideon; Case 8: Eudis Giroto; and Case 11 Javier Tarazona and other Fundaredes activists.

⁵⁵⁶ A/HRC/45/33, para. 35-40. See also A/HCR/51/CRP.3 [Layout of La Boleíta and conditions of detention] and [Layout of El Helicoide and conditions of detention].

248. The Mission has continued to receive complaints regarding the poor conditions of detention to which persons considered or perceived to be political opponents are subjected in the DGCIM detention centre in Boleíta and SEBIN - El Helicoide, as well as in other detention centres. The mission also investigated two cases of deaths in detention as a result of lack of adequate medical care (see Section B.3 *supra*).

249. The Mission investigated the case of Igbert José Marín Chaparro, who was arrested on 2 March 2018 by members of the DGCIM. Marín Chaparro is an asthmatic patient⁵⁵⁷ and during his detention he has developed other pathologies.⁵⁵⁸ In addition, he suffers from psychological sequelae due to the ill-treatment he has received and the conditions of detention to which he is subjected, such as long periods of confinement, lack of access to fresh air and sunlight and drinking water. Despite his various medical conditions, he has not received adequate medical care.⁵⁵⁹ On 4 March 2019, the IACHR adopted precautionary measures to protect Marín Chaparro's right to life and personal integrity.⁵⁶⁰

250. Due to his detention conditions, Marín Chaparro carried out two hunger strikes, the first one lasting 17 days, from 21 December 2021 to 6 January 2022,⁵⁶¹ and the second of 67 days, from 22 November 2022 to 27 January 2023.⁵⁶² According to one witness, as a result of the hunger strikes, detention conditions improved in the following months, but subsequently worsened again.⁵⁶³ At the time of writing this report, Marín Chaparro was being held in the “Casa de los Sueños” (House of Dreams) located in Basement 2 of Boleíta. He is the only detainee who has remained in that place without having been transferred to other sections of the detention centre, as was the case with the other detainees.⁵⁶⁴

251. The Mission also analysed the case of Luis Humberto De la Sotta Quiroga, detained by the DGCIM on 18 May 2018⁵⁶⁵ in connection with Operation Armageddon, and currently incarcerated in the Fuerte Tiuna prison. In December 2022, the National Service of Medicine and Forensic Sciences (SENAMECF) issued a medical report that diagnosed him with various pathologies, such as arterial hypertension and renal insufficiency. In its report, SENAMECF recommended following up with a course of treatment Military Trial Court in Caracas to improve his detention conditions and to conduct an eye examination, since the detainee was suffering from severe headaches and dizziness, but received no response⁵⁶⁹.

⁵⁵⁷ Document HHDC047: Igbert Marín Chaparro Case Report.

⁵⁵⁸ Interview with Ignell Marín Chaparro, 15 February 2023; Document HHDC055: Foro Penal - Igbert Marín Chaparro file.

⁵⁵⁹ Document HHDC047: Igbert Marín Chaparro Case Report.

⁵⁶⁰ IACHR, Resolution 9/2019, Precautionary Measures no. 1302-18 “Igbert José Marín Chaparro regarding Venezuela,” 4 March 2019.

⁵⁶¹ Interview with Ignell Marín Chaparro, February 15 2023; Document HHDC047: Igbert Marín Chaparro Case Report.

⁵⁶² Interview HHIV080; El Nacional, Preso político Igbert Marín inició huelga de hambre indefinida dentro de la DGCIM, 23 November 2022. Available at: <https://www.elnacional.com/venezuela/preso-politico-igbert-marin-inicio-huelga-de-hambre-indefinida-dentro-de-la-dgcim/>

⁵⁶³ Ibid.

⁵⁶⁴ A/HRC/45/CRP.11, para. 336, 789-791, 2001 A/HRC/51/CRP.3, para. 123 – 128; Interview with Ignell Marín Chaparro, 15 February 2023; Document HHDC055: Foro Penal - Igbert Marín Chaparro file.

⁵⁶⁵ A/HRC/45/33, Case 13: Captain Luis de la Sotta and others.

⁵⁶⁶ Document HHDC042: Forensic medical report - Luis de la Sotta.

⁵⁶⁷ Document HHDC049: Complaint before the Public Prosecutor's Office - Luis de la Sotta Case.

252. In March 2023, Luis De la Sotta's family denounced his detention conditions to the Public Prosecutor's Office.⁵⁶⁸ That same month, the family sent a request to the First specialized doctor in a military hospital and the ongoing evaluation of the detainee⁵⁶⁶. To date, no such transfer has taken place⁵⁶⁷.

253. On 5 March 2020, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, in conjunction with the Working Group on Arbitrary Detention, issued an urgent appeal to the Government regarding allegations of poor detention conditions and torture against Luis De la Sotta, Marín Chaparro, and two other persons detained at the Boleíta detention center.⁵⁷⁰ It also requested the Government to provide information on the actions taken to protect the life and physical and psychological integrity of the detainees, as well as the measures taken to prevent inhumane detention conditions within the DGCIM.⁵⁷¹

254. The Mission investigated the case of Jasnars Adolfo Baduel Oyoque, son of the late General Raúl Baduel.⁵⁷² Jasnars Adolfo Baduel was arrested on 4 May 2020 and detained in El Helicoide for alleged involvement in Operation Gideon.⁵⁷³ In December 2021, the Military Hospital “Dr. Vicente Salías Sanoja” performed a traumatology and orthopaedics examination which diagnosed a series of injuries in his left shoulder and knee. The medical report stated that Baduel Oyoque needed at least four surgeries.⁵⁷⁴ The family has stated that, to date, he has not received medical care and his medical conditions have worsened, despite the fact that he was detained in good health.⁵⁷⁵

255. The Mission also investigated the case of Guillermo Zárraga, linked to the “Gringo Spy” case. In March 2023, Zárraga suffered a cardiac syncope while in detention.⁵⁷⁶ In May 2023, the family was able to arrange a private examination, which revealed a number of medical conditions that needed to be addressed. They also requested Zárraga's admission to the Victorino Santaella Hospital in Los Teques, but at the time of writing this report, he has not been treated.⁵⁷⁷ Zárraga has lost more than 28 kg in weight and at the beginning of August 2023, after a search by the Director of the Yare II prison, Wilmer Herrera, and subsequent confinement in a 2x2 cell without food or water for at least 24 hours, Zárraga suffered two fainting spells (see “Gringo spy” case *infra*).⁵⁷⁸

⁵⁶⁸ Document HHDC049: Complaint before the Public Prosecutor's Office - Luis de la Sotta Case.

⁵⁶⁹ Document HHDC050: Reestablishment of detention conditions at Fuerte Tiuna - Luis de la Sotta; Document HHDC048: Detention conditions Luis de la Sotta.

⁵⁷⁰ Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/HRC/31/57 (2016), paras. Reference: UA VEN 2/2020, 5 March 2020.

⁵⁷¹ *Ibid.*

⁵⁷² See section B *supra*.

⁵⁷³ A/HRC/48/CRP.5, Table 13: Jasnars Adolfo Baduel Oyoque case and Operation Gideon.

⁵⁷⁴ Document HHDC107:

⁵⁷⁵ Document HHDC106: Detention conditions Jasnars Adolfo Baduel.

⁵⁷⁶ Interview with Ana Medina de Zárraga, 9 June 2023.

⁵⁷⁷ *Ibid.*; Document HHDC108: State of health of Guillermo Zárraga.

⁵⁷⁸ Document HHDC098: Information on situation of detainees in Yare II; Tweet by Diego Zárraga [@DZeta14], 7 August 2023. Available at: <https://twitter.com/DZeta14/status/168860049830236160?s=20>; Tweet de Diego Zárraga [@DZeta14], 9 August 2023. Available at: <https://twitter.com/DZeta14/status/1689336868431699968?s=20>.

F. Sexual and gender-based violence

1. Legal framework

256. International human rights law has developed definitions of acts of “sexual violence”⁵⁷⁹ and “gender-based violence.”⁵⁸⁰ These concepts have been broadly developed as infringements of the right to integrity, to health care,⁵⁸¹ to torture⁵⁸² and the principle of non-discrimination,⁵⁸³ and others. International human rights law has interpreted this principle to include discrimination on the grounds of sexual orientation, gender identity and/or expression and sexual characteristics.⁵⁸⁴

⁵⁷⁹ Convention on the Elimination of All Forms of Discrimination against Women (1979); Declaration on the Elimination of Violence against Women, adopted by the General Assembly (1993).

⁵⁸⁰ Gender-based violence is that form of “violence that is directed at or disproportionately affects someone because of their gender or sex. Such violence takes multiple forms, including acts or omissions intended to cause or likely to cause death or physical, sexual, psychological or economic harm or suffering, threats of such acts, harassment, coercion and arbitrary deprivation of liberty”. CEDAW (2017), General Recommendation 35. See also OHCHR, Integrating a gender perspective into human rights investigations; UN Women, “Frequently Asked Questions: Types of violence against women and girls”, available at: <https://www.unwomen.org/es/what-we-do/ending-violence-against-women/faqs/types-of-violence>; UNHCR, Gender-based violence. Available at: <https://www.acnur.org/violencia-de-genero/>; A/HRC/51/CRP.2, para. 640.

⁵⁸¹ Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, art.

12. See also Committee on Economic, Social and Cultural Rights, General Comment No. 14: The right to the highest attainable standard of health, E/C.12/2000/4 (2000), paras. 8, 12.

⁵⁸² ICCPR, art. 7; Convention against Torture, arts. 1, 16; International Convention on the Elimination of All Forms of Racial Discrimination, art. 5(b); Convention on the Rights of the Child, arts. 19, 37(a); Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography; International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, arts. 10, 16(1) and 16(2). At the regional level, see American Convention on Human Rights, art. 5(2). 5(2); Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belem do Para), arts. 6 and 7; Inter-American Convention to Prevent and Punish Torture; African Charter on Human and Peoples' Rights, art. 5(5); Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, arts. 11(3) and 14(2)(c); African Charter on the Rights and Welfare of the Child, arts. 16, 17(2)(a), 21, 22(1) and (3); 27; African Commission on Human and Peoples' Rights, Guidelines and Measures for the Prohibition and Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in Africa [hereinafter “Robben Island Guidelines”]; Arab Charter on Human Rights art. 8; European Convention on Human Rights art. 3; Council of Europe Convention on preventing and combating violence against women and domestic violence (2014), art. 36; European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

⁵⁸³ Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979; Committee on the Elimination of Discrimination against Women, General Recommendation No. 19. Violence against Women (1992), para. 1.

⁵⁸⁴ Committee on Economic, Social and Cultural Rights, General Comment No. 20. Non-discrimination and economic, social and cultural rights, E/C.12/GC/20 (2009), para. 27; and General Comment No. 22. The right to sexual and reproductive health, E/C.12/GC/22 (2006), paras. 9, 23; Human Rights Committee, *Toonen v. Australia*, CCPR/C/50/D/488/1992, para. 8.7; Committee on the Rights of the Child, General Comment no. 4. Adolescent Health and Development in the Context of the Convention on the Rights of the Child, CRC/GC/2003/4 (2003), para. 6; and General Comment No. 9. The rights of children with disabilities, CRC/C/GC/9 (2007), para. 8; Committee against Torture, General Comment no. 2. Application of Article 2 by States Parties, CAT/C/GC/2 (2008), para. 21; and General Comment No.3. Implementation of Article 14 by States Parties, CAT/C/GC/3 (2012), paras. 32, 39.

257. In addition, these definitions have also been incorporated into international humanitarian law and international criminal law, making it possible to establish individual responsibility for acts of sexual and/or gender-based violence. The Rome Statute criminalizes rape, sexual slavery, forced prostitution, forced pregnancy, forced sterilization or any other form of sexual violence of comparable gravity as war crimes and crimes against humanity.⁵⁸⁵ The United Nations Independent Expert on protection against violence and discrimination based on sexual orientation or gender identity has affirmed that international standards and their interpretation by international and regional human rights bodies, courts and procedures in the area of gender “are applicable, *mutatis mutandis*, LGBTIQ+ and gender-diverse people.”⁵⁸⁶

258. Under Venezuelan law, acts of sexual violence, including rape, are prohibited,⁵⁸⁷ “lascivious acts,”⁵⁸⁸ forced prostitution,⁵⁸⁹ sexual slavery,⁵⁹⁰ sexual harassment,⁵⁹¹ trafficking (in particular of women, children and adolescents),⁵⁹² and slavery.⁵⁹³ Venezuelan law establishes special procedures and specialized courts for crimes against women⁵⁹⁴ and a specialized prosecutor's office for gender diversity attached to the General Directorate of Human Rights (Prosecutor's Office 98) (chapter V *infra*).⁵⁹⁵

2. Previous patterns of sexual and gender-based violence

259. In its 2020 report, the Mission documented 45 incidents of sexual violence that included 89 specific acts of sexual violence, such as rape, threats of rape, forced nudity, invasive and unnecessary body searches, and other acts of sexual violence, including violence directed at the genitals and groping.⁵⁹⁶ Nine incidents occurred during demonstrations, 34 during interrogation or detention of dissidents or opponents, and two during security operations.⁵⁹⁷ All the acts investigated by the Mission were committed by State officials in coercive environments, particularly the DGCIM with 24 incidents and the SEBIN with 10.⁵⁹⁸ The Mission also documented that, in at least 18 cases and involving multiple victims, officers from SEBIN, DGCIM, GNB, PNB and FAES insulted men and women with homophobic and sexist words during house raids, arrests, interrogations and detentions.⁵⁹⁹

⁵⁸⁵ Rome Statute, art. 7(1)(g); art. 8.2.b; A/HRC/45/CRP.11, para. 53. ⁵¹ See A/HRC/2/CRP.11, para. 642.

⁵⁸⁶ General Assembly, Protection against Violence and Discrimination on the Basis of Sexual Orientation and Gender Identity, A/77/235 (2022), paras. 14-16.

⁵⁸⁷ 2005 Criminal Code, art. 374; Organic Law on Women's Right to a Life Free of Violence of 2007 [hereinafter “2007 Organic Law on Women's Rights“], art. 43.

⁵⁸⁸ 2005 Criminal Code, arts. 376, 374; 2007 Organic Law on Women's Rights, arts. 43-45.

⁵⁸⁹ 2007 Organic Law on Women's Rights, art. 46.

⁵⁹⁰ *Ibid.*, art. 47.

⁵⁹¹ *Ibid.*, art. 48.

⁵⁹² 1999 Constitution, art. 54; 2007 Organic Law on Women's Rights, arts. 15(8), 72. Trafficking is punishable by 20 to 25 years in prison, or 25 to 30 years when the victims are children or adolescents.

⁵⁹³ 2005 Criminal Code, art. 174

⁵⁹⁴ 2007 Organic Law on Women's Rights, arts. 94-123. The Mission notes that other genders do not enjoy the same protection as women and girls.

⁵⁹⁵ Public Prosecutor's Office of the Bolivarian Republic of Venezuela, Human Rights Prosecutor's Offices. Available at: <http://www.mp.gob.ve/index.php/fiscalias-en-materia-de-derechos-humanos/>

⁵⁹⁶ A/HRC/45/CRP.11, paras. 1949-1950 and 1953.

⁵⁹⁷ *Ibid.*, para 1950.

⁵⁹⁸ *Ibid.*, paras. 1954 and 1955. See CEPAZ, Ser mujer en Venezuela. Diagnóstico comunitario y propuestas para la acción humanitaria, October 2022. Available at: https://cepaz.org/documentos_informes/ser-mujer-en-venezuela-diagnostico-comunitario-y-propuestas-para-la-accion-humanitaria/.

⁵⁹⁹ A/HRC/45/CRP.11, para. 1961.

260. In its 2021 report, the Mission documented 14 cases of sexual violence, including rape and threats of rape, against 10 men and 4 women. The acts were committed by SEBIN and DGCIM.⁶⁰⁰ In a report, the Mission also documented the authorities' lack of response to allegations of sexual violence perpetrated by security forces against detainees.⁶⁰¹

261. In 2022, the Mission presented, among others, a report on the role of intelligence services in the perpetration of crimes against humanity. The report documented 11 cases reflecting common patterns of sexual violence committed by SEBIN and DGCIM officials against detainees, and identified some of the individuals responsible for ordering or directly perpetrating such acts.⁶⁰²

3. Evolution of patterns of sexual and gender-based violence.

262. For the period 2020-2023, the Mission investigated the cases of 19 persons (4 men, and 15 women including one trans woman) victims of sexual and gender-based violence committed against opponents or perceived opponents, their family members, and their lawyers.⁶⁰³ All cases of sexual and gender-based violence documented by the Mission occurred in places of detention, either against detainees or their visitors.

263. In the Venezuelan social context, it is important to take into account the predominance of hegemonic concepts of masculinity and femininity, where masculine identity is constructed from domination and the role of women as mothers in the domestic sphere is emphasized.⁶⁰⁴ This macho conception of masculinity has repercussions in the perpetration of acts of sexual and/or gender-based violence that disproportionately affect women and all LGTBQ+ people who do not ascribe to these roles of masculine and feminine roles.⁶⁰⁵

264. The cases documented by the Mission illustrate these gender dynamics and show a use of sexual violence as a measure of torture to extract information and as a form of humiliation and degradation of the real or perceived opponent, as explained below. This violence was used against both men and women. Sexual violence was also used against military dissidents as a form of humiliation and degradation during interrogation.⁶⁰⁶

265. Patriarchal roles and stereotypes are coupled with negative stereotypes about men and women associated with political dissent as "enemies within"⁶⁰⁷ and therefore both dangerous and threatening to the stability of the government, which justifies the use of violence against them, including sexual violence.⁶⁰⁸

⁶⁰⁰ A/HRC/48/CRP.5, paras. 242, 258-259, 260, 263, and 428, and Table 9 (Drone Case).

⁶⁰¹ *Ibid.*, paras. 256-265.

⁶⁰² A/HRC/51/CRP.3, paras. 113-117 (sexual and gender-based violence by the DGCIM) and paras. 313-316 (sexual and gender-based violence by SEBIN).

⁶⁰³ See Case 1: Operation Constitution, illustrated by the cases of John Jairo Gasparini and Jhonatan Rangel; Case 4: Operation Gideon; and Case 6: Matthew John Heath and eight others - "Gringo Spy" case.

⁴⁵ A/HRC/11/CRP.11, para. 1921.

⁶⁰⁵ *Ibid.*, para 1921 and those that follow.

⁶⁰⁶ See Case 1: Operation Constitution, illustrated by the cases of John Jairo Gasparini and Jhonatan Rangel; and Case 4: Operation Gideon. See also A/HRC/45/CRP. 11, para. 1963.

⁶⁰⁷ COFAVIC, OMCT, Fact-finding Mission Report. Venezuela Enemigos Internos: La defensa de derechos humanos bajo ataque, March 2020. Available at: https://cofavic.org/wp-content/uploads/2020/05/Informe-Venezuela-enemigos-internos_2020.pdf.

⁶⁰⁸ See Case 1: Operation Constitución, illustrated by the cases of John Jairo Gasparini and Jhonatan Rangel; and Case 4: Operation Gideon.

266. In the context of political persecution, whether real or perceived, the cases documented by the Mission show a selection of women persecuted because of their status as wives or partners of men linked - either real or perceived - to groups or social sectors considered subversive or in some way dangerous to the maintenance of the status quo. The violence analyzed against these individuals is a result of the combined assignment of gender stereotypes and political affiliation.

(a) Rape and threats of rape as a form of torture

267. The requirements for an act of sexual violence to constitute a form of torture or cruel, inhuman or degrading treatment have been developed in the framework of international human rights, which establishes that such acts reach the pain threshold or physical suffering or mental necessary to qualify as an act of torture, as long as the other elements of the definition are met.⁶⁰⁹ As such, threats of rape and other sexual violence against people or their families,⁶¹⁰ touching of sexual parts of the body,⁶¹¹ selective violence against genitalia,⁶¹² threats of genital mutation,⁶¹³ forced nudity,⁶¹⁴ or being obligated to witness acts of sexual violence against other people⁶¹⁵ have been classified as torture and other ill treatment.

268. The Mission investigated cases in which it has reasonable grounds to believe that sexual violence was used, in different forms, as a form of torture or of cruel, inhuman or degrading treatment in moments just after the detention of real or perceived opponents.⁶¹⁶ In some cases, the victims were threatened with direct rape⁶¹⁷ or indirectly when, for example, they were told that they were going to be sent naked to a room of male officials.⁶¹⁸

269. In effect, in at least five cases, the information received by the Mission shows that officials of the Special Action Forces (FAES by its Spanish acronym) and the Directorate General of Military Counter-Intelligence (DGCIM by its Spanish acronym) perpetrated acts of sexual violence or threats of rape with the purpose of obtaining confessions or information of alleged people responsible.⁶¹⁹ During the interrogations subsequent to the detention of these people, officials from the Special Action Forces threatened two detained women with rape before being moved to the Bolivarian National Intelligence Service, and officials from the Directorate General of Military Counter-Intelligence

⁶⁰⁹ Council of Human Rights, Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, A/HRC/31/57 (2016); Committee against Torture, CAT/C/67/D/854/2017 (2019); TPIR, *Prosecutor v Jean-Paul Akayesu*, ICTR-96-4-T, 2 September 1998, paragraph 597 (from now, *Akayesu*); TPIY, *Prosecutor v Delalic et al*, Judgement, 16 November 1998, paragraphs 495, 496; TPIY, *Prosecutor v. Kvočka et al*, Judgement, IT-98-30/1-T, 2 November 2001; European Human Rights Tribunal (TEDH by its Spanish acronym), *Aydin v. Turquía*, 25 September 1997, paragraphs 83-84; TEDH, *M.C. c. Bulgaria*, Judgement of the 4 December 2003; CteIDH, *Ortega and others v. México*, Judgement of the 30 August 2010; CteIDH, *Miguel Castro-Castro Prisión c. Perú*, Judgement of the 25 November 2006, paragraph 260.

⁶¹⁰ Committee against Torture, *Saad Ali v. Túnez*, CAT/C/41/D/291/2006, paragraph. 3.8; TPIY, *Prosecutor v. Kvočka and others*, Judgement, IT-98-30/1-T, November 2001, paragraph 144, 145; TEDH, *Al Nashiri v. Poland*, 24 July 2014, paragraphs 504, 511, 516; TEDH, *Elci and Ors. v. Turkey*, 13 November 2003, paragraph 21.

⁶¹¹ Human Rights Council, Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Juan E. Méndez, A/HRC/28/68/Add.3 (2014); TPIY, *Prosecutor v. Kvočka and others*, Judgement, IT-98-30/1-T, 2 November 2001, paragraphs. 98, 99.

⁶¹² Committee against Torture, *X. v. Denmark and Ethiopia*, CAT/C/53/D/458/2011, 20 January 2015, paragraph 2.2; TPIY, *Prosecutor v. Simić and others*, IT-95-9-T, 17 October 2003, paragraph 695; TPIY, *Prosecutor v. Brđanin*, IT-99-36-T, 1 September 2004, paragraphs 498, 500.

⁶¹³ TPIY, *Prosecutor v. Simić and others*, IT-95-9-T, 17 October 2003; *Prosecutor v. Furundžija*, IT-95-17/1-T, Judgement, 10th of December 1998, paragraphs 82, 266-67, 272.

⁶¹⁴ Committee of Human Rights, *Lucía Arzuaga Gilboa v. Uruguay*, Communication number. 147/1983, 1 November 1985, paragraph 4.3; Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Juan E. Méndez, Addition – Mission to Mexico. A/HRC/28/68/Add. 3 December 2014; *Prosecutor v. Kunarac et al*, Judgement, IT-96-23-T & IT-96-23/1-T, 2 February 2001, paragraphs 766-67; TEDH, *Aydin v. Turquía*, 25 September 1997, paragraphs. 78, 84; International Human Rights Court, *Miguel Castro-Castro Prisión v. Peru*, Judgement, 25 November 2006, paragraph 260.

⁶¹⁵ *Prosecutor v. Furundžija*, IT-95-17/1-T, Judgement, 10 December 1998, paragraph 267.

⁶¹⁶ Penal Forum interview on 14 April 2023

⁶¹⁷ See Case 4: Operación Gedeón.

⁶¹⁸ See Case 4: Operación Gedeón; and Case 13: Aidaliz Guarisma Mérida.

⁶¹⁹ See Case 1: Operación Constitución, illustrated by the cases of John Jairo Gasparini and Jhonatan Rangel; Caso 4: Operación Gedeón; and Case 6: Matthew John Heath and eight other people – Case “Gringo Espía”.

raped two detained men with a blunt object,⁶²⁰ both were military officials.⁶²¹ All of these cases took place in 2020, which coincides with the last year in which there were these large-scale operations. The use of rape or threats of rape as a form of torture confirms the pattern previously documented by the Mission.⁶²²

270. This also confirms a previously identified pattern by the Mission of the use of sexual violence against men belonging to or associated with the armed forces, especially in the frame of intelligence operations, with the aim of extracting information from them or pressuring them to incriminate themselves of their participation, real or not, in these operations.⁶²³

(b) Invasive searches and forced nudity against inmates and family members

271. Acts of forced nudity and sexual touching and groping are forms of sexual violence in themselves and have also been considered as constituting torture and/or other bad treatments by the legal precedence of international tribunal.⁶²⁴ These searches can constitute bad treatment “when they are carried out in a disproportionate, humiliating or discriminatory way” and even torture “when they are carried out with prohibited ends or for any reason based on discrimination and suppose a pain or intense suffering for the victim.”⁶²⁵ Forced nudity of people deprived of liberty as part of invasive searches is a generalised practice in the Venezuelan prison system which affects women disproportionately.⁶²⁶ This practice also extends to the family and visitors of prisoners, including, with less frequency, their lawyers.

272. Forced nudity as a part of the searches affects women disproportionately, given that, except in exceptional cases – as in the case of the Helicoide or of the Boleíta – it is not permitted for men to visit the centres under the responsibility of the penitentiary system.⁶²⁷ At the same time, acts of forced nudity place women in an especially vulnerable situation, which combines with the fear of further acts of sexual violence.⁶²⁸

273. The claims made by families on behalf of the people deprived of liberty seem to have caused a lessening of these practices in some penitentiary centres, however, it is still a common practice.⁶²⁹ According to the testimonials received by the Mission, the women detained for political motivations are subjected to this type of act particularly inside the National Institute for Female Orientation (INOF by its Spanish acronym). However, forced nudity as part of the searches is also a generalised practice in relation to the jailed population as a whole.

274. According to various testimonials received by the Mission, the visitors of the prisoners, after being forced to be completely naked, then had to wait in corridors or closed rooms -depending on the centre- for a prolonged time in order to be inspected.⁶³⁰ At the moment of the search, they were obliged to stand against the wall and raise

⁶²⁰ See Case 4: Operación Gedeón.

⁶²¹ See Case 1: Operación Constitución, illustrated by the cases of John Jairo Gasparini and Jhonatan Rangel; Caso 4: Operación Gedeón; and Case 6: Matthew John Heath and eight other people – Caso “Gringo Espía”. Interview IIIV022.

⁶²² A/HRC/45/CRP.11, paragraph 1589.

⁶²³ A/HRC/45/CRP.11 paragraph 1956.

⁶²⁴ TPIR, case *Akayesu*, paragraph. 697. *Atenco vs. Mexico*, Judgement from November 2018; Preliminary Exceptions, Baseline, Reparations and costs; paragraph 188 and CorteIDH, *Cases Miguel Castro v. Perú*, paragraph 308, 25 November 2006.

⁶²⁵ A/HRC/31/57, paragraph. 23.

⁶²⁶ Testimonies of forced nudity in detention: Case Ivonne Barrios (Gringo Espía), Case Aidaliz Guarisma Case; Interview IIIV014; Interview IIIV025; Interview IIIV035; Interview PPIV046; Interview with Ignell Marín Chaparro, 15 February 2023; Interview IIIV043; Interview IIIV042; Interview IIIV040 and Interview with Foro Penal on the 4 May 2023.

⁶²⁷ Interviews at the Venezuelan Prison Observatory, 19th of April and 2 May 2023. Venezuelan Prisoner Observatory (OVP by its Spanish acronym), Visitors to Venezuelan Prisons are victims of gendered violence and human rights violations, 22 September 2022. Available at: <https://ovePrisiones.com/informes-tematicos/>; See also OVP, Informe – Women deprived of freedom. The voices of women behind bars, 14 June 2021. Available at: <https://ovePrisiones.com/informe-mujeres-privadas-de-la-libertad-en-venezuela-las-voces-de-las-mujeres-detras-de-las-rejas/>.

⁶²⁸ *Ibid.*

⁶²⁹ OVP. Heading – Prison abandonment continues at 100 days, on the 9 November 2023. Available at: <https://ovePrisiones.com/boletin-el-abandono-carcelario-continua-a-mas-de-100-dias-de-gestion/>.

⁶³⁰ Interview PPIV053.

their legs, squat, cough, push, and jump.⁶³¹ Also, they placed a mirror underneath their vaginas and were inspected with a light.⁶³² Often the prison guards would mock the women they were searching for.⁶³³ The Mission received information that seemed to indicate that, on some occasions, the searches were accompanied by touching and other forms of sexual aggression.⁶³⁴

275. According to the information received by the Mission in previous periods, these types of acts took place in an intentional manner and with special viciousness against legal representatives and families of people deprived of liberty for political motivations.⁶³⁵ The information collected by the Mission seems to indicate that, in the present, these acts take place in an undifferentiated way against families and lawyers both of people deprived of liberty for political motivations and the rest of the penitentiary population.⁶³⁶

276. For the period 2020-2023, the Mission analysed nine cases of forced nudity as part of the personal searches relating to people deprived of liberty and received two more testimonials from direct witnesses, about the occurrence of these acts. One sergeant currently detained⁶³⁷ told the Mission that between 2020 and 2022 there were some very invasive searches of family members who entered the National Military Processing Centre of Ramo Verde, including someone who was, at the time, his partner.⁶³⁸ These inspections included touching and being forced to duck and jump.⁶³⁹ However, given the successive complaints that were presented, currently, these acts have been reduced.⁶⁴⁰

277. The searches and nudity are very traumatic for those who experience them. One family member of a person deprived of liberty in the Judicial Internment of El Rodeo, in the municipality of Ezequiel Zamora, State of Monagas, defined the visits to this prison between 2020 and 2022 as “a very ugly, brutal experience.”⁶⁴¹ Even if it is considered that they never touched her in a sexual manner, she felt very violated by how she was searched.⁶⁴²

278. According to another testimonial collected by the Mission, the women detained for political motivations in the INOF, in Los Teques, State of Miranda, are harassed and degraded in a recurring manner by the prison guards, including acts of forced nudity and the revision of their genitals.⁶⁴³ According to the information received by the Mission, it is normal that the political prisoners prefer that their legal representatives do not comment on the treatment that they receive in prison out of fear of repercussions.⁶⁴⁴

279. On 7 July 2023, an inspection of the officials of the Immediate Response Group of the Security and Custody (GRIC by its Spanish acronym) in the National Institute for Feminine Orientation (INOF by its Spanish acronym) situated in Los Teques, State of Miranda, which the women deprived of liberty in the Area of Admission⁶⁴⁵ were obliged to undress in groups of five and show their vulva and rectum in an auditorium of the prison in which the officials of the GRIC, both men and women, focused on them with mirrors and lights and said derogatory phrases to them like “come on, damn it, open up”, “move, push, push”, “open up, put your finger in [your vagina]”, while they were forced to jump.⁶⁴⁶ According to the information received by the mission from the family members of those

⁶³¹ Interview PPIV053; Interview with Ignell Marín Chaparro, 15 February 2023; Interview with Foro Penal, 4 May 2023; Interview IIIV042; Interview IIIV043.

⁶³² *Ibid.*

⁶³³ Interview PPIV053.

⁶³⁴ *Ibid.*

⁶³⁵ For example, according to information obtained by the Mission, at least two members of the legal team of Leopoldo López and family members were subject to forced nudity when they went to visit their client at the National Centre for Penal Processing of Ramo Verde between 2024 and 2017; Document IIDC057; Interview with Raúl Emilio Baduel, on the 5 July 2023; Interview with Lilian Tintori on 4 July 2023.

⁶³⁶ Interview with Foro Penal, 4 May 2023; Interview IIV001; Interviews with the Venezuelan Prison Observatory, 19 April 2023.

⁶³⁷ Interview with Jhonatan Rangel, 23 May 2023.

⁶³⁸ *Ibid.*

⁶³⁹ *Ibid.*

⁶⁴⁰ *Ibid.*

⁶⁴¹ Interview PPIV053.

⁶⁴² *Ibid.*

⁶⁴³ See Case 6: Matthew John Heath and eight other people– Case “Gringo Espía”. Document IIDC008: List of the political prisoners of Foro Penal; Interview with Foro Penal, 4 May 2023.

⁶⁴⁴ Interview with Foro Penal, 4 May 2023; Interview IIV001; Interview with the Venezuelan Prison Observatory, 19 April 2023.

⁶⁴⁵ Also known as the Commotion Zone it is the area where women accused or condemned of cases of commotion (generally public officials of cases of media interest, political cases and terrorism).

⁶⁴⁶ Interview IIIV035.

deprived of liberty, the procedure lasted from 9:00 until 23:00, without them being given food or water.⁶⁴⁷ The information received by the Mission indicated that these acts are now not occurring in a generalised manner against lawyers, although allegations have been received sporadically, for example, one defence lawyer of various people deprived of liberty for political motivations affirmed that she had been obliged to remove her clothes, duck and push in one of her visits to a state prison where one of her clients was detained on 2 November 2021.⁶⁴⁸

280. In conclusion, the Mission investigated the patterns of sexual and gendered violence, especially by state officials, in contexts of detention, protests, and interrogations. Emphasising the gender stereotypes and the patriarchal norms profoundly rooted in Venezuelan society that contribute to these violations. The Mission has reasonable motivations to believe that the use of sexual violence as a form of torture and humiliation against political dissidents, real or perceived, is still ongoing, which perpetuates the cycle of abuse and oppression, through rape, the threat of rape, invasive searches and forced nudity.

G. Illustrative Cases

Caso 1: Operation *Constitución*, illustrated by the cases of John Jairo Gasparini and Jhonatan Rangel

Background

281. From 2017, the arrests of military officials and associated civilians intensified, in the frame of operations of counterinsurgency, in response to supposed attempts of a coup d'état and other types of actions that aimed to destabilise the government. One of these actions, which the Mission analysed in the 2021 report, was "Operation *Constitución*,"⁶⁴⁹ which consisted of a plan to assassinate President Maduro and other political authorities.

282. As previously documented by the Mission, the first arrests related to Operation *Constitución* took place in January of 2019.⁶⁵⁰ The Mission investigated the cases of three people (two military officials and one civilian) and concluded that there were reasonable motivations to believe that arrests, arbitrary detentions and short-term enforced disappearances, torture and other cruel, inhuman or degrading treatments or punishments, with respect to these three people took place.⁶⁵¹ The Mission indicated that such cases investigated were illustrative of wider patterns of rights violations.⁶⁵²

283. In 2020, there were four new arrests relating to Operation *Constitución*. The detainees were Luis Miguel Alborno Rondon, the First Sargent Nelson Enrique Santiago Valecillos, John Jairo Gasparini Ferbans and Sargent Jhonatan Gabriel Rangel Ray. As will be seen further ahead, the Mission investigated the last two cases for this report.⁶⁵³

284. On 27 March 2020, the hearing of the presentation of the accused took place, before the 1st Special Supervisory Tribunal of First Instance with competence in terrorism matters, under the control of Judge Carol Padilla.⁶⁵⁴ The Prosecutor in charge of the case, Farik Karin Mora Salcedo, accused all of them of crimes of conspiracy against the political form⁶⁵⁵ and of membership of an organised crime group,⁶⁵⁶ of forming part of the

⁶⁴⁷ *Ibid.*

⁶⁴⁸ Interview with Foro Penal, 4 May 2023.

⁶⁴⁹ A/HRC/45/CRP.11, paragraph 817 – 864.

⁶⁵⁰ A/HRC/45/CRP.11, Case 15: Operation *Constitución*: illustrated by the cases of Colonel Oswaldo Valentín García Palomo, Colonel José Rommel Acevedo Montañez, and Antonio José Iabichuela, paragraph 817 – 864. In the aforementioned detentions are those of Colonels Oswaldo Valentín García Palomo and Romer Acevedo, the businessman Alberto Iabichela and First Lieutenant Alberto José Salazar Cabañas, all of them detained on the 27 January 2019; as was the Second Sargent Miguel Ambrosio Palacio Salcedo, detained on the 28 January 2019 and, finally, Lieutenant Colonel Ovidio Carrasco Mosquera and Colonel Jhonnand Rafael Mejías Laya, detained on the 30 January 2019.

⁶⁵¹ A/HRC/45/CRP.11, paragraph 862

⁶⁵² A/HRC/45/33CRP.11, paragraph 817.

⁶⁵³ Both were detained on the 18 March 2020.

⁶⁵⁴ IIDC010: Case File Operación *Constitución* Hearing of the presentation of the accusations.

⁶⁵⁵ Penal code, art. 132.

⁶⁵⁶ Law against Organised Crime and Financing of Terrorism, art. 37.

alleged terrorist group which would have planned an assassination attempt against President Maduro.⁶⁵⁷ Jhonatan Rangel Rau and Nelson Enrique Santiago Valecillos were also charged with the crime of revealing political or military secrets concerning the security of the Nation.⁶⁵⁸ The hearing took place when they had already spent seven days detained, on 25 March 2020. However, in the case file, the date of detention recorded, is -exactly- two days before celebrating the hearing, which shows that the detention would have happened within the legal timeframe of 48 hours for a detainee to be taken before a Judge. This suggests that there was an irregular alteration of the date in the detention orders emitted by the 1st Special Supervisory Tribunal of First Instance with competence in terrorism matters in Caracas with the aim to make it seem that the detentions were carried out in a legal manner.⁶⁵⁹ On the other hand, according to the testimonials received by the Mission, the judge tried to get the defendants to accept the given version of events at every opportunity;⁶⁶⁰ and the defendants could not choose their legal representation and they were assigned a public defender.⁶⁶¹

285. On 25 February 2021, the preliminary hearing before the same tribunal took place, in which Judge Carol Padilla confirmed the integrity of the accusation of this prosecution and decided to open a trial.⁶⁶² During the hearing, Sargent Jhonatan Rangel denounced that he had suffered acts of sexual torture while he was deprived of liberty, including an act of rape.⁶⁶³ Similarly, the defendants denounced the bad treatment that they had received during the first days of their detention,⁶⁶⁴ without there having been any investigation initiated in this respect. According to a testimonial collected by the Mission, the Prosecutor told the detainees that they were guilty and that “they didn’t have a right to anything.”⁶⁶⁵

286. The cases related to Operation *Constitución* were accumulated in the oral phase of the trial, in two case files under the numbers 014-20. Both case files are currently being processed before the 2nd Special Supervisory Tribunal with competence in terrorism matters, under Judge Greindy Duque. Within these case files are the cases of 10 men detained -7 from the military and 3 civilians- they are accused of treason,⁶⁶⁶ political conspiracy,⁶⁶⁷ terrorism,⁶⁶⁸ membership of an organized crime group⁶⁶⁹ and possession of illegal weapons of war.⁶⁷⁰ On 23 August 2022, the first oral hearing took place, which is currently continuing.

The case of John Jairo Gasparini

Detention

287. John Jairo Gasparini Ferbans, a car mechanic, was arrested on 18 March 2020, around 18:00 hours, in the municipality of El Hatillo, State of Miranda. When he was exiting a pharmacy, Gasparini was approached and surrounded by unidentified security officers who detained him without a judicial order and forced him to get into a van which drove him to a safe house, apparently located in the outskirts of Caracas.⁶⁷¹

⁶⁵⁷ Document IIDC010: Case File Operation Constitución – Written accusations and preliminary hearing; Document IIDC015.

⁶⁵⁸ Penal Code, art. 134.

⁶⁵⁹ A/HRC/WGAD/2022/67 [John Jairo Gasparini Ferbans], paragraph 31; Document HHDC082: Case File Operation Constitución - Preliminary Hearing.

⁶⁶⁰ Document IIDC015; Document IIDC037.

⁶⁶¹ Document IIDC037.

⁶⁶² Document HHDC082: Case File Operation Constitución - Preliminary Hearing.

⁶⁶³ Document IIDC015; IIDC044: Complaints to the High Commissioner Jhonatan Rangel; IIDC046: Complaint to the Public Prosecutor, Jhonatan Rangel; IIDC058: Complaint to the Public Prosecutors Office- Jhonatan Rangel.

⁶⁶⁴ Case of John Jairo Gasparini and Jonathan Rangel.

⁶⁶⁵ Document IIDC011.

⁶⁶⁶ Penal Code, art. 128.

⁶⁶⁷ *Ibid.*, art. 132.

⁶⁶⁸ Constitutional Law against Organised Crime and the Financing of Terrorism, Official Gazette no. 39912, 30 April 2012 (hereafter, Law against Organised Crime and the Financing of Terrorism), art. 52.

⁶⁶⁹ *Ibid.*, art. 37.

⁶⁷⁰ Act on the Disarmament and Control of Arms and Ammunition, *Official Gazette* number. 40.190 of the 17 June 2013 (from now on “Disarmament and Control of Weapons and Munitions”), art. 111.

⁶⁷¹ Interview with Sugled Gasparini, 6 June 2023; Interview with SOS Libertad, 25 November 2022; Working Group on Arbitrary Detention. “Opinion number. 67/2022, relating to John Jairo Gasparini Ferbans (Bolivarian Republic of Venezuela)”, A/HRC/WGAD/2022/67 [John Jairo Gasparini Ferbans], paragraphs 5-8, paragraph 37.

288. Later it was known that the detention of Gasparini was linked to his alleged implication in Operation *Constitución*, however, the detainee did not know the reasons why he was implicated in the aforementioned operation.⁶⁷²

Torture in a safe house

289. Gasparini remained detained for eight days in the safe house, during which time he was subjected to severe torture -from 19 to 27 March 2020-.⁶⁷³ In the early morning of 19 March 2020, Gasparini recognised the officials present as those belonging to the Directorate General of Military Counter-Intelligence (DGCIM by its Spanish acronym), they handcuffed him, hung him from his hands and hit him with bats and pipes for more than 40 minutes.⁶⁷⁴ Later, Gasparini was taken to the second floor of the house, where they seated him in a chair, tied his hands and leg and interrogated him. As Gasparini did not give them the information they were looking for, the officials of the Directorate General of Military Counter-Intelligence hit his fingers and toes with a bat and a hammer and did not stop until he passed out.⁶⁷⁵

290. Gasparini was then taken back to the first floor of the property, where he remained suspended by the hands for five days.⁶⁷⁶ The weight of his body caused cuts and bleeding on his wrists. When he would pass out, the officials would throw ice water over him to wake him up. Gasparini was also hung by his feet for several days, receiving blows to his testis and glutes with a pipe. He does not have any notion of how much time he spent in this position, and when he started to bleed out, he thought that he was going to die.⁶⁷⁷

291. The officials also handcuffed Gasparini to a grate, completely naked. When he woke up, he could not move his fingers and he was bleeding from the wrists. Then he was burnt with cigarettes, beaten with golf clubs in the knees, ankles and heels, and also in the head with firearms. They broke four molars and he partially lost hearing in his right ear.⁶⁷⁸ On the 27 March, he was moved to the Directorate General of Military Counter-Intelligence of Boleíta, in Caracas.⁶⁷⁹

Short Term Enforced Disappearance

292. On 18 March 2020 at night, after not having any news of his whereabouts, the family of Gasparini started their search⁶⁸⁰. On 19 March, the family went to report his disappearance to the police station of the El Hatillo municipality. The police officers only filed a report for the alleged attempt of robbery in their house and refused to accept a report of disappearance, stating that the 72 hours that are required by the law had not yet passed.⁶⁸¹ The same day, the family went to hospitals, the morgue, the headquarters of the Directorate General of Military Counter-Intelligence in Boleíta, Bolivarian National Intelligence Service (SEBIN by its Spanish acronym) in Plaza Venezuela, El Helicoide and the Bolivarian National Police (PNB by its Spanish acronym) unit in El Llanito, all of which are in Caracas. In all of these places, the officials denied the presence of Gasparini.⁶⁸²

⁶⁷² Interview with Sugled Gasparini, 6 June 2023; Interview with SOS Libertad, 25 November 2022; A/HRC/WGAD/2022/67 [John Jairo Gasparini Ferbans], paragraph 17. According to the opinion of the GTDA, Gasparini Ferbans had been detained on the basis of a rumour according to which he formed part of the conspiracy, given that his phone number appeared in the contact list of several people detained in relation to “Operación Constitución”, A/HRC/WGAD/2022/67 [John Jairo Gasparini Ferbans], paragraph 33.

⁶⁷³ Interview with Sugled Gasparini, 6 June 2023; Interview with SOS Libertad, 25 November 2022; A/HRC/WGAD/2022/67 [John Jairo Gasparini Ferbans], paragraphs 5-8, paragraph 37.

⁶⁷⁴ Interview with Sugled Gasparini, 6 June 2023; A/HRC/WGAD/2022/67 [John Jairo Gasparini Ferbans], paragraph 9.

⁶⁷⁵ *Ibid.*

⁶⁷⁶ *Ibid.*

⁶⁷⁷ Interview with Sugled Gasparini, 6 June 2023.

⁶⁷⁸ *Ibid.*; A/HRC/WGAD/2022/67 [John Jairo Gasparini Ferbans], paragraph 9.

⁶⁷⁹ Interview with Sugled Gasparini, 6 June 2023; A/HRC/WGAD/2022/67 [John Jairo Gasparini Ferbans], paragraph 10.

⁶⁸⁰ Interview with Sugled Gasparini, 6 June 2023.

⁶⁸¹ *Ibid.*; A/HRC/WGAD/2022/67 [John Jairo Gasparini Ferbans], paragraph 12.

⁶⁸² Interview with Sugled Gasparini, 6 June 2023; A/HRC/WGAD/2022/67 [John Jairo Gasparini Ferbans], paragraph 13; Document HHDC056: Complaint to the Public Prosecutors Office – Case John Jairo Gasparini.

293. On 20 March, the family formally reported the disappearance of John Jairo Gasparini to the Scientific, Criminal and Forensic Investigations Corps (CICPC by its Spanish acronym) of Caracas.⁶⁸³ On 27 March, officials of the Scientific, Criminal and Forensic Investigations Corps, who had initiated an investigation about the disappearance, informed the family that Gasparini was detained in Boleíta.⁶⁸⁴ Before receiving this news, the family had been to this detention centre at least five times asking about his whereabouts, but the officials of the Directorate General of Military Counter-Intelligence denied every time that he was detained there.⁶⁸⁵

294. With the news about the whereabouts of Gasparini, on 27 March, the family returned to Boleíta. The officials made them wait for several hours before confirming that he was there, but they were told to return the next day.⁶⁸⁶ On 28 March, the family returned to Boleíta and the officials again denied them entry and the receiving of food and clothing. On the same day, Gasparini was able to make a call to his family to communicate that he was indeed in Boleíta.⁶⁸⁷

295. On 30 March, officials of the DCGIM searched the family home of the Gasparini Ferbans with the pretext of looking for a device, without giving more details of the object that they were looking for. While they carried out this search, the officials threatened the family to not record or communicate what was happening, as otherwise they would be detained. The officials were not able to find the device and they left.⁶⁸⁸

Detention and torture in Boleíta

296. John Jairo Gasparini remained in for a total of 400 days in Boleíta. In the first days of his detention, he was in the “Casa de los Sueños” (House of Dreams). He was also moved, at least once, to an extremely small cell known as “Caja de Muñecas” (Doll Box), he was there for three days and could only remain standing or seated⁶⁸⁹.

297. On one occasion, during his time in Boleíta, Gasparini was moved unconscious to the Military Hospital without his family being informed. His handcuffs were very tight around his wrists, causing the doctor who examined him to tell the officials of the Directorate General of Military Counter-Intelligence that they had to be removed, because if not they would kill him.⁶⁹⁰ In another moment, in December 2020, Gasparini was again moved to this hospital due to the strong headaches that he was experiencing because the officials of the Directorate General of Military Counter-Intelligence kept a megaphone with music at maximum volume in his cell with the aim to torment him. The doctor recommended that the officials stop these acts. On returning to Boleíta, when Gasparini had recovered from the headaches, he was beaten again.⁶⁹¹

298. On 27 August 2020, the family of Gasparini presented a claim before the Direction of the Public Office of Protection of Human Rights⁶⁹², but, to date, the family have not been contacted for an interview. On various occasions, the family tried to present claims before the Public Prosecutors Office and the National Human Rights Institution – Defensoría del Pueblo, where they were rejected⁶⁹³.

Transferal to other detention centres

299. On 30 April 2021, Gasparini was transferred to the National Centre of Military Processing of Ramo Verde in the State of Miranda. On 17 October 2021, he was transferred to the Model Jail known as La Planta, in Caracas.⁶⁹⁴ His family members were not informed of these transfers and Gasparini was not allowed to communicate

⁶⁸³ Interview with Sugled Gasparini, 6 June 2023; A/HRC/WGAD/2022/67 [John Jairo Gasparini Ferbans], paragraph 14; Document HHDC080: Denouncement of disappearance to the Scientific, Criminal and Forensic Investigations Corps – Case John Jairo Gasparini.

⁶⁸⁴ Interview with Sugled Gasparini, 6 June 2023;

⁶⁸⁵ *Ibid.*; A/HRC/WGAD/2022/67 [John Jairo Gasparini Ferbans], paragraph 15.

⁶⁸⁶ Interview with Sugled Gasparini, 6 June 2023; A/HRC/WGAD/2022/67 [John Jairo Gasparini Ferbans], paragraph 16.

⁶⁸⁷ Interview with Sugled Gasparini, 6 June 2023.

⁶⁸⁸ *Ibid.*

⁶⁸⁹ *Ibid.*

⁶⁹⁰ A/HRC/WGAD/2022/67 [John Jairo Gasparini Ferbans], paragraph 22.

⁶⁹¹ Interview with Sugled Gasparini, 6 June 2023.

⁶⁹² Document HHDC056: Complaint to the Public Prosecutors Office – Case John Jairo Gasparini.

⁶⁹³ Interview with Sugled Gasparini, 6 June 2023.

⁶⁹⁴ *Ibid.*; A/HRC/WGAD/2022/67, [John Jairo Gasparini Ferbans], paragraph 23, 25.

with them.⁶⁹⁵ In the last transfer, the family only had news of his whereabouts on 22 October 2021, the date on which he was allowed to make a phone call.⁶⁹⁶

Current situation

300. If Gasparini had not suffered physical torture in the last two detention centres (National Centre of Military Processing of Ramo Verde and La Modelo) in which he had been detained, he continued to be a victim of bad psychological treatment and bad detention conditions.⁶⁹⁷ According to a source interviewed by the Mission, Gasparini received constant threats from the officials of La Planta who have told him that, if his family keeps talking, he will suffer the consequences.⁶⁹⁸ Currently, they allow visits of only one person just once a month. Also, he can only receive food, personal hygiene items and medications with restrictions from the exterior of the prison once a month.⁶⁹⁹

301. As a consequence of the torture which he has suffered, Gasparini's health has severely deteriorated. He suffers due to his back, strong migraines, he has lost four molars, his ribs, finger and toes are fractured, he has pain in his knees and walks with difficulty.⁷⁰⁰ Gasparini also has compromised mental health and currently suffers from severe depression and suicidal thoughts.⁷⁰¹ Gasparini has not received adequate medical or psychological assistance from the day of his detention, despite his delicate health.⁷⁰²

302. In March 2023, the United Nations Working Group on Arbitrary Detention ruled on the case concluding that the detention of John Jairo Gasparini Ferbans was arbitrary and insisted that the government of Venezuela guarantee his immediate liberation.⁷⁰³ The working group also referred the case to the working group on Forced or Involuntary Disappearance and to the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishments so that they could take the corresponding action.⁷⁰⁴

The case of Jhonatan Rangel

Arbitrary detention

303. Jhonatan Rangel carried out the role of First Sargent of the Presidential Honour Guard. On 18 March 2020, while he was on daytime service in Fort Tiuna in the Municipality Libertador de Distrito Capital,⁷⁰⁵ he was detained by officials from the Directorate General of Military Counter-Intelligence.⁷⁰⁶ According to one source interviewed by the Mission, the agents arrived at Fort Tiuna in four vehicles with about 30 functionaries dressed in black.⁷⁰⁷ A high-ranking official of the Directorate General of Military Counter-Intelligence on board one of the vehicles pointed at him with a pistol and said "don't move or I will kill you."⁷⁰⁸ The committee of officials took Rangel to his room in the Fort and they removed all of his belongings, including money and his uniforms.⁷⁰⁹ An arrest warrant was never presented to him.⁷¹⁰

304. According to the information received, on 18 March 2020, Rangel was denied the right to make a phone call and his mother later told him that "she thought that he was dead."⁷¹¹ Rangel's family asked for him in Fuerte Tiuna and key military officials there replied "*don't investigate more because you are going to get into political problems.*"⁷¹² Similarly, family members of Rangel asked for him at the Military Police headquarters in El Helicoide, where they asked agents of the Bolivarian National Intelligence Service if he was there, without obtaining any

⁶⁹⁵ *Ibid.*

⁶⁹⁶ *Ibid.*

⁶⁹⁷ Interview with Sugled Gasparini, 6 June 2023.

⁶⁹⁸ *Ibid.*

⁶⁹⁹ *Ibid.*

⁷⁰⁰ *Ibid.*; Interview with SOS Libertad, 25 November 2022.

⁷⁰¹ Interview with Sugled Gasparini, 6 June 2023.

⁷⁰² *Ibid.*

⁷⁰³ A/HRC/WGAD/2022/67 [John Jairo Gasparini Ferbans], paragraphs 118, 121.

⁷⁰⁴ *Ibid.*, paragraph. 122.

⁷⁰⁵ Document IIDC010: Case File Operación Constitución, page 23.

⁷⁰⁶ *Ibid.*, page. 22,

⁷⁰⁷ Document IIDC011.

⁷⁰⁸ *Ibid.*

⁷⁰⁹ *Ibid.*

⁷¹⁰ *Ibid.*

⁷¹¹ Interview IIV044.

⁷¹² *Ibid.*

information.⁷¹³ On 19 March 2020, family members of Rangel asked at the headquarters of the Directorate General of Military Counter-Intelligence in Boleíta for his whereabouts and there they admitted that Rangel was in their custody.⁷¹⁴

Torture and sexual violence

305. According to one source interviewed by the Mission, after his apprehension, Jhonatan Rangel had his eyes covered with a cloth and they moved him to the back seat of a van from Fort Tiuna to a building that he did not manage to identify. He was locked up in this place for three days. During this time, Rangel was hung by his hands, naked, and beaten with a pipe and other blunt objects in various parts of his body, like his glutes and his legs, until the point of heavy bleeding.⁷¹⁵ While they beat him, the officials told him that he was conspiring against the government, that he knew who participated in the events and that he had to give their names.

306. At one moment, someone arrived and told him “*If you don’t tell me the truth, I am going to fuck you.*”⁷¹⁶ Then, those present grabbed a broomstick and raped him, introducing it into his anus over and over again.⁷¹⁷ Later, Jhonatan Rangel had diarrhoea, strong stomach pains and inflammation in his haemorrhoids.⁷¹⁸

307. On 21 March 2020, Rangel was moved to the headquarters of the Directorate General of Military Counter-Intelligence in Boleíta, where he remained for seven days in the area known as “*La Pecera*” (The Fishbowl)⁷¹⁹, where he was beaten daily.⁷²⁰ From there he was moved, inside of Boleíta, to the sector named “Hall”, to “Sector C” and to “Sector D”. In total he was there until 1 October 2020, when he was finally moved to the National Centre for Military Processing and Punishment of Old Ramo Verde in the State of Miranda⁷²¹, where he remains currently. This same year he was attended by a urologist who entered Ramo Verde as part of the Commission of the Military Hospital and noticed that Rangel had “previous rectal trauma, with difficulty to evacuate and rectal bleeding.”⁷²²

308. On 12 May 2020, when he was in “Sector C”, they asked him to dress in his uniform, and they took him along with two other people in an armoured van escorted by eight more people on motorbikes of the Directorate General of Military Counter-Intelligence, to the headquarters of the Ministry of Defence, where a ceremony took place which removed his military grading.⁷²³

309. In the preliminary hearing of 25 February 2021, it was decided to open a trial, once the Judge accepted the accusation of the Prosecutor in its totality and ruled to keep Rangel in preventative custody and transfer the case to the Public Prosecutors Office of the Direction of Human Rights for the claims of torture and rape submitted by the accused.⁷²⁴

310. On 4 March 2021, the partner of Rangel presented a claim before the Public Prosecutors Office soliciting that they investigate the events of torture committed against the sergeant while he was detained by the Directorate

⁷¹³ *Ibid.*

⁷¹⁴ *Ibid.*

⁷¹⁵ *Ibid.*

⁷¹⁶ *Ibid.*

⁷¹⁷ Interview IIV025; Document IIDC015; IIDC044: Complaints to the High Commissioner Jhonatan Rangel; IIDC046: Complaint to the Head of the National Human Rights Institution - Defensor del Pueblo, Jhonatan Rangel; IIDC058: Complaint to the Public Prosecutors Office- Jhonatan Rangel.

⁷¹⁸ Document IIDC015; *Ibid.*

⁷¹⁹ Interview with Jhonatan Rangel, 23 May 2023.

⁷²⁰ *Ibid.*

⁷²¹ *Ibid.* See also, Document IIDC01; IIDC044: Complaints to the High Commissioner Jhonatan Rangel; IIDC046: Complaint to the Head of the National Human Rights Institution - Defensor del Pueblo, Jhonatan Rangel; IIDC058: Complaint to the Public Prosecutors Office- Jhonatan Rangel; IIDC044: Complaints to the High Commissioner Jhonatan Rangel; IIDC046: Complaint to the Head of the National Human Rights Institution - Defensor del Pueblo, Jhonatan Rangel; IIDC058: Complaint to the Public Prosecutors Office- Jhonatan Rangel. Núcleo Noticias, Sargent Jonathan Rangel narrated how he was tortured in the Directorate General of Military Counter-Intelligence, 26 November 2022. Available at: <https://nucleonoticias.com/2022/11/26/sargento-jonathan-rangel-narro-como-fue-torturado-en-la-DGCIM/>.

⁷²² Document IIDC045: Urology medical report from the commission of the Ramo Verde Military Hospital.

⁷²³ Document IIDC015.

⁷²⁴ Document HHDC082: Case File Operación Constitución - Preliminary Hearing [Act of opening of the Hearing, page 118].

General of Military Counter-Intelligence.⁷²⁵ The Mission does not have any knowledge of if the investigation has advanced.

Current situation

311. At the time of writing this report, Jhonatan Rangel had spent three years and two months in preventative detention, which is above the maximum timeframe of three years set out in article 230 of the Organic Code of Criminal Procedure (COPP by its Spanish acronym).⁷²⁶ The process has a procedural delay of almost four years, which is contrary to said regulation which establishes a reasonable time of two years, plus one more extension. The Mission is not certain that, to date, an investigation has been instigated into the claims of torture and rape made by Rangel.

312. According to the information available to the Mission, on 15 November 2022, 33 months after his detention, Rangel was sent to the University Military Hospital “Dr Carlos Arvelo” where they carried out a testicular ultrasound on him.⁷²⁷ However, the appointment that should have followed three months later is still pending.⁷²⁸

Conclusions

313. In the case of John Jairo Gasparini Ferbans, the Mission has reasonable grounds to believe that an arrest and an arbitrary detention were committed against him. He was not informed of the motivation of his arrest, he was detained without a judicial order, and on top of this, a detention card was issued with a date which does not correspond with the reality.

314. The Mission has reasonable grounds to believe that Gasparini Ferbans was the object of a short-term enforced disappearance for nine days: between the 18 March 2020, the moment of his apprehension, and 27 March 2020, the moment in which he was presented before the tribunals.

315. The Mission also has reasonable grounds to believe that Gasparini Ferbans was the victim of acts of torture and cruel, inhuman or degrading treatment between the 18 and 27 March 2020, when he was detained in an unknown building used as a clandestine detention centre, where he was taken after being detained. At the same time, the Mission has reasonable grounds to believe that during the period in which he was detained in Boleíta (400 days), he was the object of acts of torture and bad treatment, including at least one stay in the “*Caja de Muñecas*” (Doll House). The Mission concludes that officials from the Directorate General of Military Counter-Intelligence were involved given that they were the ones who moved Gasparini to the hospital on two occasions and they were in charge of the detention centre in Boleíta, and the safe house where he was retained.

316. Regarding Jhonatan Rangel, the Mission has reasonable grounds to believe that he was the victim of torture and other cruel, inhuman or degrading treatments that included multiple and severe beatings and sexual rape. The acts of torture and cruel, inhuman or degrading treatments were carried out with the purpose of punishing the victim and extracting information from him.

317. Officials from the Directorate General of Military Counter-Intelligence participated in the commission of violation of human rights and crimes against Jhonatan Rangel, given that they ordered and carried out his arrest and drove him to the place where he was severely tortured. Individuals not identified of the Directorate General of Military Counter-Intelligence perpetrated acts of torture during his detention for three days in a safe house. At the same time, the officials from the Centre of Maximum Security of Processing and Punishments Anex of the Metropolitan Area of

⁷²⁵ IIDC058: Complaint to the Public Prosecutors Office- Jhonatan Rangel

⁷²⁶ Penal processing code, art. 230. The disposition establishes: “It is not possible to order a measure of personal coercion when this seems disproportionate (...). In no case can the minimum punishment for each crime be passed, nor exceed the time frame of two years. Except when there are serious reasons which justify the maintenance of the personal coercion measures when these are close to their expiry, the judge can prolong this period for up to a year, always under the condition that it does not exceed the minimum prison sentence of the accused crime, (...) “equal prolongation can be solicited when aforementioned expiry is due to undue delays attributed to the accused, or their defence team”.

⁷²⁷ Document IIDC045: Photo of the medical urology report [“Presumed diagnosis: 1. Right Varicocele grade I/III, 2. Simple cyst in the left epidermic head, 3. Complex cyst in the left epidermal head, 4. Eco graphic finds suggestive of probable infection process -bilateral recurrent inflammation, 5. Bilateral testicular Microlithiasis related to chronic inflammation”]; Interview IIV014; Interview IIV025.

⁷²⁸ *Ibid.* Interview IIV014; Interview IIV025; YouTube Video - VIVO play, Sargent Jonathan Rangel needs medical attention, 26 January 2023. Available at: <https://www.youtube.com/watch?v=pG1QzoJtmrQ>.

Caracas were involved in the bad treatment suffered by Jhonatan Rangel during the seven days in which he was detained there.

318. Similarly, the Mission has reasonable grounds to believe that Rangel has been the victim of an arbitrary detention, given that he was detained without a court order, and also, the time that he has already spent detained, exceeds the maximum of three years as set out in Venezuelan legislation.

Case 2: Wilfredo Rodríguez

Background

319. Wilfredo Rodríguez is a political activist and journalist. He was the host of the TV programme *Sin miedo y sin bozal* (“Without fear and without a muzzle”), transmitted by Tucupita Television, and the current diffusor of informative content on social media⁷²⁹. Rodríguez forms a part of the regional board of primaries of the State of Delta Amacuro,⁷³⁰ installed by the Venezuelan opposition with a look to the presidential elections planned for 2024.⁷³¹

Persecution and harassment

320. On 10 April 2020, Wilfredo Rodríguez published a photo on Facebook that said: “*In Delta Amacuro they traffic fuel. This happened today 10/04/20 in Tucupita at 6 pm at night; delinquents from the Bolivarian National Guard in the Urbanisation Rómulo Gallegos; street 4, removed gasoline from the convoy where they ended up patrolling.*”⁷³²

321. As told by Rodríguez, that same day, after having made the post, four officials of the National Antiterrorism and Kidnapping Unit (CONAS by its Spanish Acronym) of the National Bolivarian Guard appeared at the residence of one of his friends, WWIV009, who was with another person, WWIV009B.⁷³³ WWIV009 realised that the agents were from the National Antiterrorism and Kidnapping Unit because they were in uniform. The agents spoke to WWIV009B accusing her of having made the publication on Facebook and ordering her to delete it⁷³⁴. This person told them that she was not the publication’s author and had only shared Rodríguez’s social media publication. However, the officials of the National Antiterrorism and Kidnapping Unit proceeded to detain her for approximately three hours.⁷³⁵

322. According to the testimonial of Wilfredo Rodríguez, WWIV009 then informed him that the National Antiterrorism and Kidnapping Unit was looking for him and that they had said that they wanted to find him soon so that he would delete the publication before it went viral. From 10 April 2020, Rodríguez took refuge in the residence of another person for approximately a month.⁷³⁶

323. According to the same testimonial, on 12 April 2020, around 14 officials who moved in National Antiterrorism and Kidnapping Unit vehicles, armed and with balaclavas, arrived at the family home of Wilfredo Rodríguez to investigate his whereabouts. Eight of Rodríguez’s family members were in the residence. An agent of

⁷²⁹ Interview with Wilfredo Rodríguez, 18 July 2023.

⁷³⁰ The Newspaper of Delta, Wilfredo Rodríguez forms part of the Regional Board of Primaries in Delta, 29 May 2023. Available at: <https://www.periodicodeldelta.com/2023/05/29/wilfredo-rodriguez-integra-junta-regional-de-primarias-en-el-delta/>.

⁷³¹ National Commission of Primaries, Regional boards. Available at: <https://comisiondeprimariave.org/juntas-regionales/>.

⁷³² PROVEA, Right to Personal Liberty.2020 Report – Situation of Human Rights in Venezuela, 2020. Available at: https://provea.org/wp-content/uploads/2021/12/16libertad_personal-1.pdf; Facebook post from Wilfredo Rodríguez, 10 April 2020. Available at: <https://www.facebook.com/100011396859167/posts/pfbid02uTteimNjAxuimoY4C9bbtqBjy4HsymnqrdmckGNTQxwdvdYowbQPy7ZZ1xnY86PWI/?app=fbl>; Facebook post from Wilfredo Rodríguez. 10th of April 2020. Available at: https://www.facebook.com/permalink.php?story_fbid=pfbid02ujRnfY3a69vU6f9cZFrw6feiA5CZcZDgRHfZNksFLFa9sT4D8nyWFvQqoyESSfvcl&id=100011396859167.

⁷³³ Interview WWIV009.

⁷³⁴ Interview WWIV009; Interview with Wilfredo Rodríguez, 20 July 2023.

⁷³⁵ Interview WWIV009.

⁷³⁶ Interview WWIV011.

the National Antiterrorism and Kidnapping Unit threw one of them, an adult man, to the floor, put his foot on his face, and said to the others “*We had better find Wilfredo soon, because, if not, when we find him, we will kill him.*”⁷³⁷

324. On 24 April 2020, Wilfredo Rodríguez found out that the front of his house had been painted with the following messages “*Death to the opposer Wilfredo*” and “*We are coming for you dirty.*”⁷³⁸ Rodríguez then decided to stop hiding and return to his residence in Tucupita.⁷³⁹ According to Rodríguez, he decided to stop hiding because he thought that the period in which he could be detained for slander had elapsed and that, consequently, the authorities would not arrest him.

Detention and torture

325. Wilfredo Rodríguez told the Mission that two weeks later, on 7 May 2020 at 1:30 pm, when he went to buy food, he saw that an Antiterrorism and Kidnapping Unit vehicle was getting closer to him in Delfín Mendoza de Tucupita square.⁷⁴⁰ He noticed that both the van and the uniforms of the five officials that came in it had the Group of Antiextortion and Kidnapping (GAES by its Spanish acronym) logo of the Bolivarian National Guard, even though that said group had changed to call themselves the Antiterrorism and Kidnapping Unit.⁷⁴¹ According to his testimony, one of the agents got out of the car, placed a pistol to his chest, and then rebuked him because he liked to denounce the police and government through Facebook. Then he handcuffed him and hit him with the weapon.⁷⁴² The other agents forced him to get into the vehicle, where they continued beating him in various parts of his body. The vehicle headed towards the Antiterrorism and Kidnapping Unit detention centre located close to the central park of Tucupita. According to Rodríguez, during his apprehension, the agents did not present any judicial order.⁷⁴³

326. According to Rodríguez’s testimony, once inside the Antiterrorism and Kidnapping Unit detention centre, three agents of said institute handcuffed his wrists and hung him from a meat hook⁷⁴⁴ The agents beat him using fists and kicks in the abdomen and, with cable stripped at its ends, connected electricity to his feet. At the end of an hour, the agents of the Antiterrorism and Kidnapping Unit told him that he deserved this punishment because “*he liked to denounce the government*”, and they warned him not to tell anybody about the aggression because otherwise, things could “*get worse at night*”. They also told him that he deserved that punishment because he liked to denounce the Government.⁷⁴⁵

327. Rodríguez indicated to the Mission that he believed that he didn’t suffer any more physical punishments because, according to the commander of the Antiterrorism and Kidnapping Unit, orders had been received from their superiors at a national level to leave him alone.⁷⁴⁶ However, they warned him that they had received instructions from the government to the contrary.⁷⁴⁷

Processing

328. On 10 May 2020, Wilfredo Rodríguez was presented before the Tribunal of Control One of the Penal Judicial Circuit of the State of Delta Amacuro.⁷⁴⁸ They charged him with the crime of “*insult to the public officials*”⁷⁴⁹ under article 222 of the Penal Code⁷⁵⁰. The accused received private defence through three lawyers who worked

⁷³⁷ Interview with Wilfredo Rodríguez, 20 July 2023.

⁷³⁸ Document WWDC001: Video of Wilfredo Rodríguez in front of his home covered in graffiti.

⁷³⁹ Interview with Wilfredo Rodríguez, 18 and 20 July 2023.

⁷⁴⁰ *Ibid.*

⁷⁴¹ *Ibid.*

⁷⁴² *Ibid.*

⁷⁴³ *Ibid.*

⁷⁴⁴ *Ibid.*

⁷⁴⁵ *Ibid.*

⁷⁴⁶ *Ibid.*

⁷⁴⁷ *Ibid.*

⁷⁴⁸ Public Space. The commentator detained for oil demand irregularities in Delta Amacuro is released, 13 May 2020. Available at: <https://espaciopublico.org/excarcelan-a-locutor-detenido-por-Complaint-irregularidades-con-la-gasolina-en-delta-amacuro/>.

⁷⁴⁹ Interview with Wilfredo Rodríguez, 18 and 20 April 2023.

⁷⁵⁰ Penal Code of 2005, art. 222: In that words or works which offend in any way the honour, reputation or decorum of a member of the National Assembly of any public office, will be punished in the following way, if the event has taken place in their presence and according to the following conditions: 1. If the offence is directed against any agent of public force, with prison of one to three months. 2. If the offence has been

ad honorem. The judicial authority ruled as a substitute precautionary measure presentation to the tribunal every 45 days, while it is in force⁷⁵¹.

Conclusions

329. With a base on the events described, the Mission has reasonable grounds to believe that an arbitrary arrest and detention were committed against Wilfredo Rodríguez for his journalism activities. The Mission also has reasonable grounds to believe that while he was detained in the Antiterrorism and Kidnapping Unit detention centre, he was a victim of torture as retribution for his Facebook post on 10 April 2020, in which he denounced the officials of the Bolivarian National Guard trafficked oil. Similarly, the Mission has reasonable grounds to believe that Wilfred Rodríguez, his family and friends were the object of harassment after he published his denouncement on Facebook. The Mission has reasonable grounds to believe that officials of the Antiterrorism and Kidnapping Unit de la Bolivarian National Guard participated in the arbitrary detention and torture of Rodríguez, as well as the harassment of his friends and family.

330. The Mission has reasonable grounds to believe that officials of the Antiterrorism and Kidnapping Unit of the Bolivarian National Guard participated in the arbitrarily detention and torture of Rodríguez, likewise in the harassment of his friends and family.

Case 3: Arnaldo Sumoza

331. Arnaldo Sumoza is a journalist, director of the Regional Television of the State of Guárico, Channel 15, and reader on the 1300 circuit of the FM Center⁷⁵²

Detention

332. On 14 April 2020, a protest took place due to the water shortage in the locality of El Sombrero, municipality Julián Mellado, State of Guárico.⁷⁵³ The protest was in front of the Hidropaez Business,⁷⁵⁴ when Arnaldo Sumoza found out from a phone call from local neighbours, he attended at approximately 4:00 pm with the aim to record the events.⁷⁵⁵ When he arrived on the scene, he observed that it was a peaceful protest and that there were no security officers there.⁷⁵⁵ When he arrived at the site, he observed that the protest was peaceful and that there were no security forces present.⁷⁵⁶ Also, he noted that one of the streets where the protest was held was closed with tires that blocked both ends of the street. The journalist started to take statements with his phone of some of the people present at the protest, asking them if they could identify themselves while they were being filmed.⁷⁵⁷

333. Around 5:00 pm, officials of the Bolivarian National Guard (GNB by its Spanish acronym) arrived to the zone of the protest and a captain approached Arnaldo Sumoza indicating that he should stop making statements and leave.⁷⁵⁸ Additionally, the captain accused him of being involved in the organisation of the protest and threatened him “*Stop filming, I’m going to disgrace your life.*”⁷⁵⁹ Sumoza stopped filming after the threat and approached the captain in order to explain to him that he was only taking statements from the attendees as part of his work as a

directed against a member of the National Assembly, or any public official, with prison of one month to one year according to the category of said people.

⁷⁵¹ Document WWDC002: Photo of the card of presentation to the court.

⁷⁵² PROVEA-laboratory of peace, patterns of violations of civil rights during the 2 months of the state of alarm in Venezuela (13 March to the 13 May 2020), 28 May 2020. Available at: <https://provea.org/publicaciones/investigaciones/informe-patronos-de-violacion-de-derechos-civiles-durante-2-meses-estado-de-alarma-en-venezuela/>; Interview with Arnaldo Sumoza, 19 July 2023.

⁷⁵³ Redes Ayuda, Repression of the freedom of expression during the pandemic. Report of violations of the freedom of expression against methods of communication and press workers during the COVID-19 pandemic in Venezuela (21 February – 31 March), 3 June 2020. Available at: <https://redesayuda.org/wp-content/uploads/2020/06/RedesAyuda-Represi%C3%B3n-a-la-libertad-de-expresi%C3%B3n-durante-la-pandemia-Completo.pdf>; Interview with Arnaldo Sumoza, 19 July 2023.

⁷⁵⁴ Interview with Arnaldo Sumoza, 19 July 2023.

⁷⁵⁵ *Ibid.*

⁷⁵⁶ *Ibid.*

⁷⁵⁷ *Ibid.*

⁷⁵⁸ Agenda Venezuela 2030, April detentions attempt to impose silence, 7 May 2020. Available at: <https://www.agendavenezuela2030.org/noticias/abril-detenciones-buscan-imponer-el-silencio>; Interview with Arnaldo Sumoza, 19 July 2023.

⁷⁵⁹ *Ibid.*

journalist and that he had not organised the protest.⁷⁶⁰ Sumoza remained in the place and saw when the representatives of the Hidropaez business arrived to propose potential solutions to the complaints of the protesters. This allowed the protest to be dissolved gradually.⁷⁶¹

334. According to his testimony, before the protest had ended, Sumoza left for the residence of some friends, located very near to the place of the protest.⁷⁶² From the house of his friends the journalist could see through the window some agents of the Bolivarian National Guard were arguing with a woman and a man who remained at the protest, due to this he decided to return with the intention to help establish a dialogue. Now back at the site, Sumoza and two other people were detained by officers of the Bolivarian National Guard.⁷⁶³

335. The three detainees were moved on motorbikes to the El Sombrero detention centre of the Bolivarian National Guard, where they remained retained for approximately an hour and a half.⁷⁶⁴ In this place, according to the testimony of Sumoza, the same captain who threatened him during the protest showed him a photograph in which he could be seen with his back to the camera interviewing people, and then, he slapped him and left.⁷⁶⁵ The officials of the Bolivarian National Guard took photographs of the three detainees posing next to some tires and bottles full of petrol, presumably as incriminating evidence of having burnt the tires in the street during the protest.⁷⁶⁶

336. An hour and a half later, according to the testimony of Sumoza, the three detainees were moved in a van, handcuffed together, until they reached the El Peaje headquarters. There they remained detained for two nights, from the 14 until the 16 April 2020, during this time they had to sleep in a cell of 3x7 meters along with another 30 people.⁷⁶⁷

337. On 16 April 2020, Arnaldo Sumoza and the other two people detained were presented in a hearing before the Tribunal of San Juan de los Morros and they were charged with the crime of disturbing the public order.⁷⁶⁸ In addition, they imposed the substitutive measure of appearing before the tribunal every 60 days and community work. At the end of 2020, the case was dismissed.⁷⁶⁹

Conclusions

338. Based on the events described, the Mission has reasonable motivations to believe that Arnaldo Sumoza was the object of arbitrary detention for his work as a journalist and for exercising his right to freedom of expression.

Caso 4: Gedeón Operation

Background

339. *Gedeón* Operation was an incursion attempt into Venezuelan territory, by way of the sea, which took place on 3 May 2020, whose objective was to overthrow the Government of President Maduro.⁷⁷⁰ The response of the Government, denominated Operation *Negro Primero* “Crushing of the enemy”, resulted in the death of eight alleged

⁷⁶⁰ *Ibid.*

⁷⁶¹ *Ibid.*

⁷⁶² *Ibid.*

⁷⁶³ Facebook post, IPYS Venezuela, 18 April 2020. Available at: https://www.facebook.com/IpysVenezuela/posts/2916645161735636/?paipv=0&eav=Afa1VkVbyQIG30yJGZTA1TmokJXmZJ9aPIRm7pkJyXlqq6lob9IHRM8KgfrLJmVQ0rg&_rdr. Interview with Arnaldo Sumoza, 19 July 2023.

⁷⁶⁴ Tweet from Así es Noticias, @AsiEsNoticiasVe, 15 April 2020. Available at: <https://twitter.com/AsiEsNoticiasVe/status/1250438563738480651?s=20>; Interview with Arnaldo Sumoza, 19 July 2023.

⁷⁶⁵ *Ibid.*

⁷⁶⁶ Document WWDC003: Photo provided by Arnaldo Sumoza.

⁷⁶⁷ Interview with Arnaldo Sumoza, 19 July 2023.

⁷⁶⁸ IPYS, Alerta IPYS Venezuela, In less than 24 hours they detained two journalists in Guárico and Apure. 17 April 2020. Available at: <https://ipysvenezuela.org/alerta/alerta-ipysve-en-menos-de-24-horas-detuvieron-a-dos-periodistas-en-guarico-y-apure/>.

⁷⁶⁹ Interview with WWIV020

⁷⁷⁰ A/HRC/48/CRP.5, footnote 799.

attackers and the detention of 85 people, as well as allegations of extrajudicial executions, arbitrary detentions and torture of the people allegedly implicated and associated.⁷⁷¹

340. The authorities opened three judicial processes about Operation Gedeón.⁷⁷² In the first process the 4th Special Supervisory Tribunal of First Instance with competence in terrorism matters (referred to as “4th Tribunal of First Instance”), led by Judge Macsimino Márquez García, condemned 48 people (including one woman) to accept the events, on a sentence given on 7 August 2020.⁷⁷³ The other two processes are currently in the trial phases before the 1st Special Supervisory Tribunal of First Instance with competence in terrorism matters (referred to as “1st Tribunal of First Instance”), led by Judge Hennit Carolina López Mesa.

341. The Mission conducted a detailed analysis of one of the proceedings before the 1st Tribunal of First Instance⁷⁷⁴ which involved 29 detainees (25 men, including 13 military officials and four civilian women).⁷⁷⁵ It involves a group of people who did not accept the events for which they were accused. The defendants, in this case, are accused of crimes of treason,⁷⁷⁶ conspiracy,⁷⁷⁷ rebellion,⁷⁷⁸ trafficking of weapons of war,⁷⁷⁹ membership of an organised crime group⁷⁸⁰ and terrorism.⁷⁸¹ Out of the 29, the Mission focused on nine cases: four relating to civilian women and five relating to military officials. The Mission also examined other two cases relating to civilian women detained for being family members of alleged participants in the events.⁷⁸² All of the participants whose cases were investigated by the Mission were detained at the end of April 2020, days before the maritime incursion took place on the 3 May of the same year.

Case of the Alemán Family (Richard, Yolimar y Andreína Alemán y Erickson Chaya Barroeta)

Detention

342. On 20 April, in the early hours of the morning, officials dressed in black without identification and carrying weapons, broke into the hotel Verde Caramia in the State of Miranda, where Richard Alemán, a retired military official, stayed next to four other people, also military officials.⁷⁸³ The officials did not present any detention order and detained Alemán and his companions. All were moved to the detention centre in the Directorate General of Military Counter-Intelligence Boleíta, Caracas.

343. At the same time, on the same day, forces of the Directorate General of Military Counter-Intelligence, arrived at the house of the parents of Alemán in Puerto Cabello, State of Carabobo.⁷⁸⁴ The officials asked for Richard

⁷⁷¹ See El Mundo, Operación Gedeón: the six keys to the suicide mission against Nicolás Maduro, 7 May 2020.

Available at: <https://www.elmundo.es/internacional/2020/05/07/5eb279bffc6c839b5f8b4576.html>; Nodal, “Operación Gedeón” in Venezuela: what it consisted of and who is implicated in the paramilitary incursions, 5 May 2020. Available at: <https://www.nodal.am/2020/05/operacion-gedeon-en-venezuela-en-que-consistio-y-quienes-estan-implicados-en-las-incursiones-paramilitares/>. See also: National Assemblée Press Release, NA assures that the human rights violations committed by the usurping regime will not remain unpunished, 1 October 2020. Available at: <https://asambleanacionalvenezuela.org/noticias/an-asegura-que-violaciones-a-los-de-derechos-humanos-cometidos-por-el-regimen-usurpador-no-quedaran-impunes/>.

⁷⁷² Relating to Case File numbers. 4CT-035-2020, IJT-029-2021 and IJT-048-22. See Document IIDC002: Report on political prisoners.

⁷⁷³ Document IIDC002: Judgement of 7 August 2020.

⁷⁷⁴ Case File number. IJT-029-2021. See Document IIDC002: Report on political prisoners.

⁷⁷⁵ The other case refers to four men, including two military officials, detained in 2021 and whose case is under the Case File number IJT-048-22. Document IIDC002: Report on political prisoners, page 238-250.

⁷⁷⁶ Penal Code, art. 128.

⁷⁷⁷ Penal Code, art. 132

⁷⁷⁸ Penal Code, art. 132.

⁷⁷⁹ Constitutional Law against Organised Crime and the Financing of Terrorism, art. 38.

⁷⁸⁰ Law against Organised Crime and the Financing of Terrorism, art. 37

⁷⁸¹ Law against Organised Crime and the Financing of Terrorism, art. 52.

⁷⁸² See Document IIDC002: Report on political prisoners; IIDC008: Report on female political prisoners of Foro Penal, 14 April 2023.

⁷⁸³ Document IIDC041: File on Operation Gedeón to the United Nations High Commissioner of Human Rights, 26 January 2023. Document IIDC002: Report on political prisoners; Document IIDC016. See also Infobae, The impactful case of the Alemán brothers, detained in order to force a Lieutenant to declare himself guilty of conspiracy against Maduro, 15 December 2020. Available at: <https://www.infobae.com/america/venezuela/2020/12/15/el-impactante-case-de-las-hermanas-aleman-detenido-para-obligar-a-un-teniente-a-declararse-culpable-de-conspiracion-contra-maduro/>.

⁷⁸⁴ Interview IIIV018.

Alemán and, on not finding him, detained -without judicial order of apprehension- his two sisters, Andreína and Yolimar Alemán and their brother-in-law Erikson Chaya Barroeta, husband of Yolimar Alemán; and they took them to the headquarters of the Directorate General of Military Counter-Intelligence in Boleíta. According to the sources interviewed by the Mission, when the family members of Richard Alemán arrived at the detention centre of Boleíta, he was already there.⁷⁸⁵

Short-term enforced disappearance

344. The family of Richard Alemán did not have any confirmation of the official whereabouts of their four family members until approximately 10 days after the detention, even though they asked about them in different opportunities in the centre of detention of Boleíta, where the officials of the Directorate General of Military Counter-Intelligence denied them information. Finally, after several days, one of the officers at the entrance to the centre of detention Boleíta told them that, effectively, they were there, and in addition to Richard Alemán, that they were being “*tortured in a very ugly way.*”⁷⁸⁶ During this time, the parents and another one of his siblings published various videos asking for proof of life.⁷⁸⁷

Acts of torture against Richard Alemán and his brother-in-law Erikson Chaya Barroeta

345. On arrival in Boleíta, Richard Alemán and those accompanying him were taken to a room, where officials of the Directorate General of Military Counter-Intelligence, after identifying Richard, gave him a kick in the nose. Later, the same official asked him questions about Operation *Gedeón* and as he did not respond, other officials beat him all around his body, including the penis, mouth and the nose; while one of the officials present shouted that they hit him harder, that he had to suffer more and that they should not stop until he told them the truth.⁷⁸⁸ The beatings continued for 19 days; sometimes they were only directed at Richard and other times, he was together with others detained about Operation *Gedeón*.⁷⁸⁹

346. One of the people detained in Boleíta with Richard informed the Mission that he saw time with a file taped over his eyes, while an official took him to a medical exam. According to that testimonial, Richard shook, could not remain standing and had a deep wound on his head.⁷⁹⁰ The next day the same person saw Richard again covered in blood, and two days later, saw him unconscious, naked and in a wheelchair.⁷⁹¹ As uncovered by his family later, Richard had been taken to hospital without life signs but was reanimated.⁷⁹² Once he returned from the hospital, the torture continued. The witness interviewed by the Mission indicated that over several days, they heard the shouts of pain from Richard and could see how the officials of the Directorate General of Military Counter-Intelligence took him out of his cell to torture him, given the state in which he returned. On one occasion, his cellmates had to pile on top of him to warm him up as he shook from hypothermia after having been isolated, naked, and wet in a dark room located in Sector C of the detention centre.⁷⁹³ Richard Alemán was also raped with a blunt object in his anus.⁷⁹⁴

347. On another occasion, they tortured him because he said in a mass that “he prayed for the violators of human rights.”⁷⁹⁵ That day they took him to a room known as “*El Tigrito*” (The little tiger), a small cell of 4x4 without windows or light, where when there are several people, these people cannot move. Alemán was taken on several occasions to that cell.⁷⁹⁶

348. Similarly, throughout his detention, Richard has spent six months without seeing sunlight, one month without any personal hygiene, almost without eating and without his family being able to bring him any personal

⁷⁸⁵ *Ibid.*

⁷⁸⁶ Interview IIIV022.

⁷⁸⁷ Tweet from Tamara Suju [@TAMARA_SUJU], 28 April 2020. Available at:

https://twitter.com/TAMARA_SUJU/status/1255202189804519424?t=tB8PNGGi0voHDtZftg726A&s=08.

⁷⁸⁸ Document IIDC016.

⁷⁸⁹ *Ibid.*

⁷⁹⁰ Interview IIIV018.

⁷⁹¹ *Ibid.*

⁷⁹² *Ibid.*

⁷⁹³ *Ibid.*, Document IIDC036.

⁷⁹⁴ Interview IIIV022

⁷⁹⁵ Interview IIIV022.

⁷⁹⁶ *Ibid.*

items. As a consequence of the beatings his cranium, nasal tube and several ribs have been fractured.⁷⁹⁷ Currently, he has breathing difficulties.⁷⁹⁸

349. The sources consulted by the Mission indicate that officials of the Directorate General of Military Counter-Intelligence wanted to force Richard Alemán to declare himself guilty of having participated in the attempted coup d'état, and at the same time incriminate other people in the events. In order to force these confessions, they organised various visits from his sisters so that they could convince him. Similarly, the officials told him that his sisters would be released if he made these declarations and that, if he did not do it, they would arrest his parents.⁷⁹⁹ According to information received by the Mission, Alemán finally agreed to incriminate another military official, when they showed him a video in which the officers of the Directorate General of Military Counter-Intelligence filmed his mother and the two daughters of one of his sisters. After the incrimination, the officials of the Directorate General of Military Counter-Intelligence made him aware that “*he had said what they wanted and that it was okay*” and that they were going to release his sisters, his brother-in-law and a chief inspector, detained for allegedly appearing in a list of phone contacts, something which was not true.⁸⁰⁰

350. The brother-in-law of Richard, Erikson, also was a victim of acts of torture, including forceful hits in the abdomen and feet, with objects that he could not identify, given that, during a lot of time he had his eyes covered with a file tied with tape. The acts of torture had the objective of forcing him to give details operation on Operation *Gedeón*, which he did not know.⁸⁰¹ Sources consulted by the Mission indicated that Erikson and Richard saw each other being beaten and bloody when they returned from the interrogations.⁸⁰²

351. According to a source consulted by the Mission, the acts of torture took place in different places located in installations of the Directorate General of Military Counter-Intelligence Boleíta, including the office of the Direction of Official Issues (DAE by its Spanish acronym), in Sector C and the “*Casa de los Sueños*” (Dream House).⁸⁰³

352. The acts of torture and bad treatment were denounced by Richard Alemán in the judicial headquarters.⁸⁰⁴ For example, he denounced the rape with a blunt object before the 1st Tribunal of First Instance with competence in terrorism matters, in charge of his case, indicating that said object caused abundant bleeding over several days, to the extent that he had to be sent to a hospital to receive medical assistance.⁸⁰⁵ The Mission is aware that allegations of torture have been passed on to the section of Human Rights of the Prosecutors Office, by has no information that an investigation relating to these events has been started.⁸⁰⁶

Conditions of the detention of Andreína y Yolimar Alemán

353. The Alemán sisters were detained for a week in a zone near the entrance of the detention centre in Boleíta. In this place they were forced to sleep, one in a wooden chair, and the other on the floor.⁸⁰⁷ The place was close to a room where the detainees experienced torture and bad treatment. According to the source interviewed by the Mission, on 27 April 2020, they were forced to stand from 6:00 am until 9:00 pm. As a result, one of them started to bleed because she had recently had an operation, due to this they were allowed to sit again.⁸⁰⁸ According to this same source, after the week in which they were in this place, they moved to a zone for women “*La Pecera*” (The fishbowl), in which they found themselves in a basement next to the “*Casa de los Sueños*” (Dream House).⁸⁰⁹ In *La Pecera*, the detention conditions were very precarious, given that they were in a small cell with nine other women, one of them did not have a mattress to sleep on, and they did not give them food⁸¹⁰. According to the sources consulted, while they were there, one of the women started her period and the officials refused to give her sanitary towels or

⁷⁹⁷ Interview IIIV018.

⁷⁹⁸ *Ibid.*

⁷⁹⁹ Interview IIIV018; Document IIDC012: Declaration in the Preliminary Hearing Gedeón, page 1.

⁸⁰⁰ Document IIDC012: Declaration in the Preliminary Hearing Gedeón, page 2.

⁸⁰¹ Document IIDC033.

⁸⁰² Document IIDC033.

⁸⁰³ *Ibid.*; Document IIDC036, A/HRC/45/33, page 336.

⁸⁰⁴ Document IIDC012: Declaration in the Preliminary Hearing Gedeón, page 2.

⁸⁰⁵ Interview IIIV022.

⁸⁰⁶ *Ibid.*

⁸⁰⁷ Interview IIIV022.

⁸⁰⁸ *Ibid.*

⁸⁰⁹ *Ibid.*

⁸¹⁰ *Ibid.*

tampons. An official told one of them that she was a bad mother because she preferred to support her brother and ask him to not declare himself guilty before seeing her children and that she “was going to be a prisoner for 30 more years.”⁸¹¹

354. On 1 May 2021, the Alemán sisters received an injunction of home liberty, with the obligation to attend the tribunal twice a week. On 19 April 2023, returning from one of the audiences before the Tribunal, they were detained at the Guacara toll, State of Carabobo, by troops of the Bolivarian National Police. The detention was because they were still listed with an arrest warrant in the System of Investigation and Police Information (SIIPOL by its Spanish acronym).⁸¹² They were detained there until 24 April, after being transferred on 20 and 21 April to the Tribunal of Valencia and not being attended. When they were finally received, the Tribunal of Valencia sent them to Caracas where the judge of the case delivered them an injunction document and a petition to SIIPOL so that they were removed from the system.⁸¹³ However, this situation gave them both and their families a huge fear of being detained again.

Case of Carla Da Silva

Detention

355. On 5 May 2020, Carla Da Silva found herself at a children’s party in Caracas when she mentioned to the host that she knew one of the people implicated in *Gedeón* Operation.⁸¹⁴ The host called another official of Special Action Forces (FAES by its Spanish acronym) by telephone who arrived at the place in person and then insisted that Carla accompany him to the headquarters of the institution in the sector of the Quebradita, in Caracas, to be interviewed.⁸¹⁵

Enforced short-term disappearance

356. From 6 May 2020, on not having returned that night, her family looked for her in different institutions of the State, without receiving information of where she was. The mother of Carla Da Silva, Miriam Marrero, went to the headquarters of the Bolivarian National Intelligence Service of Plaza Venezuela on eight occasions; in one of them, they pointed a large weapon at her and an official threatened to “*blow her head off*” if she returned asking for her daughter. She was then pushed and Miriam Marreo fell to her knees.⁸¹⁶ Marrero also asked about the whereabouts of her daughter in the headquarters of the Bolivarian National Intelligence Service in El Helicoide on ten occasions; in the headquarters of the Directorate General of Military Counter-Intelligence in Boleíta and the Domingo Luciani Pérez de León and Dr. Miguel Pérez Carreño hospitals.⁸¹⁷ In El Helicoide they told her to look for her daughter in the cemetery and they threatened her again to stop investigating the whereabouts of her daughter.⁸¹⁸ Between 7 and 15 May, Carla was detained and interrogated at the headquarters of the Bolivarian National Intelligence Service in Plaza Venezuela.⁸¹⁹ On 15 May 2020, she was presented before the judicial authorities. Around two days before, on 13 or 14 May, her family received confirmation that she was detained at the headquarters of the Bolivarian National Intelligence Service in Plaza Venezuela.

Torture and cruel, inhuman and degrading treatments

357. According to a testimonial received by the Mission, Carla Da Silva was submitted to acts of torture ordered by a high-up official in the Special Action Forces in La Quebradita. An indeterminate number of people ordered her to sleep on the floor face down, they placed a plastic bag on her head, held it with tape and caused

⁸¹¹ *Ibid.*

⁸¹² Document IIDC042.

⁸¹³ Document IIDC042.

⁸¹⁴ Efecto Cocuyo, Carla Da Silva, from a children’s birthday party to a prison cell #PoliticalPrisoners, 27 July 2022. Available at: <https://efectococuyo.com/la-humanidad/a-carla-da-silva-la-torturaron-y-la-desaparecieron-por-mas-de-20-dias-presaspoliticas/>

⁸¹⁵ Interview IIV017.

⁸¹⁶ Document IIDC049; Document IIDC048: Complaint of Carla Da Silva to the NGO; Document IIDC047: Complaint on the 4 March 2021 to the Director of Fundamental Human Rights of the Public Prosecutors Office.

⁸¹⁷ Interview IIV017.

⁸¹⁸ Document IIDC049; Document IIDC048: Complaint of Carla Da Silva to the NGO; Document IIDC047: Complaint of the 4 March 2021 to the Director of Fundamental Human Rights of the Public Prosecutors Office.

⁸¹⁹ Document IIDC054; Document IIDC053: Letter from Miriam to the Prosecutor on the 30 March 2023.

asphyxiation on several occasions. They also tied her and feet while one official sat on her glutes and hit her back and another insulted her saying, amongst other insults, “*bitch confess*”. Every time that she refused to give them the information that they asked for, they put the bag on her head again and they told her “*don’t worry bitch we have 2 million bags*.”⁸²⁰ This repeated until she lost consciousness on several occasions. The high up official of the Special Action Forces also told her that “*when I finish with you, 14 more people are going to come and rape you*,”⁸²¹ while the rest of the people present laughed.

358. On 26 April 2021, Carla’s mother presented a complaint against the torture and bad treatments before the Direction of the Protection of Fundamental Human Rights of the Public Prosecutors Office.⁸²² On 8 May 2023 she presented the same complaint before the National Human Rights Institution – *Defensoría del Pueblo*.⁸²³ Additionally, on 30 March 2023 she presented a letter to the Prosecutor General Tarek William Saab, requesting the revision of the preventative prison measure and denounced the tortures carried out by and official of the Special Action Forces against her daughter.⁸²⁴ There is no knowledge of if an investigation has been started because of these complaints.⁸²⁵

Case of Karen Hernández

Detention

359. According to the information received by the Mission,⁸²⁶ in the afternoon of 5 May 2020, five officials dressed as civilians and without identification arrived at the home of Karen Sheydell Hernández Rodríguez and told her that she had to go with them to make a declaration against her partner who was being investigated in relation to the *Gedeón* Operation.⁸²⁷ The officials did not present any judicial order, and they did not permit her to alert her family or a lawyer.⁸²⁸ Karen was moved to the headquarters of the Special Action Forces (FAES by its Spanish acronym) in La Quebradita, Caracas in a vehicle without any identification.

Torture and bad treatments

360. During that night and in the next three days, she was threatened by the officials of La Quebradita, including threats of making her disappear, that they were going to go after her parents, that they were going to rape her and that they were going to move her to the dungeons where other prisoners would abuse her. Karen Hernández described these threats in the judicial headquarters as “*psychological and emotional violence*.”⁸²⁹

361. During one of the hearings of the trial, Karen contradicted the version of the authorities, according to which she and Carla Da Silva were both detained in her house. Karen explained that they met when they were detained in La Quebradita, being interrogated and suffering bad treatment.⁸³⁰ She also said that, during the first night in La Quebradita, she could hear the beatings given to Carla Da Silva.⁸³¹

362. She was denied family visits and any type of communication with them until December, seven months after the detention.⁸³² On 8 May 2023, Miriam Marrero, Mother of Carla Da Silva, presented letters in the name of

⁸²⁰ Document IIDC051.

⁸²¹ Interview IIV017.

⁸²² Document IIDC047: Complaint on 26 April 2022 to the Director of Fundamental Human Rights of the Public Prosecutors Office.

⁸²³ Document IIDC023: Complaint to the National Human Rights Institution - Defensoría del Pueblo by Carla, 8 May 2023.

⁸²⁴ Document IIDC053: Letter from Miriam Marrero to the Prosecutor on 30 March 2023.

⁸²⁵ Interview IIV017.

⁸²⁶ Document IDC050.

⁸²⁷ Document IIDC020: Complaint of Karen Hernández to the Director of Human Rights of the Attorney General Prosecution of the Republic.

⁸²⁸ *Ibid.*

⁸²⁹ Document IDC050.

⁸³⁰ Interview with Foro Penal, 4 May 2023; Interview with Miriam Marrero, 19 May 2023.

⁸³¹ Interview IIV017.

⁸³² Document IIDC022: Complaint of Karen Hernández to the National Human Rights Institution - Defensoría del Pueblo; Document IIDC020: Complaint of Karen Hernández to the Director of Human Rights of the Attorney General of the Republic.

Karen before the National Human Rights Institution – *Defensoría del Pueblo*- and the Public Prosecutors Office, denouncing the infringements of her rights. None of these letters have received a response to date.⁸³³

Cases of three military officials: ECV01, ECV02 and ECV03

363. ECV01 and ECV02 were detained between 19 and 25 April 2020, in relation to Operation *Gedeón*.

ECV01

364. ECV01 was detained on 19 April 2020⁸³⁴ 2020⁸³⁴ by various national guards at 11 pm without a judicial order. Without indicating the motives of his detention, he was given to an official of the Directorate General of Military Counter-Intelligence (DGCIM by its Spanish acronym), who took him with his hands tied in the back of a civil vehicle to the headquarters of the Directorate General of Military Counter-Intelligence located in Boleíta, where he arrived close of 1 am in the morning of the next day.⁸³⁵

365. ECV01 was hit continually by at least three agents of the Directorate General of Military Counter-Intelligence (DGCIM by its Spanish acronym). The officials kicked him in the face while he was handcuffed with his arms behind his back. Similarly, they hit him with a stick in several parts of his body, including his face, ribs and the bottom of his feet and asphyxiated him with a plastic bag. With him, there were other military officials detained in relation to Operation *Gedeón*, such as Richard Alemán. ECV01 witnessed that these people were subjected to the same tortures as he had.⁸³⁶

ECV02

366. The military official ECV02 was detained on 20 April 2020,⁸³⁷ in the military centre where he worked for a commission of the Directorate General of Military Counter-Intelligence. Two officials kicked him and put a plastic bag over his head to asphyxiate him.⁸³⁸ Later, another five officials dressed in black, who carried weapons, beat him with their weapons. After the several minutes that the beating lasted, ECV02 lost consciousness and was moved in a civil vehicle to the headquarters of the Directorate General of Military Counter-Intelligence in Boleíta.⁸³⁹

367. Once they arrived at the headquarters of the Directorate General of Military Counter-Intelligence in Boleíta, they beat him with blunt objects all over his body, including his genitalia and nose, which they fractured. The officials of the Directorate General of Military Counter-Intelligence called him a “*traitor*”, they told him that they were going to kill him and they asked about “the operation”. They applied electrical charges all over his body and they put his head in a recipient with water.⁸⁴⁰ According to the information received by the Mission, IECV02 claimed not to know what they were referring to.

368. Along with ECV01 and other detainees, amongst them Richard Alemán, they were forced to remain standing barefoot in *La Pecera* (The Fishbowl) for 48 hours without receiving food or water.⁸⁴¹ All of them were obliged to film a video giving information of the alleged people responsible for Operation *Gedeón*, and incriminating other people.⁸⁴² ECV02 did this under the threat of the detention of his parents if he did not comply.⁸⁴³

ECV03

369. The military official ECV03 was detained on 25 April 2020,⁸⁴⁴ in his home by at least eight people dressed as civilians who entered his living space without a search warrant. After this, they moved him to what he later found out was the headquarters of the Directorate General of Military Counter-Intelligence in Boleíta.⁸⁴⁵ During the

⁸³³ Document IIDC022: Complaint of Karen Hernández to the National Human Rights Institution - Defensoría del Pueblo; Document IIDC020: Complaint of Karen Hernández to the Director of Human Rights of the Attorney General of the Republic.

⁸³⁴ Document IIDC016.

⁸³⁵ *Ibid.*

⁸³⁶ *Ibid.*

⁸³⁷ Document IIDC034.

⁸³⁸ *Ibid.*

⁸³⁹ *Ibid.*

⁸⁴⁰ Document IIDC034.

⁸⁴¹ Document IIDC016; Document IIDC033; Document IIDC035; Document IIDC036.

⁸⁴² Document IIDC034; Document IIDC035.

⁸⁴³ Document IIDC034.

⁸⁴⁴ Document IIDC035.

⁸⁴⁵ *Ibid.*

first days of his detention, his family went to ask for him in Boleíta, and they told them that “*they should ask in the morgue*” and denied that he was detained there.⁸⁴⁶ Over various days he was beaten by at least two high-ranking officials of the Directorate General of Military Counter-Intelligence,⁸⁴⁷ who hung him by his arms, they beat him with blunt objects all over his body and they asphyxiated him.⁸⁴⁸

Judicial proceedings

370. In the nine cases investigated, the detainees were given hearings between 8 and 27 May 2020 before Judge José Mascimino Márquez of the 4th Tribunal of First Instance in relation to cases linked to crimes associated with terrorism.⁸⁴⁹ All had their first hearing outside of the 48 hours established by the Law within which they had to be presented to a judge.⁸⁵⁰ In the judicial proceedings, the detention dates are different from the real dates, which indicates that they were modified so that their detention date would correspond to the 48-hour time period.⁸⁵¹ None of them were permitted to communicate with their family and they were assigned a public defender.⁸⁵²

371. Between August and September 2020, several preliminary hearings took place “by groups” before the same Tribunal. In the one that took place on 7 August, in spite of the fact that various detainees presented visible signs of beatings,⁸⁵³ and that they declared that they had been tortured, neither the Prosecutor-Jean Karin López Ruiz- nor the Judge, asked for them to be given medical attention, nor did they investigate if they had been victims of acts of torture or bad treatments.

372. On 19 May 2021, an oral trial started in the 1st Tribunal of First Instance with competence in terrorism matters, after four deferrals.⁸⁵⁴ In one of the hearings, a lieutenant of the Directorate General of Military Counter-Intelligence attended as a witness and many of the detainees protested and denounced the torture that he had inflicted upon them. The response of Judge Hennis López was to recommend to the lieutenant that he denounce the detainees for the accusations.⁸⁵⁵ There have been several delays in the celebration of the hearings: on 22 June 2023, 52 hearings had been deferred.⁸⁵⁶ The current process is still in course. The accused, except Andreína and Yolimar Alemán who remain deprived of liberty.

Conclusions

373. Based on the events described, the Mission has reasonable grounds to believe that Richard Alemán was a victim of torture, including sexual torture. The acts of torture inflicted against him were given as a punishment and with the objective that he would declare himself guilty or that he would incriminate other people in relation to Operation *Gedeón*. Richard Alemán also suffered consistent psychological torture in the form of threats of possible

⁸⁴⁶ *Ibid.*

⁸⁴⁷ *Ibid.*

⁸⁴⁸ *Ibid.*

⁸⁴⁹ The nine detainees passed judicial disposition on the following dates: Richard Alemán on 8 May 2020; Carla Da Silva and Karen Hernández on 15 May 2020; IIDC016 and IIDC034, IIDC035.

⁸⁵⁰ Document IIDC025: Case File Gedeón - Preliminary Hearing. IIDC013: Accusations case Gedeón.

⁸⁵¹ In the case of Carla Da Silva and Karen Hernández it states in the detention file that their detention was on 14 May 2020, that is to say, nine days after they were both detained and that the family of Carla Da Silva started to look for her. Interview IIV017. See Document IIDC054. With relation to IIDC016, according to the Judicial Case File, in the political acts the date of detention appears as 4 May. See Document IIDC025: Case File Gedeón - Preliminary Hearing, page 163. In the case of the Alemán family, the Judicial Case File, states that Richard was detained on 6 May 2020, 16 days after the actual date. See Document IIDC025: Case File Gedeón - Preliminary Hearing, page 163. In the case of Andreína, Yolimar, and Erickson, on 22 May 2020, they were transferred to the city of Puerto Cabello by a commission of the Directorate General of Military Counter-Intelligence and they simulated their liberation. When they arrived at this city, in the San Diego Shopping Centre, the officials made them get out of the vehicles, they removed their handcuffs and they left. In this same moment they were ambushed by a commission of the Base of military counterintelligence of Puerto Cabello, who detained them again and transferred them once again to the headquarters of the Directorate General of Military Counter-Intelligence -Boleíta. Using this method, their detention date coincided with the 48-hour legal timeframe. See Document IIDC033 and Interview IIV016.

⁸⁵² *Ibid.*

⁸⁵³ Document IIDC016; Document IIDC033; Document IIDC034; Document IIDC036.

⁸⁵⁴ Document IIDC017: Excel hearings case Gedeón.

⁸⁵⁵ Document IIDC036; Document IIDC016; Document IIDC033; Document IIDC034; Document IIDC035.

⁸⁵⁶ *Ibid.*

retaliation that would be taken against members of his family, if he did not provide the information that the officials of the Directorate General of Military Counter-Intelligence were looking for.

374. The Mission also has reasonable grounds to believe that Erickson Chaya Barroeta was a victim of torture so that he would give information relating to the people responsible for Operation *Gedeón* and that Andreína and Yolimar Alemán were victims of bad treatment. Officials of the Directorate General of Military Counter-Intelligence were involved in these events.

375. With respect to Andreína and Yolimar Alemán and Erickson Chaya Barroeta, the Mission has reasonable grounds to believe that they were detained arbitrarily, without there being any legal basis for their detention, given that they were apprehended without a judicial order and as a consequence of the fact that Richard Alemán was not found in his family home. The Mission observes that, in these cases, as in the case of Richard, they altered the police records in order to modify the real date of the detention, with the aim that they would appear to conform with the legal timeframe established in the Penal Processing Code.

376. Similarly, the Mission has reasonable grounds to believe that both Richard, Andreína and Yolimar Alemán, and Erikson Chaya Barroeta were the objects of a short-term enforced disappearance, given that their families did not know of their whereabouts for 10 days, in spite of them going to look for them in the headquarters of the Directorate General of Military Counter-Intelligence in Boleíta. In said detention centre, officials of the Directorate General of Military Counter-Intelligence refused to give any information about the whereabouts of their family members on repeated occasions.

377. With respect to ECV01, ECV02 and ECV03, the Mission has reasonable grounds to believe that they were subjected to torture and bad treatment by officials of the Directorate General of Military Counter-Intelligence in their headquarters in Boleíta.

378. Similarly, with a foundation in the events described, the Mission has reasonable grounds to believe that Carla Da Silva Marrero was subjected to acts of torture and cruel, inhuman and degrading treatments including sexist insults, to extract a confession. The Mission also has reasonable grounds to believe that acts of sexual and gendered violence were committed in the form of threats of rape against Carla Da Silva Marrero and Karen Hernández. These acts also constitute torture and/or bad treatment.

379. Similarly, the Mission has reasonable grounds to believe that Carla Da Silva Marrero was the victim of an enforced short-term disappearance, for approximately 10 days which occurred between her detention and the date in which she was presented before a Judge, a during this period, her mother went to several institutions which denied any knowledge of her whereabouts. With respect to Karen Hernández, the Mission has reasonable grounds to believe that she was the object of arbitrary detention, given that she was deprived of her liberty without a judicial order and additionally she was prevented from informing her family or a lawyer. Officials of the Special Action Forces were involved in the violations of rights suffered by Carla Da Silva and Karen Hernández during the first days of their detention, given that said violations took place in the headquarters of the Special Action Forces in La Quebradita.

Case 5: Junior Enrique Chaparro

Background

380. The indigenous Kariña communities of Mama Arriba and Mamo Abajo, are located on the coast of the Municipality of Independencia, in the State of Anzoátegui. From at least 2019, the communities have been the protagonists of several protests due to the lack of resources to carry out their agricultural and fishing activities, the lack of distribution of the CLAP boxes, and the lack of state attention regarding the laying of pipes and electricity networks, as well as phone and internet services.⁸⁵⁷

⁸⁵⁷ Interview OOIV072; Nueva Prensa digital, Protests continue in Mamo Arriba due to Government negligence, 10 October 2019. Available at: <https://soynuevaprensadigital.com/npd/siguen-protestas-en-mamo-arriba-por-negligencia-del-gobierno/>

Protests and extrajudicial execution

381. Between the end of July and the start of August 2020, several protests took place on El Amparo street calling out issues with the food supply (CLAP boxes), drinking water and fuel among other things.⁸⁵⁸ The protesters caused the road to close because no agreement was reached with the authorities to solve the grievances of the community.⁸⁵⁹

382. One source interviewed by the Mission indicated that on 4 August 2020, after 16 days of a blockade by the protesters, a blue van with the yellow logo of the Directorate General of Military Counter-Intelligence arrived at the protest site.⁸⁶⁰ At the forefront of the protest was Junior Enrique Chaparro, who fled the scene when he realised that the officials of the Directorate General of Military Counter-Intelligence, dressed in black and with their faces covered, were planning to arrest him. Chaparro fled in an unconnected vehicle which was parked nearby, and immediately after, was followed by officials of the Directorate General of Military Counter-Intelligence down the road that connected the community of the Tigre with Guayana City, road to Chaguaramas.⁸⁶¹

383. The same source interviewed by the Mission related that a witness, who was present in the events before the fleeing of Junior Enrique Chaparro from the protest site, told him that Chaparro had been intercepted by the Directorate General of Military Counter-Intelligence unit. From the marked van, an officer with an assault rifle descended and fired at Chaparro killing him. The officials of the Directorate General of Military Counter-Intelligence loaded the body of Chaparro into the back of the van and left immediately.⁸⁶²

The discovery of the body

384. The same source interviewed by the Mission indicated that the next day, on 5 August, people of the indigenous communities of Mamo Abajo and Mamo Arriba followed the trail of blood left by the van until they arrived at a wooded zone in the sector of Chaguaramas, actually the pine fields of the Proforca C. V. G. business, where they found a pit in which the remains of Chaparro had been buried.⁸⁶³ The body was exhumed by the Scientific, Criminal and Forensic Investigations Corps and officials of the Anzoátegui Police. According to the source interviewed and others consulted by the Mission, the body of Chaparro had seven gunshot wounds, two of them in the head.⁸⁶⁴ According to the source interviewed, they have no knowledge that an open investigation about these events exists in the Public Prosecutors Office.⁸⁶⁵

Conclusions

385. Following the events related, the Mission has reasonable grounds to believe that Junior Enrique Chaparro was the victim of an arbitrary deprivation of life in which officials of the Directorate General of Military Counter-Intelligence participated, and that these people attempted to make the body disappear by burying it in a wooded area.

⁸⁵⁸ PROVEA, The discipline of fear: Arbitrary detentions and assassinations at protests in the first 6 months of the state of alarm in Venezuela, November 2020. Available at: <https://provea.org/wp-content/uploads/2020/11/6MesesCovid19.pdf>

⁸⁵⁹ Nueva Prensa digital, Directorate General of Military Counter-Intelligence allegedly killed an indigenous person in Mamo Arriba and buried the body, 5 August 2020. Available at: <https://soynuevaprensadigital.com/npd/DGCIM-supuestamente-mato-a-indigena-en-mamo-arriba-y-sepulto-el-cadaver/>

⁸⁶⁰ Interview OOIV072.

⁸⁶¹ *Ibid.*

⁸⁶² *Ibid.*

⁸⁶³ *Ibid.*

⁸⁶⁴ *Ibid.* PROVEA, The discipline of fear: Arbitrary detentions and assassinations at protests in the first 6 months of the state of alarm in Venezuela, November 2020. Available at: <https://provea.org/wp-content/uploads/2020/11/6MesesCovid19.pdf>.

⁸⁶⁵ Interview OOIV072; Nueva Prensa digital, Directorate General of Military Counter-Intelligence allegedly killed an indigenous person and buried the body, 5 August 2020. Available at: <https://soynuevaprensadigital.com/npd/DGCIM-supuestamente-mato-a-indigena-en-mamo-arriba-y-sepulto-el-cadaver/>.

Case 6: Matthew John Heath and eight other people – Case “Gringo Espía”

Background

386. On 9 September 2020, Daeven Enrique Rodríguez Argueta drove a “for post” vehicle (collective taxi) from Maracaibo, Zulia State, to the locality of Punto Fijo, in the State of Falcón. In his vehicle there were three people; the North American citizen Matthew John Heath, the Third Sargent Major of the Bolivarian National Guard (GNB by its Spanish acronym) Darwin Andreizo Urdaneta Pardo and the engineering student Marco Antonio Garcés Carapacia.⁸⁶⁶

387. According to his testimony, Heath was on a trip through Latin America when he found himself in Columbia, at the start of the COVID-19 pandemic. Given the closure of borders in this country, Heath was not able to return to the United States, and for this reason decided to take a trip over ground to Punto Fijo to then take a yacht which would take him to Aruba, and from there, continue his return trip to the United States.⁸⁶⁷

388. Garcés had arrived in Maracaibo from Columbia with Heath, also known as the “gringo spy”, who he was helping as an interpreter during his trip to Punto Fijo.⁸⁶⁸ Before this trip, Garcés and Heath had met each other on several occasions in Columbia due to a mutual friend.⁸⁶⁹ Garcés took advantage of the trip as Heath’s interpreter to meet up with his father in the aforementioned place and then return to his house.⁸⁷⁰

389. On the other hand, according to a testimonial collected by the Mission, Urdaneta had a leading role in the command of the Bolivarian National Guard of the State of Zulia, in Maracaibo, and was headed to the State of Falcón to go shopping.⁸⁷¹ Darwin Urdaneta knew the driver of the taxi, Daeven Rodríguez, given that he worked as a chauffeur and mechanic in the Maracaibo zone.⁸⁷²

Detentions on 9 September 2020

390. At the tax post (control point) of the Bolivarian National Guard known as “Los Pedros”, the municipality of Mene de Mauroa, State of Falcón, the taxi was detained around midday, with its four occupants.⁸⁷³ Before the tax post “Los Pedros”, the vehicle and its passengers on board had passed through seven other tax posts, where they had been registered without any delays.⁸⁷⁴

391. At the tax post “Los Pedros”, the agents of the Bolivarian National Guard searched the vehicle.⁸⁷⁵ According to Heath, when they realised that he was from the United States, they moved him inside their offices and stripped him completely to search for him. Heath only had with him a copy of his passport, his driving licence and a black box that contained a satellite telephone which he would use in the yacht that he planned to take from Aruba. Heath remained around three hours inside the offices of the Bolivarian National Guard surrounded by many soldiers.⁸⁷⁶

⁸⁶⁶ Interview with Matthew John Heath, 4 September 2023; Interview with Marco Antonio Garcés’ family, 18 May 2023; Interview HHIV093; Interview with Evedag Rodríguez, 22 May 2023. See also Foro Penal, Report on political repression in Venezuela, February 2023, page 6. Available at: https://foropenal.com/wp-content/uploads/2023/05/FP_REPORTE-FEB-2023_230512.pdf.

⁸⁶⁷ Interview with Matthew John Heath, 4 September 2023.

⁸⁶⁸ *Ibid.*; Document HHDC059.

⁸⁶⁹ Document HHDC059.

⁸⁷⁰ *Ibid.*

⁸⁷¹ Interview HHIV093.

⁸⁷² *Ibid.*

⁸⁷³ *Ibid.*; Interview with Matthew John Heath, 4 September 2023; Interview with Familia de Marco Antonio Garcés, 18 May 2023; Interview with Evedag Rodríguez, 22 May 2023; Document HHDC059; Foro Penal, Report on political repression in Venezuela, February 2023. Available at: https://foropenal.com/wp-content/uploads/2023/05/FP_REPORTE-FEB-2023_230512.pdf.

⁸⁷⁴ Interview with Familia de Marco Antonio Garcés, 18 May 2023; Interview HHIV093; Document HHDC059.

⁸⁷⁵ *Ibid.*; Interview with Matthew John Heath, 4 September 2023; Document HHDC052: Photo of the four detainees in the Bolivarian National Guard Punto Fijo; Interview with Evedag Rodríguez, 22 May 2023; Crisis in Venezuela, Yurayma Carapaica and Antonio Garcés, parents of Marco Antonio Garcés: My son did not see an end to the torture, 1 July 2022. Available at: <https://crisisenvenezuela.org/2022/07/01/yurayma-carapaica-y-antonio-garces-padres-de-marco-antonio-garces-mi-hijo-no-le-veia-fin-a-las-torturas/>.

⁸⁷⁶ Interview with Matthew John Heath, 4 September 2023.

392. At the tax post, the agents of the Bolivarian National Guard took photographs of the four people with the objects that they found: three phones, a toolbox, a satellite phone belonging to Heath and three credit cards.⁸⁷⁷ According to a source interviewed by the Mission, the officials of the Bolivarian National Guard tried to extort money from Heath, asking for around 100,000 American dollars, which he refused.⁸⁷⁸ The agents then informed the retained people that, given the presence of the citizen of the United States, they needed to carry out investigations,⁸⁷⁹ due to which they would remain detained until the next day.⁸⁸⁰

393. The detainees were moved that same day to Command of Zone number 13 of the Bolivarian National Guard in La Vela de Coro, in the State of Falcón. There they continued to interrogate them.⁸⁸¹

394. After about three hours, the detainees were moved to the Directorate General of Military Counter-Intelligence of Punto Fijo, State of Falcón.⁸⁸² According to a testimonial, on arrival there, they were moved to a dark room where they threw a sound grenade.⁸⁸³

395. According to Heath, the officials of the Directorate General of Military Counter-Intelligence grabbed him and took him to a separate room. They removed his handcuffs, stripped him, threw him against the floor and kicked him with their boots all over his body, except in his face. When one of the officials hit him in the face, Heath heard a higher-ranking official who said “Don’t mark his face”. Then, they took him to a metal cabin without a mattress and they handcuffed his hands behind his back.⁸⁸⁴

396. According to his testimony, two officials of the Directorate General of Military Counter-Intelligence sat on each side of Heath and beat him several times while they asked him questions and accused him of working for the CIA. They threw ice-cold water over him every 30 minutes, at least 10 times. They asphyxiated him several times by placing a bag over his head, they put pistols against his head and threatened him with death if he did not confess to working for the CIA. Then they covered his eyes with cardboard, still wet from the water that they had poured over him, they electrocuted him in several parts of his body and threatened him with sending charges to his genitalia, but they did carry out this threat.⁸⁸⁵ According to Heath, at least eight officials of the Directorate General of Military Counter-Intelligence participated in these tortures.⁸⁸⁶ A major of the Directorate General of Military Counter-Intelligence threatened to kill Heath if he tried to escape.⁸⁸⁷

397. They remained detained in this place for two days.⁸⁸⁸ The officials of the Directorate General of Military Counter-Intelligence also beat the other three detainees in different parts of the body, including the testicles, they stripped them and tied them up, they poured cold water over them and asphyxiated them with bags over their heads.⁸⁸⁹ One source told the Mission that, Darwin Urdaneta lost consciousness as a consequence of the beatings.⁸⁹⁰ Marco

⁸⁷⁷ *Ibid.*; Interview with the family of Marco Antonio Garcés, 18 May 2023; Interview HHIV093; Document HHDC052: Photo of the four detainees in the Bolivarian National Guard Punto Fijo; Interview with Evedag Rodríguez, 22 May 2023; Document HHDC059; Crisis in Venezuela, Yurayma Carapaica and Antonio Garcés, parents of Marco Antonio Garcés: My son did not see an end to the torture, 1 July 2022. Available at: <https://crisisenvenezuela.org/2022/07/01/yurayma-carapaica-y-antonio-garces-padres-de-marco-antonio-garces-mi-hijo-no-le-veia-fin-a-las-torturas/>.

⁸⁷⁸ Interview with Matthew John Heath, 4 September 2023; Interview with Evedag Rodríguez, 22 May 2023.

⁸⁷⁹ Interview with Familia de Marco Antonio Garcés, 18 May 2023; Interview HHIV093.

⁸⁸⁰ Interview with Familia de Marco Antonio Garcés, 18 May 2023.

⁸⁸¹ *Ibid.*; Interview with Matthew John Heath, 4 September 2023.

⁸⁸² *Ibid.*; Interview HHIV093; Interview with Evedag Rodríguez, 22 May 2023.

⁸⁸³ Interview with Matthew John Heath, 4 September 2023.

⁸⁸⁴ *Ibid.*

⁸⁸⁵ *Ibid.*

⁸⁸⁶ *Ibid.*

⁸⁸⁷ *Ibid.*

⁸⁸⁸ Interview with Marco Antonio Garcés’ family, 18 May 2023; Interview HHIV093; Interview with Evedag Rodríguez, 22 May 2023; Crisis in Venezuela, Yurayma Carapaica and Antonio Garcés, parents of Marco Antonio Garcés: My son did not see an end to the torture, 1 July 2022. Available at: <https://crisisenvenezuela.org/2022/07/01/yurayma-carapaica-y-antonio-garces-padres-de-marco-antonio-garces-mi-hijo-no-le-veia-fin-a-las-torturas/>.

⁸⁸⁹ Interview with Matthew John Heath, 4 September 2023; Interview with Marco Antonio Garcés’ family, 18 May 2023; Interview HHIV093; Interview with Evedag Rodríguez, 22 May 2023; Document HHDC059.

⁸⁹⁰ Interview with Marco Antonio Garcés’ family, 18 May 2023.

Antonio Garcés was tied to a grating with the air conditioning turned on all night, and they poured cold water over him constantly while they beat him in the ribs.⁸⁹¹

398. On 11 September 2020, in the early hours of the morning, the four detainees were moved from the Directorate General of Military Counter-Intelligence of Punto Fijo to Caracas by plane.⁸⁹² The detainees had paper folders stuck to their faces which obscured their vision.⁸⁹³ The same day of their arrival to Caracas, they were moved to a secret location, which seemed to be a large building where the officials of the Directorate General of Military Counter-Intelligence continued their tortures.⁸⁹⁴ In this place, Matthew Heath was again separated from the group, they took him to a very small place without a door, the size of a refrigerator, they put his face against the wall and placed a horizontal stick behind his knees to immobilise him. The officials of the Directorate General of Military Counter-Intelligence beat him several times in the back and kidneys while they asked him questions so that he would confess to working for the CIA. They threatened him with getting another prisoner to rape him if he did not talk. One of the officials of the Directorate General of Military Counter-Intelligence that spoke English told him that “*I am going to rape you with this stick*” at the same time as he touched his buttocks and threatened to lower his trousers.⁸⁹⁵

399. The four remained in this place until the 13 September when they were returned to the Directorate General of Military Counter-Intelligence of Punto Fijo by plane.⁸⁹⁶ On the plane, there were weapons in some bags.⁸⁹⁷ On arrival to Punto Fijo, the four detainees did not receive any food and little water, they did not have access to showers during the first few days. They could only wash themselves the day they were presented to the Tribunal in the city of Coro.⁸⁹⁸ This Tribunal did not have competency in issues of terrorism, so they were again moved to Caracas, to the detention centre of the Directorate General of Military Counter-Intelligence in Boleíta.⁸⁹⁹

400. On arrival in Boleíta, the four detainees were taken to the “*Casa de los Sueños*” (Dream House);⁹⁰⁰ there, at least one of the detainees was hit and refused access to a bathroom⁹⁰¹ Later, three of the detainees were moved to other sectors of Boleíta, such as “*La Pecera*” (The Fishbowl), named for its glass walls,⁹⁰² Matthew Heath remained in the “*Casa de los sueños*” (Dream House)⁹⁰³ until May 2022 when he was moved to the Military Hospital of Caracas where he remained until his liberation on 1 October 2022.⁹⁰⁴

401. According to Heath, during his stay in the “*Casa de los Sueños*” (Dream House), he was moved at least six times to the “*Tigrito*” (Little Tiger) where on one occasion he remained there for three days as a punishment,

⁸⁹¹ Document HHDC059.

⁸⁹² *Ibid.*; Interview with Matthew John Heath, 4 September 2023; Interview with Marco Antonio Garcés’ family, 18 May 2023; Interview HHIV093; Interview with Evedag Rodríguez, 22 May 2023.

⁸⁹³ Interview with Matthew John Heath, 4 September 2023; Interview with Familia de Marco Antonio Garcés, 18 May 2023; Interview HHIV093; Document HHDC059.

⁸⁹⁴ Interview with Matthew John Heath, 4 September 2023; Interview with Familia de Marco Antonio Garcés, 18 May 2023; Document HHDC059; Crisis in Venezuela, Yurayma Carapaica and Antonio Garcés, parents of Marco Antonio Garcés: My son did not see an end to the torture, 1 July 2022. Available at: <https://crisisenvenezuela.org/2022/07/01/yurayma-carapaica-y-antonio-garces-padres-de-marco-antonio-garces-mi-hijo-no-le-veia-fin-a-las-torturas/>.

⁸⁹⁵ Interview with Matthew John Heath, 4 September 2023; Interview with Marco Antonio Garcés’ family, 18 May 2023; Document HHDC059; Crisis in Venezuela, Yurayma Carapaica and Antonio Garcés, parents of Marco Antonio Garcés: My son did not see an end to the torture, 1 July 2022. Available at: <https://crisisenvenezuela.org/2022/07/01/yurayma-carapaica-y-antonio-garces-padres-de-marco-antonio-garces-mi-hijo-no-le-veia-fin-a-las-torturas/>.

⁸⁹⁶ Interview with Matthew John Heath, 4 September 2023; Interview with Familia de Marco Antonio Garcés, 18 May 2023; Interview HHIV093; Interview with Evedag Rodríguez, 22 May 2023.

⁸⁹⁷ Interview with Familia de Marco Antonio Garcés, 18 May 2023; Interview HHIV093; Interview with Evedag Rodríguez, 22 May 2023.

⁸⁹⁸ Interview with Matthew John Heath, 4 September 2023.

⁸⁹⁹ *Ibid.*; Interview with Familia de Marco Antonio Garcés, 18 May 2023; Interview HHIV093; Interview with Evedag Rodríguez, 22 May 2023; Document HHDC059; Foro Penal, Report on political repression in Venezuela, of February 2023. Available at: https://foropenal.com/wp-content/uploads/2023/05/FP_REPORTE-FEB-2023_230512.pdf.

⁹⁰⁰ A/HRC/45/33, paragraphs 336-342.

⁹⁰¹ Interview with Matthew John Heath, 4 September 2023; Interview with Marco Antonio Garcés’ family, 18th of May 2023.

⁹⁰² Interview with Matthew John Heath, 4 September 2023; Document HHDC059.

⁹⁰³ Interview with Evedag Rodríguez, 22 May 2023.

⁹⁰⁴ Interview with Matthew John Heath, 4 September 2023.

handcuffed and without access to food or water. In September 2021, 11 officials of the Directorate General of Military Counter-Intelligence equipped with headphones and shields entered his cell and beat him hard all over his body and his face. As a consequence of these beatings, his left eye was severely injured. Heath only received medical assistance one month after the event, due to a petition from his lawyer.⁹⁰⁵

Detentions on 12 September 2020

402. Simultaneously, on 12 September 2020, another four people identified as Ivonne Coromoto Barrios Finol, wife of Daeven Rodríguez an owner of the vehicle in which the four people detained previously were moving in; Leobaldo Antonio Gutiérrez (taxi chauffeur), Andry Ramón Final (cousin of Ivonne Barrios and taxi chauffeur) were detained by troops of the Special Action Forces (FAES by its Spanish acronym) in Maracaibo.⁹⁰⁶

403. According to testimony collected by the Mission, Ivonne Barrios was the first to be detained. The Special Action Forces arrived at her home without a detention order, they confiscated two motorbikes, as well as other belongings of Ivonne and her husband Daeven Rodríguez. Later, through deception, they took her to the headquarters of the Special Action Forces in San Francisco, Maracaibo, State of Zulia. They told her that they would only interrogate her and then they would return her to her home; however, after presenting herself at Special Action Forces, she never left as a free woman.⁹⁰⁷

404. According to the same source, at the headquarters of the Special Action Forces, the officials asked her questions about the taxi business in which her husband worked, about the people who worked there, and about who assigned the trip from Maracaibo to Punto Fijo. At one point, during the detention, an agent of the Special Action Forces sexually assaulted her grabbing her by her hands and forcing her to touch his intimate parts, he also tried to kiss her and asked her to show him her tattoos.⁹⁰⁸ Ivonne Barrios shouted and was moved to a room in which there were only men detained who were washing themselves naked.⁹⁰⁹ According to a source consulted by the mission, the same official had asked her questions if she “was horny in bed and if she did it a lot [that is to say had sex frequently].”⁹¹⁰ Barrios remained in the headquarters of the Special Action Forces until 18 September, the day on which she was moved to a prison cell of the Special Action Forces in Caracas where she was kept for two days without receiving food.⁹¹¹ On 20 September 2020, she was transferred to Boleíta.⁹¹²

405. On 12 September 2020, they were detained at the headquarters of the Special Action Forces in San Francisco, Maracaibo, Leobaldo Antonio Gutiérrez, Andry Ramón Final and Asterio José González García, and later transferred to Boleíta on the same day as Ivonne. According to the source, the detentions were based on information given by Ivonne Barrios to the Special Action Forces.⁹¹³

Information about the whereabouts of the victims

406. On 9 September 2020, the day of the detention of the first group in the tax post “Los Pedros”, a family member of Darwin Urdaneta received a WhatsApp message that informed him about the capture of the four people.⁹¹⁴ The family members of Marco Antonio Garcés received the same message the day after the detention, on 10 September.⁹¹⁵ The WhatsApp message did not come from an official source, but it mentioned the names of the

⁹⁰⁵ *Ibid.*

⁹⁰⁶ Interview with Familia de Marco Antonio Garcés, 18 May 2023; Interview HHIV093; TalCual. They break down the alleged support network of the ‘espía’ from the USA in Venezuela, 14 September 2020. Available at: <https://talcualdigital.com/desmantelan-supuesta-red-que-ayudo-al-espia-estadounidense-en-venezuela/>

⁹⁰⁷ Interview with Evedag Rodríguez, 22 May 2023.

⁹⁰⁸ *Ibid.*; Interview IIV035; La Gran Aldea, Ivonne Barrios: that of the case of the “el gringo espía”, 14 July 2023. Available at: <https://lagranaldea.com/2023/07/14/ivonne-barrios-la-del-case-de-el-gringo-espia/>

⁹⁰⁹ *Ibid.*

⁹¹⁰ La Gran Aldea, Ivonne Barrios: that of the case of the “el gringo espía”, 14 July 2023. Available at: <https://lagranaldea.com/2023/07/14/ivonne-barrios-la-del-case-de-el-gringo-espia/>

⁹¹¹ Interview with Evedag Rodríguez, 22 May 2023; Document HHDC064: Information of the transferal of the detainees.

⁹¹² Document HHDC064: Information of the transferal of the detainees.

⁹¹³ Interview with Evedag Rodríguez, 22 May 2023.

⁹¹⁴ Interview HHIV093; Document HHDC052: Photo of the four detainees in the Bolivarian National Guard Punto Fijo.

⁹¹⁵ Interview with the family of Marco Antonio Garcés, 18 May 2023; Document HHDC052: Photo of the four detainees in the Bolivarian National Guard Punto Fijo.

detainees, their location and the objects seized.⁹¹⁶ Meanwhile, the family of Daeven Rodríguez had news of his detention on the same day on 9 September, via a phone call from a worker of the taxi company who had found out what had happened, information which was later confirmed by some family members who live in Punto Fijo.⁹¹⁷

407. On the same day as the detention, on 9 September 2020, a family member of Darwin Urdaneta went to the command of the Bolivarian National Guard in Táchira to ask about his whereabouts. The agents made a phone call to the Bolivarian National Guard in Falcón and one of them confirmed that Urdaneta was detained in that centre.⁹¹⁸

408. Matthew Heath told the Mission that on 13 September 2020, the Embassy of the United States of America in Bogotá told his family members that he was detained in Falcón, without giving them any more details. In December 2020, when Heath had access to a lawyer, the family finally had the news that he was detained in the Directorate General of Military Counter-Intelligence of Boleíta. The first contact that Heath had with his family was on 16 June 2021. Heath's family never contacted the Venezuelan authorities.⁹¹⁹

409. On 14 September 2020, Tarek William Saab announced on national television the detention of Marco Antonio Garcés, Matthew Heath, Daeven Rodríguez and Darwin Urdaneta.⁹²⁰ Saab informed that the four were accused of crimes of terrorism,⁹²¹ membership of an organised crime group,⁹²² and illegal weapons trafficking⁹²³. The three Venezuelan citizens were also accused of treason.⁹²⁴ Similarly, Saab indicated that the other four people detained on 12 September (Ivonne Barrios, Leobaldo Gutiérrez, Andry Finol and Asterio González) formed “part of the logistics team for the irregular income and movement of the North American agent in the country,”⁹²⁵ accusing them of the assumed crime of membership of an organised crime group,⁹²⁶ treason,⁹²⁷ terrorism,⁹²⁸ and for illegal weapons trafficking⁹²⁹.

410. In his announcement, Saab stated that the four detainees in the tax post “Los Pedros” carried an AT4 84 mm calibre anti-tank weapon, a submachine gun UZI calibre 9 mm, four C4 explosives and a bag of North American money, among other objects. This evidence was not shown in the first photograph taken at the moment of the detention

⁹¹⁶ Document HHDC052: Photo of the four detainees in the Bolivarian National Guard Punto Fijo.

⁹¹⁷ Interview with Evedag Rodríguez, 22 May 2023.

⁹¹⁸ Interview HHIV093.

⁹¹⁹ Interview with Matthew John Heath, 4 September 2023.

⁹²⁰ Interview with Marco Antonio Garcés' family, 18 May 2023; Interview with Evedag Rodríguez, 22 May 2023; YouTube Video – Luigino Bracci Roa from Venezuela, Attorney General gives details of the captured spy from the USA, who would sabotage Venezuelan refineries, 14 September 2020. Available at: <https://youtu.be/XU5ojVZMD1o>. On the 11 September 2020, Nicolás Maduro announced on national TV the detention of an alleged “spy” from the USA who has the objective of attacking the country's refineries. In the aforementioned statement, Maduro did not mention the detention of other people; Facebook post of Nicolás Maduro [@NicolasMaduro], 12^o Anniversary of Juventud PSUUV, 11 September 2020. Available at: <https://www.facebook.com/watch/?v=321404999120651>, [min. 40:04 – 42:45]; Foro Penal, Report on political repression in Venezuela, of February 2023. Available at: https://foropenal.com/wp-content/uploads/2023/05/FP_REPORTE-FEB-2023_230512.pdf; Tal Cual, They dismantled the alleged support network of the spy from the USA in Venezuela, 14 September 2020. Available at: <https://talcualdigital.com/desmantelan-supuesta-red-que-ayudo-al-espia-estadounidense-en-venezuela/>; YouTube Video- Luigino Bracci Roa from Venezuela, Attorney General gives details of the captured spy from the USA, who would sabotage Venezuelan refineries, 14 September 2020. Available at: <https://youtu.be/XU5ojVZMD1o>.

⁹²¹ Constitutional Law against Organised Crime and the Financing of Terrorism, art. 52.

⁹²² *Ibid.*, art. 37.

⁹²³ *Ibid.*, art. 38.

⁹²⁴ Penal Code de 2005, art. 129.

⁹²⁵ Tal Cual, They dismantled the alleged support network of the spy from the USA in Venezuela, 14 September 2020. Available at: <https://talcualdigital.com/desmantelan-supuesta-red-que-ayudo-al-espia-estadounidense-en-venezuela/>; YouTube Video- Luigino Bracci Roa from Venezuela, Attorney General gives details of the captured spy from the USA, who would sabotage Venezuelan refineries, 14 September 2020. Available at: <https://youtu.be/XU5ojVZMD1o>

⁹²⁶ Constitutional Law against Organised Crime and the Financing of Terrorism, art. 37.

⁹²⁷ Penal Code of 2005, art. 128.

⁹²⁸ Constitutional Law against Organised Crime and the Financing of Terrorism, art. 52.

⁹²⁹ *Ibid.*, art. 38.

and which circulated on social media.⁹³⁰ In addition, according to sources interviewed by the Mission, a photograph of the detainees next to the weaponry presented as supposed evidence does not exist.⁹³¹

411. The parents of Marco Antonio Garcés and the family of Daeven Rodríguez could only confirm that their family members had been detained at the moment of the official announcement of their detention.⁹³² In the case of the family members of Daeven Rodríguez, they had uncovered that his whereabouts was in the headquarters of the Directorate General of Military Counter-Intelligence of Punto Fijo, on the day of his detention, where the officials did not give them any information.⁹³³

412. Matthew Heath, Marco Antonio Garcés, Darwin Urdaneta and Daeven Rodríguez were presented before the 1st Special Supervisory Tribunal of First Instance with competence in terrorism matters in Caracas, on 17 September 2020, six days after the legal time frame.⁹³⁴ The tribunal ordered that their detention centre be the headquarters of the Directorate General of Military Counter-Intelligence in Boleíta where they remained until December 2020 and then they were transferred to different detention centres.⁹³⁵ Ivonne Barrios, Leobaldo Gutiérrez, Andry and Asterio González were presented before the same tribunal of Caracas on the 25 September,⁹³⁶ 14 days after their detention, accused of illegal weapons trafficking,⁹³⁷ terrorism,⁹³⁸ membership of an organised crime group⁹³⁹ and treason.⁹⁴⁰

Detention of Guillermo Zárraga

413. On 14 November 2020, Guillermo Zárraga was detained by agents of the Directorate General of Military Counter-Intelligence in Coro, State of Falcón,⁹⁴¹ accused of being connected to the four people arrested on 9 September 9.

414. Three days before, on 11 November at 8:00 am, four officials of the Bolivarian National Intelligence Service intercepted Zárraga in Plaza Urdaneta in the city of Coro and they loaded him into one of the two vehicles in which they moved. The officials mentioned, without giving more explanation, that due to an order from their superiors, he should be transferred to the headquarters of the Bolivarian National Intelligence Service in Punto Fijo.⁹⁴²

415. Given that Zárraga did not have his identity card with him he was taken to his home to retrieve it. Once in the living quarters, his wife, Ana Emilia Media, asked to accompany Zárraga to the headquarters of Bolivarian National Intelligence Service. Ana Emilia Media was moved to this agency in the same vehicle as her husband. On

⁹³⁰ Interview with the family of Marco Antonio Garcés, 18 May 2023; Interview HHIV093; Document HHDC052 [Photo of the four detained in the Bolivarian National Guard Punto Fijo]; Crisis in Venezuela, Yurayma Carapaica and Antonio Garcés, parents of Marco Antonio Garcés: My son did not see an end to the torture, 1 July 2022. Available at: <https://crisisenvenezuela.org/2022/07/01/yurayma-carapaica-y-antonio-garces-padres-de-marco-antonio-garces-mi-hijo-no-le-veia-fin-a-las-torturas/>; Efecto Cucuyo, “Seven people detained for helping the alleged spy from the USA enter Venezuela”, 14 September 2020, Available at: <https://efectocucuyo.com/politica/siete-personas-detenido-por-ingreso-de-presunto-espia-estadounidense-a-venezuela/>; YouTube Video, Luigino Bracci Roa from Venezuela (@lubrio), “Attorney General gives details of the captured spy from the USA, who would sabotage Venezuelan refineries”, 14 September 2020, Available at: <https://youtu.be/XU5ojVZMD1o>.

⁹³¹ Interview with the family of Marco Antonio Garcés, 18 May 2023; Interview HHIV093; Document HHDC052: Photo of the four detainees in the Bolivarian National Guard Punto Fijo.

⁹³² Interview with the family of Marco Antonio Garcés, 18 May 2023; Interview with Evedag Rodríguez, 22 May 2023.

⁹³³ Interview with Evedag Rodríguez, 22 May 2023.

⁹³⁴ Interview with Matthew John Heath, 4 September 2023; Interview with the family of Marco Antonio Garcés, 18 May 2023; Interview HHIV093; Interview with Evedag Rodríguez, 22 May 2023

⁹³⁵ Interview with Familia de Marco Antonio Garcés, 18th of May 2023; Interview HHIV093; Interview with Evedag Rodríguez, 22 May 2023.

⁹³⁶ Interview with Evedag Rodríguez, 22 May 2023; Document HHDC064: Information of the transfer of the detainees; Document HHDC083: Case File Ivonne Barrios and others.

⁹³⁷ Constitutional Law against Organised Crime and the Financing of Terrorism, art. 38.

⁹³⁸ *Ibid.*, art. 52.

⁹³⁹ *Ibid.*, art. 37.

⁹⁴⁰ Penal Code of 2005, art. 128.

⁹⁴¹ Interview with Ana Medina de Zárraga, 9 June 2023; Document HHDC058: Communication from Guillermo Zárraga’s family about the case.

⁹⁴² Interview with Ana Medina de Zárraga, 9 June 2023.

the journey, the officials wanted to remove her mobile phone, as they had done with her husband. Medina refused and managed to make a phone call to one of their family members alerting them of the situation.⁹⁴³

416. At the headquarters of the Bolivarian National Intelligence Service in Punto Fijo, Zárraga was interrogated by agents who asked him more than 16 questions about his work in the PDVSA while he was filmed. They gave him a blank notebook where they asked him to write down in detail the work that he carried out as a petroleum engineer in the PVDSA, especially about the refining process. Also, they told him that, given his professional experience, he could be tempted to receive money from the opposition and that “*they knew his family very well.*”⁹⁴⁴

417. His wife, who waited outside while her husband was being interrogated, realised that one of the officials of the Bolivarian National Intelligence Service had been in their house two days before asking about a person who did not live at their home. Three hours later, the son of both arrived at the headquarters of the Bolivarian National Intelligence Service, the officials asked him the same questions as his father. The Zárraga family remained at the headquarters of the Bolivarian National Intelligence Service at Punto Fijo until 5:00 pm. Then they were driven to Coro by officials of the Bolivarian National Intelligence Service; one of them warned them to “*be careful about who you talk to and who you meet with because the next visit will not be so cordial.*”⁹⁴⁵

418. On 14 November, at 3:00 am, around five officials of the Directorate General of Military Counter-Intelligence arrived at the Zárraga family home and violently knocked down the door with a hammer. Three armed officials entered the home, pointed a gun at the 15-year-old daughter and detained Guillermo Zárraga without showing any judicial order. They handcuffed him, covered his head and took him on an unknown route.⁹⁴⁶

419. On that same day, in the early hours of the morning, his wife Ana Emilia Medina went to ask about the whereabouts of her husband in the Directorate General of Military Counter-Intelligence, Bolivarian National Intelligence Service and the Scientific, Criminal and Forensic Investigations Corps, amongst other agencies in the city of Coro and Punto Fijo. In all of these places, they told her that they did not have any information.⁹⁴⁷

420. That night, at around 7:00 pm, Medina went to the Public Prosecutors Office of Coro and obtained information that her husband was detained in the Directorate General of Military Counter-Intelligence of Boleíta in Caracas. However, immediately after the detention in their home, Zárraga had been driven to the Directorate General of Military Counter-Intelligence in Punto Fijo, where she remained until 5 am in the morning, before being moved to Caracas. Medina had been in the Directorate General of Military Counter-Intelligence of Punto Fijo at 9:00 am of that same morning and the officials had denied having any information about the whereabouts of her husband.⁹⁴⁸

421. On 15 November, the lawyer of Zárraga went to the Directorate General of Military Counter-Intelligence of Boleíta and other agencies in Caracas, such as the Bolivarian National Intelligence Service and the Scientific, Criminal and Forensic Investigations Corps. The officials informed her that he was not in any of these places. On that same day, Zárraga could communicate with his family via phone and inform them that he was in Boleíta.⁹⁴⁹

422. The next day, Zárraga was moved again to Coro from Caracas in order to be presented before the First Tribunal of Control of the Criminal Judicial District of the State of Falcón Santa Ana de Coro.⁹⁵⁰ On arrival, he called his wife informing her that he was in the tribunal and that he needed his clothes and phone. When Medina arrived at the tribunal, one of the officials of the Directorate General of Military Counter-Intelligence asked her for Zárraga’s mobile phone and she gave it to him. Medina, a lawyer by profession, was sworn in as the defence lawyer of her husband. In the file concerning Zárraga, there was only one photo in which he appeared next to Juan Guaidó. On 24

⁹⁴³ *Ibid.*

⁹⁴⁴ *Ibid.*

⁹⁴⁵ *Ibid.*

⁹⁴⁶ *Ibid.*

⁹⁴⁷ *Ibid.*

⁹⁴⁸ *Ibid.*

⁹⁴⁹ *Ibid.*

⁹⁵⁰ Document HHDC095: Act of Oath – First Tribunal of Control of the Judicial Penal Circuit of the State of Falcón, Santa Ana de Coro on 16 November 2020.

November 2020, the 1st Special Court with competence in terrorism matters issued a preventative judicial measure for Zárraga⁹⁵¹ for the alleged crimes of treason,⁹⁵² terrorism⁹⁵³ and membership of an organised crime group.⁹⁵⁴

423. On 17 September, Zárraga was moved again to Boleíta in spite of the fact that one of the officials of the Directorate General of Military Counter-Intelligence informed his wife that he would be moved on that day to Punto Fijo. Neither the family nor the lawyer received more information about the whereabouts of Zárraga until a week later when the detainee called his family to inform them that he was in Boleíta. Before this phone call, when his lawyer visited this detention centre, the officials had told her that he was not detained there. On 24 September 2020, the family of Zárraga was able to visit him in the detention centre of Boleíta.⁹⁵⁵

Judicial process against all of the detainees

424. On 25 February 2021, the criminal case against Zárraga was combined to become the case known as the “Gringo spy”. Zárraga was accused of the crime of membership in an organised crime group,⁹⁵⁶ -they dropped the crimes of terrorism⁹⁵⁷ and treason⁹⁵⁸- supposedly for having been supplied with confidential information about the Amuay refinery from Matthew Heath. He was accused of having looked for confidential strategic information about the Amuay refinery in one of the installations of the PDVSA in order to pass it on to Heath.⁹⁵⁹ For this, the information was used from the notebook which they made him fill out on the 11 November 2020, at the headquarters of the Bolivarian National Intelligence Service in Punto Fijo.

425. Regarding the other eight people, Judge Carol Padilla, in charge of the 1st Special Tribunal of First Instance with competence in terrorism matters, accepted the accusation of illegal arms trafficking,⁹⁶⁰ membership of an organised crime group,⁹⁶¹ terrorism⁹⁶² and treason.⁹⁶³

426. The trial began on the 17 June 2021. Ten hearings took place, but the process was suspended on the 26 October 2021 because the transfer forms of the detainees were not complete, those that were emitted for said people were present in the hearings of their oral trial.⁹⁶⁴ In February 2022, the witnesses of the Directorate General of Military Counter-Intelligence were presented and at least two of the detainees recognised their torturers.⁹⁶⁵

427. Matthew Heath was liberated on the 1 October 2022,⁹⁶⁶ along with another six citizens of the United States of America detained and processed for other reasons, as part of an exchange of two Venezuelans processed in the USA, cousins of Cilia Flores, wife of President Maduro.⁹⁶⁷ Currently, the eight people implicated in the case of

⁹⁵¹ Interview with Ana Medina de Zárraga, 9 June 2023; Document HHDC092: Decision of preventive deprivation of liberty - 1st Special Supervisory Tribunal of First Instance with competence in terrorism matters with national jurisdiction, 24 November 2020.

⁹⁵² Penal Code de 2005, art. 128.

⁹⁵³ Constitutional Law contra la Organised Crime and the Financing of Terrorism, art. 52.

⁹⁵⁴ *Ibid.*, art. 37.

⁹⁵⁵ Interview with Ana Medina de Zárraga, 9 June 2023.

⁹⁵⁶ Penal Code of 2005, art. 128.

⁹⁵⁷ Interview with Matthew John Heath, 4 September 2023.

⁹⁵⁸ Penal Code of 2005, art. 128

⁹⁵⁹ Interview with Matthew John Heath, 4 September 2023.

⁹⁶⁰ Constitutional Law against Organised Crime and the Financing of Terrorism, art. 38.

⁹⁶¹ *Ibid.*, art. 37.

⁹⁶² *Ibid.*, art. 52.

⁹⁶³ Penal Code of 2005, art. 128; Crisis in Venezuela, Yurayma Carapaica and Antonio Garcés, parents of Marco Antonio Garcés: My son did not see an end to the torture, 1 July 2022. Available at: <https://crisisenvenezuela.org/2022/07/01/yurayma-carapaica-y-antonio-garces-padres-de-marco-antonio-garces-mi-hijo-no-le-veia-fin-a-las-torturas/>

⁹⁶⁴ Interview with Marco Antonio Garcés' family, 18 May 2023.

⁹⁶⁵ *Ibid.*; Crisis in Venezuela, Yurayma Carapaica and Antonio Garcés, parents of Marco Antonio Garcés: My son did not see an end to the torture, 1 July 2022. Available at: <https://crisisenvenezuela.org/2022/07/01/yurayma-carapaica-y-antonio-garces-padres-de-marco-antonio-garces-mi-hijo-no-le-veia-fin-a-las-torturas/>; Document HHDC058: communication from Guillermo Zárraga's family about the case.

⁹⁶⁶ Interview with Matthew John Heath, 4 September 2023.

⁹⁶⁷ *Ibid.*; BBC World, USA frees the nephews of Nicolás Maduro, in exchange for 7 US prisoners in Venezuela, 1 October 2022. Available at: <https://www.bbc.com/mundo/noticias-america-latina-63105758>; Interview with the family of Marco Antonio Garcés, 18 May 2023; Interview HHIV093; Interview with Ana Medina de Zárraga, 9 June 2023.

the “gringo spy” are detained in different detention centres in Venezuela. On 13 July 2023, the last hearing took place, and the next day it was announced that the process had been interrupted, given that the competence in terrorism was removed from the 8th Tribunal of the Court of Judicial Constitution of the Metropolitan Area of Caracas and only their ordinary competence remained. The case of the “gringo spy” has been moved to the 29th Tribunal in the Court of the Judicial Constitution of the Metropolitan Area of Caracas, the delay is so that the Judge of this tribunal may familiarise themselves with the details of the case.⁹⁶⁸

428. At the date of writing this document, the physical and psychological health of the eight detainees is compromised. The most extreme case is that of Guillermo Zárraga, who suffered from arterial and cardiovascular hypertension, severe anaemia and malnutrition. The last time that the family fruitlessly requested that he be transferred to a hospital was in May 2023.⁹⁶⁹

429. Two of the victims denounced that, the Director of the prison Yare II, Wilmer Herrera, extorted the detainees Guillermo Zárraga, Darwin Urdaneta, Andry Finol and Asterio González to pay a monthly quota for security. Herrera intimidated the detainees by placing common criminals in the area of the political prisoners. On 3 August 2023, Herrera carried out a requisition of the prison cells of the detainees and later shut them in a 2x2 m cell without food or water for at least 24 hours. During this enclosure, Guillermo Zárraga fainted twice. The family members of the detainees did not have any news of the situation until the 9 August, six days after the events.⁹⁷⁰

Conclusions

430. With a basis in the events described, the Mission has reasonable grounds to believe that Daeven Enrique Rodríguez Argueta, Matthew John Heath, Darwin Andreizo Urdaneta Pardo and Marco Antonio Garcés Carapaica were arrested arbitrarily on 9 September 2020, in the tax post of “Los Pedros” of the Bolivarian National Guard, by members of this security body, who apprehended them without a judicial order and without them having committed a crime in flagrante. The Mission has reasonable grounds to believe that, at the moment of the arrest, these four people did not have with them the weaponry and money that, according to the Public Prosecutors Office, was found in their possession.

431. The Mission also has reasonable grounds to believe that the arbitrary detention of these four people was maintained in time and that they were deprived of liberty in installations of the Directorate General of Military Counter-Intelligence in Punto Fijo, in a clandestine building in Caracas, and in the detention centre of Boleíta, also in Caracas. Similarly, the Mission has reasonable grounds to believe that in these places the detainees were subjected to torture and other bad treatments, including acts of sexual violence and a threat of rape. Similarly, the Mission has reasonable grounds to believe that Rodríguez was subject to a short term enforced disappearance between 9 and 14 September 2020, taking into account that his family members discovered his whereabouts during said time as at the headquarters of the Directorate General of Military Counter-Intelligence in Punto Fijo and that the agents of said state organism did not give them any information about the whereabouts of Rodríguez, even though he was in the custody of State agents throughout this period.

432. Officials of the Bolivarian National Guard and the Directorate General of Military Counter-Intelligence participated in the arbitrary detention of the four people. Officials of the Directorate General of Military Counter-Intelligence participated in the acts of torture, bad treatment, and sexual violence of the four aforementioned people.

433. With respect to Ivonne Barrios Fino, Leobaldo Antonio Gutiérrez, Andry Ramón Finol and Asterio José González García, apprehended on 12 September, the Mission has the reasonable grounds to believe that Ivonne Barrios was detained arbitrarily without judicial order by members of the Special Action Forces and that they drove her to their headquarters in San Francisco, Maracaibo. With respect to the other three people, the Mission does not have sufficient elements to determine the circumstances of their detention.

⁹⁶⁸ Document HHDC097: Updated information about the state of the trial – Case Gringo Spy.

⁹⁶⁹ Interview with Ana Medina de Zárraga, 9 June 2023; Amnesty International, Venezuela, A man detained arbitrarily, in danger of death due to lack of medical care, 31 May 2023. Available at: <https://www.amnesty.org/es/Documents/amr53/6845/2023/es/>; Tal Cual, health of the political prisoner Guillermo Zárraga is critical, warns his son, 23 May 2023. Available at: <https://talcualdigital.com/salud-del-presno-politico-guillermo-zarraga-esta-en-estado-critico-advierde-su-hijo/>

⁹⁷⁰ Document HHDC098: Information on the detention conditions in Yare II; Tweet from Diego Zárraga [@DZeta14], 7 August 2023. Available at: <https://twitter.com/DZeta14/status/1688600049830236160?s=20>; Tweet from Diego Zárraga [@DZeta14], 9 August 2023. Available at: <https://twitter.com/DZeta14/status/1689336868431699968?s=20>.

434. The Mission has reasonable grounds to believe that officials of the Special Action Forces participated in the arbitrary detention of Ivonne Coromoto Barrios Finol. In addition, she was an object of sexual aggression during her detention at the headquarters of the Special Action Forces in San Francisco by one of the officials.

435. The Mission has reasonable grounds to believe that Guillermo Zárraga was a victim of arbitrary detention on two occasions, first, for several hours, on 11 November 2020 by the Bolivarian National Intelligence Service, and days later, on 14 November by the Directorate General of Military Counter-Intelligence. In neither of these two occasions, he was presented with a detention order. The Mission also has reasonable motivations to believe that Guillermo Zárraga was the subject of an enforced short-term disappearance for a week from the 17 November 2020, the moment in which he was moved to the detention centre of Boleíta of the Directorate General of Military Counter-Intelligence. When the family and lawyer of Zárraga asked about his whereabouts in the said centre, the officials assured them that he was not detained there.

436. Officials of the Bolivarian National Intelligence Service participated in the arbitrary detention on 11 November 2020 and officials of the Directorate General of Military Counter-Intelligence on 14 November of the same year, and also in his enforced short-term disappearance.

Case 7: Roland Carreño

Background

437. The journalist Roland Oswaldo Gutiérrez is known for his work as the old presenter of the Venezuelan television programme “*Buenas noches*”⁹⁷¹ on the Globovisión channel. At the time of his detention, Carreño was also a member and coordinating operative of the political party Voluntad Popular.

Detention

438. On 26 October 2020, he was detained by officials of the Bolivarian National Police (PNB by its Spanish acronym) when he left his residence in Caracas in a car.⁹⁷² The Bolivarian National Police allege that Carreño was detained in “flagrance” and that, when the police searched the vehicle, they found a rifle Anderson model AM-15 calibre 5.56, munitions and USD 12,000 in cash.⁹⁷³ However, Carreño’s lawyer denies that he had the weapon, munitions and money with him in his vehicle, and thus that it relates to an arrest in flagrance.⁹⁷⁴ According to the same source, the officials did not present a detention order.⁹⁷⁵

439. The Mission had access to the Political Act of the apprehension, signed by the sub-commissioner of the Bolivarian National Police Roger Piñera, in which it indicated that the Bolivarian National Police received an anonymous phone tip-off indicating the presence of a suspicious vehicle in the area surrounding the Church of San Pedro in Caracas, in the municipality Libertador. According to the aforementioned act, two officials of the Bolivarian National Police searched the vehicle in which Carreño and a passenger were found and they only found bottles of alcohol and a container which contained an allegedly hallucinogenic liquid.⁹⁷⁶ The contents of this act contradict what has been communicated by the government in public declarations and in official documents, as well as the accusation from the Public Prosecutors Office in which there are references to the weapon and to the munitions among other things.⁹⁷⁷

440. The agent of the Bolivarian National Police drove Carreño to the Directions of Criminal Investigations (DIP by its Spanish acronym) in the Maripérez in Caracas where he was detained for several hours.⁹⁷⁸ In this place, Carreño realised that he was being implicated as the principal coordinator in the financing of the logistics of the plan

⁹⁷¹ Programme aired between 2006 and 2013.

⁹⁷² Interview with Joel García, 9 February 2023; Interview with Joel García, 14 March 2023; Interview with Juan Guaidó, 24 July 2023; Interview with Leopoldo López, 4 July 2023; Working Group on Arbitrary Detention, opinion number 48/2022 relating to Rolando Carreño Gutiérrez, 11 November 2022.

⁹⁷³ Working Group on Arbitrary Detention, opinion number. 48/2022 relating to Rolando Carreño Gutiérrez, 11 November 2022, paragraph 48; Document AADOC001: Act of accusation of Roland Carreño.

⁹⁷⁴ Interview with Joel García, 9 February 2023; Interview with Joel García, 14 March 2023.

⁹⁷⁵ Interview with Joel García, 9 February 2023; Interview with Joel García, 14 March 2023; Working Group on Arbitrary Detention, opinion number 48/2022 relating to Rolando Carreño Gutiérrez, 11 November 2022.

⁹⁷⁶ Document HHDC088: Complaint from the Bolivarian National Police about the detention of Roland Carreño.

⁹⁷⁷ Document AADOC001: Act of Accusation of Roland Carreño.

⁹⁷⁸ Working Group on Arbitrary Detention, opinion number. 48/2022 relating to Rolando Carreño Gutiérrez, 11 November 2022.

to leave the country, two days before, of the president of Voluntad Popular Leopoldo López,⁹⁷⁹ who had remained on guard in the residence of the Ambassador of Spain from 30 April 2019.⁹⁸⁰ Moreover, he found out that the officials alleged that, among the belongings found in his car by the officials of the Bolivarian National Police, as evidence against him, there was an AM-15 calibre fusible, 12,000 USD, maps of Venezuela, which indicated a supposed escape route of Leopoldo López,⁹⁸¹ and some documents of the NGO Futuro Presente.⁹⁸²

Transfer to El Helicoide

441. Several hours after remaining in the DIP, Carreño was transferred to the agencies of the Bolivarian National Intelligence Service in El Helicoide.⁹⁸³ According to the source interviewed by the Mission, Carreño was forced under threat of being beaten, to film a video in which he confessed, allegedly voluntarily,⁹⁸⁴ about his role as a coordinating operative of Voluntad Popular⁹⁸⁵ and about an alleged transfer of money for the political favour of Leopoldo López.⁹⁸⁶ Then, Carreño was taken to a room with television cameras where he had to read confession text up to 30 times.⁹⁸⁷ According to another source, one high ranking official, who was not inside the room, gave orders to modify and repeat the confession.⁹⁸⁸

442. The version of the government is that Carreño filmed the video “freely”, confessing his guilt and explaining his actions. According to the government version, Carreño also signed a document in which he accepted having committed the crimes for which he was accused: conspiracy,⁹⁸⁹ membership of an organised crime group,⁹⁹⁰ illegal trafficking of weapons of war⁹⁹¹ and financing terrorism.⁹⁹²

443. According to sources consulted by the Mission, the Carreño’s family members and lawyers did not receive any news of the whereabouts until 24 hours after his detention, when, owing to the pressure on social media, the authorities, amongst them, the Prosecutor Tarek William Saab, announced to their networks that he was under their custody, without indicating the place.⁹⁹³ On 27 October, the family members went two times to El Helicoide, to

⁹⁷⁹ Interview with Joel García, 9 February 2023; Interview with Leopoldo López, 4 July 2023.

⁹⁸⁰ El País, Leopoldo López abandons Venezuela with the intention to travel to Spain, 24 October 2020. Available at: <https://elpais.com/internacional/2020-10-24/leopoldo-lopez-sale-de-la-embajada-de-espana-en-caracas-y-abandona-venezuela.html>.

⁹⁸¹ Interview with Joel García, 14 March 2023.

⁹⁸² *Ibid.*; Interview with Joel García, 9 February 2023; Document AADOC001: Act of Accusation of Roland Carreño.

⁹⁸³ Working Group on Arbitrary Detention, Opinion number. 48/2022 relating to Rolando Carreño Gutiérrez, 11 November 2022, paragraph 12.

⁹⁸⁴ Interview with Joel García, 9 February 2023; Interview with AIV016; Interview with AIV031; Working Group on Arbitrary Detention, Opinion number. 48/2022 relating to Rolando Carreño Gutiérrez, 11 November 2022, paragraph 12.

⁹⁸⁵ Working Group on Arbitrary Detention, Opinion number. 48/2022 relating to Rolando Carreño Gutiérrez, 11 November 2022, paragraph 12, 69 and 84.

⁹⁸⁶ YouTube Video—Luigino Bracci Roa from Venezuela, Jorge Rodríguez shows the confession of Roland Carreño for use of money from Citgo for Popular Will, 30 October 2020. Available at: <https://youtu.be/fJaHjt0Brxc?feature=shared&t=587> [min. 9.47].

⁹⁸⁷ Interview with Joel García, 9 February 2023; Interview with Joel García, 12 January 2021; El País, The trial of the Venezuelan journalist Roland Carreño returns to square one, after being held prisoner for two years, 1 November 2022. Available at: <https://elpais.com/internacional/2022-11-01/vuelve-al-punto-de-partida-el-juicio-al-periodista-venezolano-roland-carreno-despues-de-dos-anos-presos.html>.

⁹⁸⁸ Interview with Joel García, 9 February 2023.

⁹⁸⁹ Penal Code de 2005, art. 132.

⁹⁹⁰ Law against Organised Crime and the Financing of Terrorism, art 37.

⁹⁹¹ *Ibid.*, art. 38.

⁹⁹² Working Group on Arbitrary Detention, Opinion number 48/2022 relating to Rolando Carreño Gutiérrez, 11 November 2022, paragraph 69.

⁹⁹³ Interview with Farah Carreño, 16 March 2021; YouTube Video—National Syndicate of Press Workers, the mother of Roland Carreño speaks: I have a right to know where my son is, 27 October 2020. Available at: <https://youtu.be/LxuAg4SXLE0>; Access to Justice, Roland Carreño: another case of political persecution in Venezuela, 12 November 2020. Available at: <https://accesoalajusticia.org/roland-carreno-otro-case-mas-de-persecucion-politica-en-venezuela/>; Tweet from Tarek William Saab [@TarekWilliamSaab], 27 October 2020. Available at: <https://twitter.com/TarekWilliamSaab/status/1321271741117849600?s=20>; Tweet from Freddy Nández (“Alfred Nazareth”) [@luchaalmada], 27 October 2020. Available at:

the Bolivarian National Police of Maripéz and to the Palace of Justice to figure out his whereabouts, but they did not give them any information and they even told them to return the next day.⁹⁹⁴ In addition, more than 48 hours after having announced his detention, the family members and lawyers still did not have any information about the location of where Carreño was detained.⁹⁹⁵

444. On 29 October 2020, three days after the detention of Carreño, Attorney General Tarek William Saab, in a press release, referred to his detention and indicated that it was not a forced disappearance in the way that “*it was propagated in social media campaigns.*”⁹⁹⁶ Similarly, Saab informed that Carreño was detained in El Helicoide.⁹⁹⁷

Raid of his home

445. On 27 October 2020, Voluntad Popular and the National Syndicate of Press Workers (SNTP by its Spanish acronym) denounced the raid of Carreño’s home at approximately 9:30 pm by a group of more than 20 unidentified State officials.⁹⁹⁸ Two days later, the Attorney General, Tarek William Saab, confirmed in a press release that the raid took place in the presence of the Public Prosecutors Office designated for this operation.⁹⁹⁹

Hearing before the tribunals

446. According to open sources, on 29 October 2020, Carreño was presented before Judge José Mascimino Márquez García of the 4th Special Tribunal of First Instance with competence in terrorism matters on a national level outside of the 48-hour constitutional timeframe¹⁰⁰⁰ such is required by Venezuelan legislation.¹⁰⁰¹ However, in the response which was given by the State to the Working Group on Arbitrary Detention regarding the case of Carreño, they complied with said obligation, given that Carreño was presented to the tribunal within the 48 hours following his detention.¹⁰⁰² Carreño was accused of crimes of financing terrorism,¹⁰⁰³ conspiracy against the political regime,¹⁰⁰⁴ and trafficking of illegal weapons of war.¹⁰⁰⁵

Public accusations

<https://twitter.com/luchaalmada/status/1321261218364116993?s=20>; DW, Venezuelan Government confirms Roland Carreño's detention, 28 October 2020. Available at: <https://www.dw.com/es/gobierno-de-venezuela-confirma-detenci%C3%B3n-de-roland-carre%C3%B1o/a-55416946>.

⁹⁹⁴ Interview with Farah Carreño, 16 March 2021; Tweet from Sheila Pérez [@sheilaperez_7], 27 October 2020. Available at: https://twitter.com/sheilaperez_7/status/1320977338885091329?s=20; Access to Justice, Roland Carreño: another case of political persecution in Venezuela, 12 November 2020. Available at: <https://accesoaljusticia.org/roland-carreno-otro-case-mas-de-persecucion-politica-en-venezuela/>.

⁹⁹⁵ The Co-operator, Alfredo Romero: “Roland Carreño is still technically disappeared”, 28 October 2020. Available at: <https://elcooperante.com/alfredo-romero-roland-carreno-sigue-tecnicamente-desaparecido/>.

⁹⁹⁶ YouTube Video – Luigino Bracci Roa from Venezuela, Attorney General on Roland Carreño and the reasons for his detention, 29 October 2020, 29 October 2020. Available at: <https://youtu.be/Laqvr1kvOCQ?t=1083> [min. 18:03].

⁹⁹⁷ *Ibid*, [min. 22:08].

⁹⁹⁸ El Nacional. SNTP Complaint of possible raid of the home of Roland Carreño, 27 October 2020. Available at: <https://www.elnacional.com/venezuela/sntp-Complaint-possible-allanamiento-a-la-vivienda-de-roland-carreno/>; El Pitazo, Popular Will Denounce that more than 20 officials raided the home of Roland Carreño, 27 October 2020. Available at: <https://elpitazo.net/politica/voluntad-popular-Complaint-que-mas-de-20-funcionarios-allanan-residencia-de-roland-carreno/>; Access to Justice, Roland Carreño: another case of political persecution in Venezuela, 12 November 2020. Available at: <https://accesoaljusticia.org/roland-carreno-otro-case-mas-de-persecucion-politica-en-venezuela/>

⁹⁹⁹ YouTube Video– Luigino Bracci Roa from Venezuela, Attorney General on Roland Carreño the reasons for his detention, 29 October 2020”, 29 October 2020. Available at: <https://youtu.be/Laqvr1kvOCQ?t=343> [min. 5:43].

¹⁰⁰⁰ Working Group on Arbitrary Detention, Opinion number. 48/2022 relating to Rolando Carreño Gutiérrez, 11 November 2022, paragraph 17; YouTube Video– TVV Network, Journalist Roland Carreño was presented before the tribunals, 29 October 2020. Available at: <https://youtu.be/Ex2fD5sWnK0>

¹⁰⁰¹ Constitution of 1999, art. 44(1); Penal Processing Code of 2012, art. 248.

¹⁰⁰² Working Group on Arbitrary Detention, Opinion number. 48/2022 relating to Rolando Carreño Gutiérrez, 11 November 2022, paragraph. 71.

¹⁰⁰³ Law against Organised Crime and the Financing of Terrorism, art. 53.

¹⁰⁰⁴ Penal Code of 2005, art 132.

¹⁰⁰⁵ Law against Organised Crime and the Financing of Terrorism, art 38. Interview with Joel García, 9 February 2023; Interview with Joel García, 14 March 2023; Working Group on Arbitrary Detention, Opinion number. 48/2022 relating to Rolando Carreño Gutiérrez, 11 November 2022, paragraph. 53.

447. In the press release on 29 October 2020, Tarek William Saam mentioned that the detention of Carreño occurred after he was denounced “*by someone in his environment who informed on his illegal activities.*”¹⁰⁰⁶ During the press release, the Prosecutor General showed a series of documents that allegedly implicated Carreño in the appropriation of state money. According to the Fiscal, Carreño “*was in charge of destroying the stolen money, looted, plundered from Venezuela from national and regional operators, not just from his party, but also from other opposition parties which have been a part of the conspiracy against the country.*”¹⁰⁰⁷

448. On 30 October 2020, the video recorded in the Bolivarian National Intelligence Service (SEBIN by its Spanish acronym) and other screenshots of the alleged conversation which implicated him as “financing terrorism” were presented in a press conference by the then head of the campaign of the PSUV political party, and the current president of the National Venezuelan Assembly, Jorge Rodríguez.¹⁰⁰⁸ In the press conferences, Rodríguez classed Voluntad Popular as a “terrorist group” and Carreño as a “scoundrel” and a “rat.”¹⁰⁰⁹

449. In addition, Rodríguez shared what were, according to him, private WhatsApp messages between Carreño and his partner, with private photos. Rodríguez said that “*we had no interest in people’s private lives, the choice of gender is of each person. Of course, some throw seethe, in the episcopal conference, but deep own cover up these situations*”. However, immediately after, laughing, he showed the private messages, with darkened photographs indicating that they were “very lively personal photos” allowing it to be understood that they were intimate sexual photos. Continuing from this, referring to the photos, Rodríguez said “*I think that a line of investigation could also be opened by the Prosecutor about a masculine prostitution network that could be involved in the cleaning of these resources.*”¹⁰¹⁰

Opinion of the Working Group about the Arbitrary Detention

450. On 11 November 2020, the Working Group on Arbitrary Detention, in their Opinion 48/2022 relating to Roland Carreño, observed that the version of the denouncer and the version of the Government were contradictory in relation to the events. Both linked to the arrest of Carreño, and the events in the following hours until his first hearing before the tribunal. Thus, the Working Group indicates that it cannot conclude that the detention of Carreño was arbitrary according to the category I established by this said group, in relation to the lack of a legal base for the detention.¹⁰¹¹

451. However, the Working Group concluded that the detention of Carreño was arbitrary, given his role and activities in an opposing Venezuelan political party¹⁰¹²- according to category II¹⁰¹³-, and that the right of innocent until proven guilty had been violated by the fact that his alleged confession was broadcast on national television,

¹⁰⁰⁶ *Ibid.*

¹⁰⁰⁷ *Ibid.*

¹⁰⁰⁸ Interview with Joel García, 9 February 2023; Interview HHIV079; YouTube Video– Luigino Bracci Roa from Venezuela, Jorge Rodríguez shows the confession of Roland Carreño for the use of money from Citgo for Popular Will, 30 October 2020. Available at: <https://youtu.be/fJaHjt0Brxc>.

¹⁰⁰⁹ YouTube Video– Luigino Bracci Roa from Venezuela, Jorge Rodríguez shows the confession of Roland Carreño for use of money from Citgo for Popular Will, 30 October 2020. Available at: <https://youtu.be/fJaHjt0Brxc>. See also: Working Group on Arbitrary Detention, Opinion number. 48/2022 relating to Rolando Carreño Gutiérrez, 11 November 2022, paragraph 22.

¹⁰¹⁰ YouTube Video Luigino Bracci Roa – from Venezuela, Jorge Rodríguez shows the confession of Roland Carreño for use of money from Citgo for Popular Will, 30 October 2020. Available at: <https://youtu.be/fJaHjt0Brxc?t=2105> [min. 35:05 and min. 38:03]; Infobae, Homophobic attack of the regime of Nicolás Maduro against the detained journalist Roland Carreño, 30 October 2020. Available at: <https://www.infobae.com/america/venezuela/2020/10/30/ataque-homofobico-del-regimen-de-nicolas-maduro-contra-el-periodista-detenido-rolando-carreno/>.

¹⁰¹¹ Category I refers to the lack of legal basis which justifies the privation of liberty. See Working Group on Arbitrary Detention, Opinion number. 48/2022 relating to Rolando Carreño Gutiérrez, 11 November 2022, paragraph. 73.

¹⁰¹² *Ibid.*, 78.

¹⁰¹³ *Ibid.*, paragraph 77. This category refers to the arbitrary detentions which result in the legitimate exercising of their rights and liberties guaranteed in articles 19 and 21 of the Universal Declaration of Human Rights and articles 19, 21, 22 and 25 of the agreement. However, the working Group indicated that it could not conclude that the detention was linked to the exercising of freedom of expression, given that Carreño had been able to do so for 16 days without being detained;

without a prior, firm sentence.¹⁰¹⁴ In addition, it indicated that, despite the Government's claim that the public declarations were formulated by "people who did not represent nor mandate" Venezuela, the same people were made up of one person -Jorge Rodríguez- who had held several public roles, and who was also the head of the campaign for the Government party and a congress candidate in the moment of the events. At the same time, he indicated that he could not explain how Jorge Rodríguez could show an official video of a penal investigation on public national television for more than an hour.¹⁰¹⁵

Penal process and detention conditions

452. The start of the trial took place on 9 May 2022, a year and a half after his detention. Since then, the penal process has been suspended on at least three occasions. One of the reasons for the suspensions was that the detainee was not moved to the tribunal on time.¹⁰¹⁶ On 4 September 2023, Ronaldo Carreño's lawyer informed us that a new date of the opening for the trial would take place on 28 September 2023.¹⁰¹⁷

453. In October 2022, Carreño's defence solicited the cease of the preventative deprivation of liberty as it had exceeded the two-year timeframe that the law allows.¹⁰¹⁸ However, the judge denied this request given the complexity of the case and the gravity of the accused crimes.¹⁰¹⁹ According to the defence, the accusations of financing terrorism and other crimes have not been able to be proved.¹⁰²⁰

454. Carreño remains deprived of liberty in El Helicoide. Throughout his detention he has suffered various health problems,¹⁰²¹ mostly hypertension.¹⁰²² The judges have denied the requests for health-related substitutive humanitarian measures due to concerns relating to the complexity of the cause and the gravity of the accused crimes.¹⁰²³

Conclusions

455. With a basis in the events mentioned, the Mission has reasonable grounds to believe that the detention of Roland Carreño was arbitrary, given that there are indicators that it was associated with his political activity in the opposition party Voluntad Popular, as Carreño was the object of public accusations of thievery and terrorism by high ranking personalities linked to the Government, through state communication method, using pieces of the open penal investigation against Carreño, in violation of due process. Equally, the Mission observed that even though the Bolivarian National Police alleged "flagrance" as the legal basis of their detention, linked to the alleged fact that a weapon, munitions, and USD 12,000 in cash were found in his vehicle; according to the pollical apprehension document, to which the Mission had access, said elements were not found in the vehicle, Similarly, the presentation hearing of Carreño to the judge exceeded the legal timeframe of 48 hours, in violation of the guarantees established in the Venezuelan Constitution and legislation. Officials of the Direction of Penal Investigations (DIP by its Spanish

¹⁰¹⁴ Working Group on Arbitrary Detention, Opinion number. 48/2022 relating to Rolando Carreño Gutiérrez, 11 November 2022, paragraph 86-88.

¹⁰¹⁵ *Ibid.*, paras. 84 and 86.

¹⁰¹⁶ Interview with Joel García, 14 March 2023; MIIV, Venezuela: UN experts alert about constant attacks to civil liberties, communication methods and syndicates [Oral Update], 22 March 2023. Available at: <https://www.ohchr.org/es/press-releases/2023/03/venezuela-un-experts-warn-persisting-attacks-civil-society-media-and-trade>.

¹⁰¹⁷ Tweet from Joel García [@joelgarcia69], 4 September 2023. Available at: <https://x.com/joelgarcia69/status/1698738283247771736?s=20>; Tal Cual, fixes the new trial date for the opening of the trial of Roland Carreño for the #28Sep, 4 September 2023. Available at: <https://talcualdigital.com/jueza-fija-nueva-apertura-de-juicio-al-periodista-roland-carreno-para-el-28sep/>.

¹⁰¹⁸ Penal Processing Code of 2012, art. 244.

¹⁰¹⁹ Document HHDC061: Approaches taken - Case Roland Carreño.

¹⁰²⁰ Interview with Joel García, 14 March 2023; El País, the trial of Venezuelan journalist Roland Carreño returns to square one, after being prisoner for two years, 1 November 2022. Available at: <https://elpais.com/internacional/2022-11-01/vuelve-al-punto-de-partida-el-juicio-al-periodista-venezolano-roland-carreno-despues-de-dos-anos-presos.html>.

¹⁰²¹ Working Group on Arbitrary Detention, Opinion number. 48/2022 relating to Rolando Carreño Gutiérrez, 11 November 2022, paragraph 33;

¹⁰²² El País, the trial of Venezuelan journalist Roland Carreño returns to square one, after being a prisoner for two years, 1 November 2022. Available at: <https://elpais.com/internacional/2022-11-01/vuelve-al-punto-de-partida-el-juicio-al-periodista-venezolano-roland-carreno-despues-de-dos-anos-presos.html>.

¹⁰²³ *Ibid.*; Document HHDC061: Arguments Raised - Case Roland Carreño.

acronym) of the BNP, today Direction of Strategic and Tactical Actions (DAET by its Spanish acronym) participated in the arbitrary detention of Carreño.

Case 8: Eudis Girot

Background

456. Eudis Girot, a worker of the public business Venezuelan Petrol S.A. (PDVSA by its Spanish acronym), was the executive director of the United Federation of Venezuelan Oil Workers (FUTPV by its Spanish acronym) from the year 2009.¹⁰²⁴

457. Since May 2020, Eudis Girot made public a series of documents relating to the contraband of combustibles and the generalised corruption in the interior of the PDVSA, and thus the impact on the collapse of the petroleum industry.¹⁰²⁵ In this same period, Girot also played an active role in the protests which denounced the working conditions and the lack of access to health of the workers of the petroleum sector.¹⁰²⁶ When the protests took place, the Directorate General of Military Counter-Intelligence detained various syndicate directors, among them Bartolo Guerra, Luis Vallés, José Asunción Guerrero, Jean Carlos Bracho and Eduardo Barroso detained in May 2020 in the state of Anzoátegui.¹⁰²⁷

Detention

458. On 18 November 2020, Eudis Girot participated in a protest in the tribunals of Barcelona demanding the liberation of Bartolo Guerra. Half an hour after having arrived at his house, around 5:00 pm, agents of the Directorate General of Military Counter-Intelligence appeared in his home with a detention order for terrorism,¹⁰²⁸ revealing of confidential information,¹⁰²⁹ conspiracy¹⁰³⁰ and membership of an organised crime group.¹⁰³¹

459. On arrival at his living quarters, the agents asked Eudis Girot if he had a firearm, which he confirmed, indicating that it was located in his room. The agents pointed their guns at him and ordered him to show them where the weapon was located, at this moment, Girot asked them if they had a search warrant and they refused to respond.¹⁰³² Girot showed them the box in which the weapon was stored but did not remove it for fear of being attacked if he took it in his hands. The agents took the box, allowed Girot to get changed quickly and escorted him without handcuffs outside of his home.¹⁰³³

460. According to a testimonial, on leaving the living quarters, the officials of the Directorate General of Military Counter-Intelligence asked Girot where her vehicle was located and asked her to open it, which he did. The agents searched the vehicle and asked him where the weaponry and money were located, as they only found banners

¹⁰²⁴ Interview with Eudis Girot on the 14 February 2023; Interview PPIV053.

¹⁰²⁵ YouTube Video- Vladimir Villegas TV, Vladimir a la Carta with Eudis Girot, director of an oil syndicate, 2 May 2022. Available at: https://www.youtube.com/live/qzgbT_uYnvA?feature=share; YouTube Video- Vladimir Villegas TV, Vladimir a la Carta with Eudis Girot, FUTPV leader, 27 August 2020. Available at: <https://www.youtube.com/live/MtuqqGTQowU?feature=share>.

¹⁰²⁶ Interview with Eudis Girot 14 February 2023; Cronical One, Current and retired petrol workers will protest on 21 July, 20 July 2020. Available at: <https://cronica.uno/trabajadores-petroleros-activos-y-jubilados-protestaran-este-21-de-julio/>.

¹⁰²⁷ Cocuyo Effect, Petrol workers reject the detention of the syndicate representative Bartolo Guerra by orders of the head of Pdvmarina, 11 May 2020. Available at: <https://efectococuyo.com/la-humanidad/trabajadores-petroleros-rechazan-detencion-del-sindicalista-bartolo-guerra-por-ordenes-del-presidente-de-pdvmarina/>; Aporrea, Zulia: Five syndicate directors who demand the fulfilment of adequate working conditions are detained, 9 June 2021. Available at: <https://www.aporrea.org/trabajadores/n365393.html>; Interview with Eudis Girot, 14 February 2023; Interview PPIV053.

¹⁰²⁸ Law against Organised Crime and the Financing of Terrorism, art. 52.

¹⁰²⁹ Constitutional Law of National Security, *Official Gazette no. 37594*, 18 December 2002, art. 55.

¹⁰³⁰ Penal Code de 2005, art. 132.

¹⁰³¹ Law against Organised Crime and the Financing of Terrorism, art. 37. Interview with Eudis Girot 14 June 2023; Interview with Eudis Girot 14 February 2023; Interview PPIV053; Tweet from Eudis Girot [@EudisGirot], 18 November 2020. Available at: <https://twitter.com/EudisGirot/status/1329177157252378625?s=20>.

¹⁰³² Interview with Eudis Girot 14 June 2023; Interview with Eudis Girot 14 February 2023; Interview PPIV053.

¹⁰³³ Interview with Eudis Girot 14 June 2023; Interview with Eudis Girot 14 February 2023.

and old documents. Later, according to Girot, the agents of the Directorate General of Military Counter-Intelligence took his vehicle.¹⁰³⁴

461. Eudis Girot was driven in a vehicle of the Directorate General of Military Counter-Intelligence to the headquarters of the agency in Pozuelos, State of Anzoátegui. There he was permitted to make a phone call to his wife two hours after requesting to do so¹⁰³⁵. When Girot asked the agents of the Directorate General of Military Counter-Intelligence the foundations of the accusations of the crime indicated in the detention order, they told him that “*that will be seen in the tribunals.*”¹⁰³⁶ Later, Girot was moved to the prison cells at the headquarters of the Directorate General of Military Counter-Intelligence, in the same cell as the syndicate leader Bartolo Guerra.¹⁰³⁷ The next day his wife went to visit him in the headquarters of the Directorate General of Military Counter-Intelligence in Pozuelos and managed to meet with him.¹⁰³⁸

Transferal to Boleíta

462. Two days after his detention, on 20 November 2020, Eudis Girot was presented before the 6th Tribunal of First Instance in the area of Barcelona, State of Anzoátegui. As this tribunal did not have competency with terrorism matters, Girot was moved to Caracas on 23 November.¹⁰³⁹

463. According to a testimony collected by the Mission, Girot was moved to Caracas in a vehicle of the PDVSA driven by an official of that business.¹⁰⁴⁰ Behind went Girot’s vehicle, occupied by four officials of the Directorate General of Military Counter-Intelligence, all carrying weapons and balaclavas. During the trajectory, the PDVSA vehicle suffered a mechanical fault which resulted in Girot being moved in his own vehicle, in which he remained for more than five hours handcuffed in the back seat next to two agents of the Directorate General of Military Counter-Intelligence.¹⁰⁴¹

464. According to the same testimonial, during the trajectory, smoke began to leave the air conditioning pipe of the vehicle, Girot alerted the agents, but they ignored him. Almost an hour from Caracas, in the locality of Guaranas, in the State of Miranda, the vehicle started to release more smoke, which resulted in the Directorate General of Military Counter-Intelligence agents stopping the vehicle. Once stopped, the vehicle started to burn.¹⁰⁴²

465. The agents left the car, leaving Eudis Girot locked in and handcuffed while the vehicle was in flames. According to the testimony, Girot managed to open the door while handcuffed and leave the vehicle alive. At this moment, the agents of the Directorate General of Military Counter-Intelligence pointed their guns at him, and, after hitting him, one said to the others “*If he keeps going with this attitude shoot him in the leg*”. Later, Girot was transferred to a Bolivarian National Police vehicle from Caracas which finally took him to the headquarters of the Directorate General of Military Counter-Intelligence in Boleíta.¹⁰⁴³

466. When he interred Boleíta, on the same 23 November, Girot remained three nights in the so-called “Sector A”.¹⁰⁴⁴ Later, he was transferred to “Sector C”, a space 25 meters long with eight cells and the capacity for three people in each cell (that is to say, 24 prisoners), but at that time it hosted approximately 70 people.¹⁰⁴⁵

467. According to the testimonial received by the Mission, during the period of time in which he remained in “Sector C”, Girot slept on the floor and did not receive adequate food¹⁰⁴⁶ The food provided to the prisoners contained grit which deteriorated the teeth of the people detained, and that, according to Girot, gave them permanent

¹⁰³⁴ *Ibid.*

¹⁰³⁵ *Ibid.*; Interview PPIV053.

¹⁰³⁶ Interview with Eudis Girot 14 February 2023.

¹⁰³⁷ Interview with Eudis Girot 14 June 2023.

¹⁰³⁸ *Ibid.*; Interview PPIV053.

¹⁰³⁹ Interview with Eudis Girot 14 February 2023.

¹⁰⁴⁰ *Ibid.*, Interview with Eudis Girot 14 June 2023.

¹⁰⁴¹ *Ibid.*

¹⁰⁴² *Ibid.*

¹⁰⁴³ *Ibid.*

¹⁰⁴⁴ Interview with Eudis Girot 14 June 2023.

¹⁰⁴⁵ *Ibid.*; According to the source, Sector C would serve as the transit area before the detainees were sent to the different cells, where they would remain for more time. In the end, it became the place where the detainees stayed for an indefinite time.

¹⁰⁴⁶ Interview with Eudis Girot 14 June 2023.

intestinal damage. As a consequence, Girot lost 30kg of weight.¹⁰⁴⁷ Girot did not receive any medical assistance, in spite of being a patient of hypertension and severe cardiopathy.¹⁰⁴⁸

468. During his detention in “Sector C”, Girot suffered beatings in his ribs by the prison guards.¹⁰⁴⁹ was deprived of natural light and maintained with an intense artificial light 24 hours of the day, which resulted in him losing all notion of time.¹⁰⁵⁰ Girot remained isolated for large periods of time, including for up to three months.¹⁰⁵¹ On two occasions, Girot was taken from his cell and transferred to a vehicle that drove around the city with the objective of confusing him.¹⁰⁵²

469. On the fourth day of his detention, they told him that they were going to transfer him to the *Casa de los Sueños* (Dream House)¹⁰⁵³ –known as the punishment cells of the Directorate General of Military Counter-Intelligence, Girot was taken to a torture room where he remained for approximately nine hours.¹⁰⁵⁴

470. After his time in “Sector C”, Girot was held in Sector B of Boleíta, along with another four detainees, given that apparently all of them had contracted COVID-19. In this place, there were another three gravely ill people. It was a very dark place, very humid, with black water. Eudis Girot and the other detainees requested medical attention for the people more ill, but only one doctor arrived after three days.¹⁰⁵⁵

Penal Process

471. On 7 April 2021, Girot was transferred to other prison cells of the Court of the 1st Special Tribunal of First Instance with competence in terrorism matters, in Caracas, for the conclusion hearing. There he remained detained in the same cell with approximately 30 other people, all from the El Rodeo II Jail.¹⁰⁵⁶

472. While he remained in the cell, one of the prison officers threw a tear gas inside of the cell, The space was invaded by the gas and some people fainted. The detainees started to shout so that they would be let out, but one guard should at them “*die rats!*”¹⁰⁵⁷ As a consequence of the gasses breathed in from the tear gas, Girot fell to the floor with severe cardiac arrhythmia and without air¹⁰⁵⁸. Finally, the detainees managed to leave when another guard opened the door¹⁰⁵⁹.

473. At approximately 11.00 pm, Girot went to the tribunal to attend his hearing and he narrated what had happened minutes before in the cells. At that moment, they told him that the hearing had been suspended.¹⁰⁶⁰

474. The next day, on 8 April 2021, the wife of Eudis Girot publicly denounced what had happened to her husband the night before.¹⁰⁶¹ The day after that, agents of the Directorate General of Military Counter-Intelligence watched the place in which his wife was staying in Caracas.¹⁰⁶²

¹⁰⁴⁷ *Ibid.*

¹⁰⁴⁸ *Ibid.*

¹⁰⁴⁹ Interview with Eudis Girot 14 June 2023; Interview with Eudis Girot 14 February 2023; Interview PPIV053.

¹⁰⁵⁰ *Ibid.*

¹⁰⁵¹ Interview with Eudis Girot 14 February 2023; Interview PPIV053.

¹⁰⁵² Interview with Eudis Girot 14 June 2023; Interview with Eudis Girot, 14 February 2023.

¹⁰⁵³ *Ibid.*

¹⁰⁵⁴ *Ibid.*

¹⁰⁵⁵ *Ibid.*

¹⁰⁵⁶ Interview with Eudis Girot, 14 February 2023.

¹⁰⁵⁷ *Ibid.*

¹⁰⁵⁸ Tweet from Rosario Ríos [@rosario30184211], 8 April 2022. Available at: <https://twitter.com/rosario30184211/status/1512485332427501569?s=20>; Efecto Cocuyo. Eudis Girot suffers asphyxiation by tear gas while waiting to enter the courthouse, 8 April 2022. Available at: <https://efectococuyo.com/la-humanidad/eudis-girot-lacrimogena/>.

¹⁰⁵⁹ Interview with Eudis Girot, 14 February 2023.

¹⁰⁶⁰ *Ibid.*; Tweet from Rosario Ríos [@rosario30184211], 8 April 2022. Available at: <https://twitter.com/rosario30184211/status/1512485332427501569?s=20>; Cocuyo Effect, Eudis Girot suffered from asphyxia by tear gas while waiting to enter the tribunals, 8 April 2022. Available at: <https://efectococuyo.com/la-humanidad/eudis-girot-lacrimogena/>.

¹⁰⁶¹ Interview with Eudis Girot, 14 February 2023; Tweet from Rosario Ríos [@rosario30184211], 8 April 2022. Available at <https://twitter.com/rosario30184211/status/1512485332427501569?s=20>; Tweet from Wainjirawa-UAIN [@La_Guarura], 9th of April 2022. Available at: https://twitter.com/La_Guarura/status/1512848524853059596?s=20.

¹⁰⁶² Interview with Eudis Girot, 14 February 2023.

475. On 1 May 2021, six months after his detention, Eudis Girot was transferred to the Rodeo II prison, in the State of Miranda,¹⁰⁶³ without his family being informed of said transfer.¹⁰⁶⁴

476. On 10 June 2021, the preliminary hearing before the 3rd Special Tribunal of First Instance with competency in terrorism matters with national jurisdiction. In said hearing, the Tribunal confirmed the charge of revealing confidential information,¹⁰⁶⁵ instigation,¹⁰⁶⁶ and possession of an illegal firearms,¹⁰⁶⁷ dismissing the more severe charges of terrorism, conspiracy and membership of an organised crime group.¹⁰⁶⁸ The Tribunal ordered the move to an oral trial and confirmed the provisional deprivation of liberty of Girot¹⁰⁶⁹. On 22 July 2021, the oral trial opened before the First Court of First Instance with exclusive competence in knowing the causes related to terrorism matters on a national level.¹⁰⁷⁰

477. During this period, Girot remained a prisoner in the Rodeo II prison. On 9 April 2022, it was denounced that the director of the prison, along with eight guards, beating Girot in the head and back. Later, that same day, Girot was transferred for 15 days to La Planta prison. His family were not informed about the reasons for his transfer.¹⁰⁷¹

478. On 25 April 2022, after mediation by representatives of the ILO during an official visit to the country, Eudis Girot was released from prison and placed in conditional liberty.¹⁰⁷² They placed on him the precautionary substitutive measures of probation of leaving the country and the presentation to the tribunal every 30 days.¹⁰⁷³

479. On 9 May 2022, the sentence reading hearing took place. The First Court of First Instance of Terrorism condemned Girot to three years in prison¹⁰⁷⁴ for instigation to commit a crime,¹⁰⁷⁵ absolving the crimes of revealing confidential information¹⁰⁷⁶ and possession of an illegal firearm¹⁰⁷⁷. Two months later, on having access to his sentencing, Eudis Girot realised that, as an additional punishment to his prison sentence, he was also condemned to the punishment of political prohibition.¹⁰⁷⁸ According to Venezuelan law, political disqualification implies the impossibility of accessing a position in the Public Administration.¹⁰⁷⁹

Conclusions

480. Based on the events mentioned, the Mission has reasonable grounds to believe that Eudis Girot was a victim of bad treatment, in particular with this transfer and later stay in Boleíta, where, among other ailments, he was in overcrowded and unsanitary conditions, isolated for extended periods of times and was beaten. The agents of the

¹⁰⁶³ *Ibid.* and Interview PPIV053.

¹⁰⁶⁴ Interview PPIV053.

¹⁰⁶⁵ Penal Code de 2005, art. 134.

¹⁰⁶⁶ *Ibid.*, art. 285.

¹⁰⁶⁷ Law for the Disarm and Control of Weapons and Munitions, art. 111.

¹⁰⁶⁸ Document HHDC063: Case File Judgement Eudis Girot.

¹⁰⁶⁹ *Ibid.*

¹⁰⁷⁰ *Ibid.*

¹⁰⁷¹ *Ibid.*; Cocuyo Effect, Condemn the transfer of Eudis Girot to the prison of la Planta this #9Abr, 9th of April 2022. Available at: <https://efectococuyo.com/la-humanidad/demandan-traslado-de-eudis-girot-a-carcel-de-la-planta-como-represalia-este-9abr/>; Tweet from Wainjirawa-UAIN [@La_Guarura], 9 April 2022. Available at: https://twitter.com/La_Guarura/status/1512861728434016258?s=20.

¹⁰⁷² Interview with Eudis Girot, 14 February 2023; Espacio Público, Eudis Girot is released from prison after 1 year and 7 months detained, 26 April 2022. Available at: <https://espaciopublico.org/excarcelan-al-sindicalista-eudis-girot-tras-1-ano-y-7-meses-detenido/>.

¹⁰⁷³ *Ibid.*

¹⁰⁷⁴ Document HHDC063: Case File Judgement Eudis Girot.

¹⁰⁷⁵ Penal Code de 2005, art. 285.

¹⁰⁷⁶ *Ibid.*, art. 134.

¹⁰⁷⁷ Law for the Disarmament and Control of Weapons and Munitions, art. 111: “Who possesses or has under their control, in a specific place, a firearm without the corresponding permission emitted by the organ of the National Bolivarian Armed Forces with competence in the control of weapons will be sentenced to four to six years in prison. When the crime established in this article is committed with a weapon of war, the prison sentence will be from six to ten years”.

¹⁰⁷⁸ The Judgement indicated that Eudis Girot was condemned “to receive the accessory punishments of article 16 of the Penal Code 2005, which establishes: “The following are accessory punishments to prison: Political prohibition for the length of the sentence, and the subjection to being watched by the authorities for a fifth of the sentence, that is all”. Interview with Eudis Girot, 14 February 2023; Document HHDC063: Case File Judgement Eudis Girot; Document HHDC087: Political prohibition Eudis Girot.

¹⁰⁷⁹ Law of the Status of the Public Function, Official Gazette no. 37522 from the 6 September 2022, art. 17(4).

Directorate General of Military Counter-Intelligence of the detention centre of Boleíta were involved in these violations.

481. The Mission also has reasonable grounds to believe that the detention of Eudis Girot was arbitrary, given that it was associated with his exercising of his rights to freedom of expression and reunion, taking into account that he was detained half an hour after participating in a protest which demanded the freedom of another syndicate director, that the sentencing exonerated him of the other crimes of which he was accused and that the custody sentence is based on tweets made by Girot. Thus, according to the custodial sentencing of first instance on 19 May 2022, Girot was condemned for the crime of instigation for having said on Twitter that “the production of gasoline in the Cardón refinery is dangerous” and for other messages posted on the same platform -not cited in the sentencing- because according to the Judge, his intention was to create doubt and malcontent in the population due to lack of combustibles; defame the people in charge of the running of the Orient Petroleum; and he posted his messages with the aim of inciting the petroleum workers and general population to take to the streets, “instigating by one way or another the hate between citizens in a critical moment in which Venezuela was navigating a difficult situation” in the PDVSA business. The Mission observed that there is a nexus between the conviction and the acts done by Girot, in virtue of freedom of expression and reunion, without this being established by the tribunal, why did he disturb the peace, as the crime of instigation requires.

Case 9: Diógenes Tirado, Juan Carlos Salazar, Luis Gonzalo Pérez and Rafael Hernández

Detention

482. The human rights activists of the NGO FundaRedes Diógenes Tirado and Juan Carlos Salazar, and the journalists of the Columbian media NTN24, Luis Gonzalo Pérez and Rafael Hernández were detained on 31 March 2021 by the Bolivarian National Guard (GNB by its Spanish acronym) in Alto Apure while they were documenting the presence of irregular armed groups on the border between Venezuela and Columbia, and the subsequent abuses by these armed groups¹⁰⁸⁰.

483. On 31 March, at approximately 9 am, the four people arrived in the locality of La Victoria, State of Apure, coming from Guasdealito. For security reasons, they decided to communicate their arrival to the Bolivarian National Guard of the area. One sergeant took them to the Bolivarian National Guard command where they waited outside of the building.¹⁰⁸¹ At 12.00 pm an armoured vehicle arrived at the mayor’s office of Guasdealito, José María Romero, accompanied by the representative Orland Zambrano, a journalist and cameraman of the Telesur chain.¹⁰⁸² Before arriving at the Bolivarian National Guard command office, the journalist recognised Luis Gonzalo Pérez and told him “*I know who you are, you are the one who covered the news of the humanitarian aid [in 2019].*”¹⁰⁸³

484. After him, an official who was dressed in black and wearing a balaclava left the commanding official of the Special Action Forces (FAES by its Spanish acronym) and indicated to the four people that they had entered the command office. Inside, the official removed their telephones and interrogated them about the reasons why they were in La Victoria. After telling them that they were only investigating the reasons for their presence there, they officially returned their phones to them. Three hours later, another official of the Bolivarian National Guard arrived at the command office and asked “*Who are the detainees?*” to which another official indicated the activists and journalists. At that moment, the head of the Bolivarian National Guard took them to the back of the command office and took their photographs with their hands behind their backs and their heads lowered, with the banner of the Bolivarian National Guard in the background. Then, they removed their mobile phones, film cameras and

¹⁰⁸⁰ Interview with Diógenes Tirado, 20 June 2023; El País, Venezuelan military officials detain two journalists who were covering the border conflict with Columbia, 1 April 2021. Available at: <https://elpais.com/internacional/2021-04-01/militares-venezolanos-detienen-a-dos-periodistas-que-cubrian-el-conflicto-en-la-frontera-con-colombia.html>.

¹⁰⁸¹ Interview with Diógenes Tirado, 20 June 2023; Infobae, The activist who was detained with two journalists from NTN24 in the Columbian boarder speaks: ‘We went to the command for permission and they put us in a cell’, 4 April 2021. Available at: <https://www.infobae.com/america/venezuela/2021/04/04/hablo-el-activista-detenido-con-los-periodistas-de-ntn24-en-la-frontera-con-colombia-fuimos-por-el-permiso-al-comando-y-nos-metieron-a-una-celda/>.

¹⁰⁸² *Ibid.*

¹⁰⁸³ Infobae, The activist who was detained with two journalists from NTN24 in the Columbian boarder speaks: ‘We went to the command for permission and they put us in a cell’, 4 April 2021. Available at: <https://www.infobae.com/america/venezuela/2021/04/04/hablo-el-activista-detenido-con-los-periodistas-de-ntn24-en-la-frontera-con-colombia-fuimos-por-el-permiso-al-comando-y-nos-metieron-a-una-celda/>.

microphones. Before this, the detainees had managed to send text messages communicating that they had been detained.¹⁰⁸⁴

485. At approximately 6:00 pm they were again photographed by the Bolivarian National Guard and other security bodies, among them the Army of the National Bolivarian Armed Forces of Venezuela, the Bolivarian National Police and the Special Action Forces. Half an hour later, a lieutenant of the Bolivarian National Guard gave the order to place them in the prison cells of the centre. While they were detained, they were not allowed to go to the toilet. A coronel of the Bolivarian National Guard accused them of being spies, and traitors and threatened them with torture, disappearance and moving them to the Directorate General of Military Counter-Intelligence in Boleíta, Caracas. He warned them that they should collaborate and mention what link they had with the president of Columbia at the time Iván Duque, or with Colombian guerrilla groups.¹⁰⁸⁵

486. The four detainees spent the night in a prison cell. The next day, 1 April 2021, at 9 am, the coronel of the Bolivarian National Guard removed them from the prison cell and started to shout at them calling them “traitors”, “enemies of the Government”, especially Luis Gonzalo Pérez, the journalist who had documented the entrance of humanitarian aid in Cúcuta. The coronel of the Bolivarian National Guard informed them that they were going to move them to Caracas and they were immediately transported in a caravan of cars escorted by around 30 officials of the Bolivarian National Guard. In the journey, they were prohibited from speaking, and one of the journalists started to feel ill and the other three detainees asked that he be given water, but the military officials ignored them.¹⁰⁸⁶

Liberation of the detainees

487. After an hour of the journey, the coronel of the Bolivarian National Guard stopped the caravan and showed the detainees the news about their detention which had circulated on social media.¹⁰⁸⁷ They continued on the journey and were later freed in a square in Guasdualito, where they were obliged by the military officials to film a video in which they declared that they had not been treated badly and that they had left La Victoria because they were being protected.¹⁰⁸⁸ They never had their work equipment or mobile phones returned to them.¹⁰⁸⁹ Around 5:00 pm, the four people remained at liberty without having been presented to a judge.¹⁰⁹⁰

488. During their detention, a family member of Diógenes Tirado had alerted FundaRedes about what was going on, and due to this, their situation was shared on social media. The same family member had presented themselves before the Superior Military Prosecutor and before the 92nd Brigade of the Caribbean Company of Commando Fuerte Sorocaima in Guasdualito, State of Apure, asking for Tirado, but the officials denied having any information about his whereabouts, in spite of the fact that they probably had the information that he was detained in La Victoria, given that all of the events are notified to said Command.¹⁰⁹¹

Conclusions

489. With a basis in the events related, the Mission has reasonable grounds to believe that the human rights activists of FundaRedes Diogenes Tirado and Juan Carlos Salazar, similarly to the journalists of the NTN24 Luis Gonzalo Pérez and Rafael Hernández, were detained arbitrarily for more than 2 hours without a legal justifiable base

¹⁰⁸⁴ *Ibid.*; Interview with Diógenes Tirado on 20 June 2023; NTN24, No information from the two journalists from NTN24 and the two activists from DDHH in Apure, 1 April 2021. Available at: <https://www.ntn24.com/noticias-actualidad/sin-informacion-de-dos-periodistas-de-ntn24-y-dos-activistas-de-ddhh-en-apure-132638>.

¹⁰⁸⁵ Interview with Diógenes Tirado on 20 June 2023.

¹⁰⁸⁶ *Ibid.*

¹⁰⁸⁷ Tweet from Iván Duque [@IvanDuque], 1 April 2021, <https://twitter.com/IvanDuque/status/1377735126965231616?s=20>; CNN, Two Colombian journalists and two members of an NGO have been detained at the border in Venezuela, 1 April 2021. Available at: <https://cnnespanol.cnn.com/2021/04/01/venezuela-periodistas-colombianos-detenido-apure-orix/>; Tweet from Javier Tarazona [@javiertarazona], 1 April 2021. Available at: <https://twitter.com/javiertarazona/status/1377611203334266885?s=20>,

¹⁰⁸⁸ Interview with Diógenes Tirado on 20 June 2023; Tweet from Alejandra Castillo, [@alejabolivarian], 1 April. Available at: <https://twitter.com/alejabolivarian/status/1377807447176413184?s=20>.

¹⁰⁸⁹ Interview with Diógenes Tirado on 20 June 2023.

¹⁰⁹⁰ Tweet from NTN24 [@NTN24], 1 April 2021. Available at: <https://twitter.com/NTN24/status/1377735670265958403?s=20>.

¹⁰⁹¹ Interview with Diógenes Tirado on 20 June 2023.

and that they were subjects of threats of torture, enforced disappearance and deprivation of liberty in the detention centre of the Directorate General of Military Counter-Intelligence in Boleíta for being considered spies and traitors.

490. Officials of the Bolivarian National Guard of the command official located in La Victoria, State of Apure, participated in these events, and officials of the Army, the Bolivarian National Police, and of the Special Action Forces were also implicated.

Case 10: Orlando Moreno

Background

491. At the moment of this detention, Orlando Javier Moreno Gibori was the coordinator of the NGO Foro Penal in the state of Delta Amacuro and was the national coordinator of the political party Vente Venezuela. Orlando Moreno lived and worked in Tucupita, the capital of Delta Amacuro.¹⁰⁹²

492. In 2015, the Interamerican Commission of Human Rights gave precautionary measures to the Foro Penal organisation, Orlando Moreno was a part of the organisation at this time. The Interamerican Commission of Human Rights requested that the government of Venezuela adopt “the necessary measure to guarantee that the members of the Foro Penal organisation could undertake their activities as human rights defenders without being subject to violence and harassment while carrying out their work.”¹⁰⁹³ Said measures were amplified by the Interamerican Commission of Human Rights in 2019 in an “exceptional Context” marked by “a continual harassment to human rights defenders” in the country.¹⁰⁹⁴

493. According to his testimony, one day before his detention, on 24 April 2021 at night, Moreno presented himself to the Scientific, Criminal and Forensic Investigations Corps (CICPC by its Spanish acronym) of Tucupita in order to collect information about the shipwreck of a boat of Venezuelan migrants who were headed to Trinidad and Tobago and in which at least three people drowned.¹⁰⁹⁵ In this agency, there were family members of the survivors of the shipwreck stating that they had been driven to these agencies to make statements, and demanding that they be moved to the health centre. According to a testimonial, the survivors of the shipwreck had remained in the Scientific, Criminal and Forensic Investigations Corps for at least 10 hours, thus the family members assumed that they had been detained.¹⁰⁹⁶ Orlando Moreno documented the video claims and later published them on social media.¹⁰⁹⁷

494. On 25 April 2021, in the early hours of the morning, Orlando Moreno was heading to the river port of Tucupita to collect more information about the shipwreck and filmed with his mobile phone the testimonies of the family members of the survivors of the shipwreck.¹⁰⁹⁸ A group of agents of the Bolivarian National Guard (GNB by its Spanish acronym) and the Scientific, Criminal and Forensic Investigations Corps were already there, and they

¹⁰⁹² Interview with Orlando Moreno on 25 May 2021; Interview with Orlando Moreno on 9 March 2023; Interview with Orlando Moreno on 30 August 2022. See also: Espacio Público, Human rights defender Orlando Moreno has been detained, 25 April 2021. Available at: <https://espaciopublico.org/detiienen-al-defensor-de-derechos-humanos-orlando-moreno/>; Tweet from Alfredo Romero [@alfredoromero], 25 April 2021. Available at: <https://twitter.com/alfredoromero/status/1386376746392502273?s=20>.

¹⁰⁹³ Interamerican Commission of Human Rights, Resolution 8/15: Alfredo Romero and others relating to Venezuela, Precautionary measures numbers. 143-13, 17 March 2015, paragraph 31(b) (requesting that the Government “[a]dopt the necessary measures to guarantee that members of the Venezuelan organisation Foro Penal can carry out their activities as human rights defenders without being objects of violence and harassment due to the exercising of these functions”).

¹⁰⁹⁴ Interamerican Commission of Human Rights, Resolution 64/129: Gonzalo Himiob Santomé and Robiro Terán with respect to Venezuela (Directors of the NGO “Foro Penal”).

¹⁰⁹⁵ Interview with Orlando Moreno on 25 May 2021; Interview with Orlando Moreno on 30 August 2022; El País, A new shipwreck of Venezuelans heading to Trinidad and Tobago leaves three dead and 17 missing, 25 April 2021. Available at: <https://elpais.com/internacional/2021-04-25/un-nuevo-naufragio-de-venezolanos-rumbo-a-trinidad-y-tobago-deja-al-menos-tres-muertos-y-varios-desaparecidos.html>.

¹⁰⁹⁶ Interview with Orlando Moreno on 25 May 2021.

¹⁰⁹⁷ *Ibid.*; Interview with Orlando Moreno on 30 August 2022; Tweet from DDHH Vente Venezuela [@VenteDDHH], 24 April 2021. Available at: <https://twitter.com/VenteDDHH/status/1386177285963792386?s=20,%2024%20de%20abril%20de%202021>; Tweet from DDHH Vente Venezuela [@VenteVenezuela], 25 April 2021. Available at: <https://twitter.com/VenteVenezuela/status/1386195464622682114?s=20>.

¹⁰⁹⁸ Interview with Orlando Moreno on 25 May 2021.

approached him upon seeing him with a phone in his hand and tried to remove his phone from him. Orlando Moreno refused to hand over his phone and decided to continue collecting testimonies of the family members.¹⁰⁹⁹

Detention

495. Around midday of that same day, approximately six officials of the Scientific, Criminal and Forensic Investigations Corps arrived at the site in a van, descended from it, pushed and threw Moreno to the floor, and placed him in an immobilising lock until he lost consciousness. The family members of the survivors who witnessed this scene forced the agents of the Scientific, Criminal and Forensic Investigations Corps to release Moreno. Later, the officials fired three shots into the air.¹¹⁰⁰

496. Orlando Moreno recovered consciousness when he was raised into the van of the Scientific, Criminal and Forensic Investigations Corps, the moment in which one of the officials told him he was being transported to the cemetery. Inside the vehicle, there were three armed agents (three women and two men) and the driver.¹¹⁰¹ In no moment did these officials inform Moreno the of reasons for his detention.¹¹⁰²

497. Orlando Moreno was transferred to the offices of the Scientific, Criminal and Forensic Investigations Corps of Tucupita,¹¹⁰³ and on arrival, the officials beat him in the face and body. The head of the Scientific, Criminal and Forensic Investigations Corps of Delta Amacuro approached Moreno and accused him of interrupting a criminal investigation and showing the country the work of the Scientific, Criminal and Forensic Investigations Corps “*in a disrespectful manner.*”¹¹⁰⁴ Also, he said that it would have been better if he had spoken directly with him, instead of interviewing the family members, to which Moreno replied that they had tried to do so the night before, but the officials had not allowed him.¹¹⁰⁵

498. The head of the CICC told him that they were fighting against human trafficking. Orlando Moreno relied on that inside the Scientific, Criminal and Forensic Investigations Corps there were officials implicated in this trafficking. At that moment, the leader ordered one of his agents: “*Hand him to the Prosecutors, given that he is a prisoner*”. Orlando Moreno told him that he had a precautionary measure from the Interamerican Commission of Human Rights (CIDH by its Spanish acronym)¹¹⁰⁶, to which the leader replied: “*I don’t mind if I am the first Scientific, Criminal and Forensic Investigations Corps member of a nation level to go to an international court*”. Then he was transferred to a 2x2 cell in which there were another three men, one of them a survivor of the shipwreck.¹¹⁰⁷ They deprived him of going to the bathroom, thus he had to finish his business in containers or plastic bags.¹¹⁰⁸

499. Orlando Moreno realised that his finger was fractured. The officials mocked him and insulted him several times calling him a “*cocksucker*”, also phrases like “*and now who is the thief, who is the one behind bars?*”, “*do you want us to break another finger?*”, including in front of a fiscal, who did nothing to preserve his integrity.¹¹⁰⁹ Another lawyer of Foro Penal visited him that same day, but Orlando Moreno could not tell him what had happened

¹⁰⁹⁹ *Ibid.*

¹¹⁰⁰ *Ibid.*; Interview with Orlando Moreno on 30 August 2022; Tweet from Ibéyise Pacheco [@ibepacheco], 26 April 2021. Available at: <https://twitter.com/ibepacheco/status/1386740737438633985?s=20>; El Pitazo, Delta Amacuro – An activist who interviewed the families of the shipwreck victims has been detained, 25 April 2021. Available at: <https://www.elpitazo.net/guayana/delta-amacuro-detenido-activista-que-entrevisto-a-familiares-de-victimas-del-naufrago/>.

¹¹⁰¹ Interview with Orlando Moreno on 25 May 2021.

¹¹⁰² Front Line Defenders, Orlando Moreno Gibori Freed under precautionary measures, 30 April 2021. Available at: <https://www.frontlinedefenders.org/es/case/arbitrary-detention-human-rights-defender-orlando-moreno-gibori>.

¹¹⁰³ Document HHDC086: Report Scientific, Criminal and Forensic Investigations Corps to the Public Prosecutors Office; Front Line Defenders, Orlando Moreno Gibori Freed under precautionary measures, 30 April 2021. Available at: <https://www.frontlinedefenders.org/es/case/arbitrary-detention-human-rights-defender-orlando-moreno-gibori>.

¹¹⁰⁴ Interview with Orlando Moreno on 25 May 2021; Interview with Orlando Moreno on 30 August 2022.

¹¹⁰⁵ Interview with Orlando Moreno on 25 May 2021.

¹¹⁰⁶ Document HHDC060: Interamerican Commission of Human Rights – Amplification of the precautionary measures No. 143-13 on 17 March 2015.

¹¹⁰⁷ Interview with Orlando Moreno on 25 May 2021.

¹¹⁰⁸ *Ibid.*; Interview with Orlando Moreno on 30 August 2022.

¹¹⁰⁹ *Ibid.*

because officials of the Scientific, Criminal and Forensic Investigations Corps filmed him at all times. On 26 April his mother went to visit him, this meeting was also filmed.¹¹¹⁰

500. Orlando Moreno was presented before the 2nd Tribunal of First Instance in the function of Control of the Judicial Penal Circuit of the State of Delta Amacuro on 28 April 2021.¹¹¹¹ They accused him of the crimes of “instigation to commit a crime,”¹¹¹² violent outrage of an official,¹¹¹³ resistance to authority¹¹¹⁴ and generic injuries.¹¹¹⁵ By order of the judge of Delta Amacuro Lizgreana Palma, he would remain detained until he had complied with the bail release conditions.¹¹¹⁶

501. On 28 April, in the afternoon, Orlando Moreno was transferred to the detention centre of Retén Guasina.¹¹¹⁷ The next day, officials of the Bolivarian National Intelligence Service moved him to the head office of the Bolivarian National Police (PNB by its Spanish acronym) of Delta Amacuro.

502. Orlando Moreno was released on April 30, despite having a release order dated April 28, under precautionary measures imposed by the court, consisting of appearing every 15 days before the bailiff's office of the criminal judicial circuit.¹¹¹⁸

Conclusions

503. Based on the events mentioned, the Mission has reasonable grounds to believe that Orlando Javier Moreno Gibori was arrested and detained arbitrarily for exercising his right to freedom and for his human rights defence work.

504. The Mission also has reasonable grounds to believe that Moreno Gibori was the victim of bad treatment, both by the officials of the Scientific, Criminal and Forensic Investigations Corps, and the headquarters of said institution in Tucupita. Officials of the Scientific, Criminal and Forensic Investigations Corps, among them the head of this political body in Delta Amacuro, were involved in these acts.

Case 11: Javier Tarazona and other activists of Fundaredes

Background

505. Javier Tarazona is a university professor, director, and president of the NGO of human rights FundaRedes. Tarazona was the victim on several occasions of harassment, threats, including death threats, and attacks against his property for his role as a human right defender.¹¹¹⁹ In June 2020, the Interamerican Commission of Human

¹¹¹⁰ Interview with Orlando Moreno on 25 May 2021.

¹¹¹¹ Document HHDC084: Act of presentation to the Tribunal Penal Delta Amacuro; Interview with Orlando Moreno on 30 August 2022; Tweet from Alfredo Romero [@alfredoromero], 27 April 2021. Available at: <https://twitter.com/alfredoromero/status/1387132571180539917?s=20>.

¹¹¹² Penal Code de 2005, art. 283.

¹¹¹³ *Ibid.*, art. 222.

¹¹¹⁴ *Ibid.*, art. 223.

¹¹¹⁵ *Ibid.*, art. 413; Document HHDC084: Act of presentation to the Tribunal Penal Delta Amacuro.

¹¹¹⁶ Document HHDC084: Act of presentation to the Tribunal Penal Delta Amacuro; Infobae, Chavist justice orders that Orlando Moreno, the human rights defender detained on remain a prisoner, 29 April 2021. Available at: <https://www.infobae.com/america/venezuela/2021/04/29/la-justicia-chavista-ordeno-mantener-presos-a-orlando-moreno-el-defensor-de-los-derechos-humanos-detenido-el-domingo/>; Tweet from Gonzalo Himiob S. (@HimiobSantome), 28 April 2021. Available at: <https://twitter.com/HimiobSantome/status/1387536523902558217?s=20,%2028>.

¹¹¹⁷ Interview with Orlando Moreno, 30 August 2022; Tweet from Foro Penal [@ForoPenal], 29 April 2021. Available at: <https://twitter.com/ForoPenal/status/1387742175006535680?s=20>.

¹¹¹⁸ Document HHDC085: Prison release ticket for Orlando Moreno; Interview with Orlando Moreno on 30 August 2022; Interview with Orlando Moreno on 9 March 2023; Runrun.es, human rights defender Orlando Moreno is released from prison, 30 April 2021. Available at: <https://runrun.es/noticias/442574/excarcelan-al-defensor-de-ddhh-orlando-moreno/>; Tweet from Foro Penal [@ForoPenal], 30 April 2021. Available at: <https://twitter.com/ForoPenal/status/1388250897420066818?s=20>.

¹¹¹⁹ Interview with Rafael Tarazona, 1 June 2023; Tweet from Javier Tarazona [@javiertarazona], 1 July 2021. Available at: <https://twitter.com/javiertarazona/status/1410792345600200706?s=20>.

Rights granted precautionary protective measures for him and his family after considering that their right to life and personal integrity was at risk due to his work as a human rights defender.¹¹²⁰

506. One month before his detention, Javier Tarazona publicly denounced the presence of Colombian guerrillas in the State of Apure, who acted with supposed acquiescence and support to the Venezuelan armed forces. Similarly, Tarazona exposed the coordinates of different “safe houses” where they had been given shelter under state protection, ringleaders of the irregular Colombian groups ELN and the Revolutionary Armed Forces of Colombia during their movements in the State of Táchira, Barinas, Guárico and Miranda.¹¹²¹ On 30 June 2020, Javier Tarazona went to the Prosecutor to denounce and request that they investigate the alleged link between the irregular armed group with government officials, especially the ex-Minister of the Interior and the ex-Governor of Guárico, Ramón Rodríguez Chacín.¹¹²²

507. Rafael Tarazona (brother of Javier Tarazona) and Omar de Dios García also formed a part of the FundaRedes organisation. Johnny Romero is an activist of the National Committee of Families of Victims of Disappearances and Trafficking in the Coasts of Venezuela (CONFAVIDT by its Spanish acronym) and collaborator of FundaRedes.¹¹²³

Detentions

508. On 2 July 2021, Javier Tarazona, his brother Rafael Tarazona, Omar de Dios García and Johnny Romero found themselves in the city of Santa Ana de Coro (Coro), the capital of the State of Falcón, carrying out activities of capacitation for human rights in the communities of the zone.¹¹²⁴ In the morning, they went to the headquarters of the Public Ministry of the State of Falcón to denounce the harassment by unidentified security bodies who had been watching the hotel where they had stayed the night before.¹¹²⁵ Rafael Tarazona had been the only one who remained in the vehicle, outside the Public Prosecutor’s Office, in order to observe if they had been followed to these buildings.¹¹²⁶

¹¹²⁰ Interamerican Commission of Human Rights, Precautionary measure No. 258-20: José Javier Tarazona Sánchez and family relating to Venezuela, 18 June 2020.

¹¹²¹ Fundaredes, Fundaredes denounced the existence of safe houses for guerrilla activity in Venezuela, 1 June 2021. Available at: <https://www.fundaredes.org/2021/06/01/fundaredes-denuncio-la-existencia-de-casas-seguras-para-la-operatividad-de-la-guerrilla-en-venezuela/>; Tweet from Javier Tarazona [@javiertarazona], 1 June 2021. Available at: <https://twitter.com/javiertarazona/status/1399770898975145984?s=20>; Interview with Rafael Tarazona, 1 June 2023; El Estímulo, Why and by whom is Javier Tarazona still a prisoner?, 28 January 2022. Available at: <https://elestimulo.com/venezuela/2022-01-28/por-que-y-por-quien-sigue-presojavier-tarazona-fundaredes/>; Los Andes, Fundaredes exposes the coordinates of the houses where the guerrilla chiefs hide in four regions of Venezuela, 1 June 2021. Available at: <https://diariodelosandes.com/fundaredes-expone-las-coordenadas-de-casas-donde-se-refugian-jefes-guerrilleros-en-cuatro-regiones-de-venezuela/>.

¹¹²² Tweet from FundaREDES [@FundaREDES], 30 June 2021. Available at: https://twitter.com/FundaREDES_/status/1410257246420934659?s=20; Interview with Rafael Tarazona, 1 June 2023.

¹¹²³ Interview with Rafael Tarazona, 1 June 2023; COFAVIC, Attack on the defence of human rights during the year 2021, page 23. Available at: https://cofavic.org/wp-content/uploads/2022/04/Reporte_COFAVIC_2021_DefensaDDHH_Atques.pdf; Acceso a la Justicia, Chronology of the case of the NGO FundaRedes, 31 August 2023. Available at: <https://accesoaljusticia.org/cronologia-del-case-de-la-ong-fundaredes/>;

¹¹²⁴ Interview with Rafael Tarazona, 1 June 2023. Twitter from FundaREDES [@FundaREDES], 1 July 2021. Available at: https://twitter.com/FundaREDES_/status/1410788098796101632?s=20; El Diario, Javier Tarazona, an activist dedicated to destroying fear and indifference, 11 July 2021. Available at: <https://eldiario.com/2021/07/11/javier-tarazona-activista-de-fundaredes/>.

¹¹²⁵ Interview with Rafael Tarazona, 1 June 2023; Tweet from Javier Tarazona [@javiertarazona], 2 July 2021. Available at: <https://twitter.com/javiertarazona/status/1410833651168841729?s=20>; Tweet from Javier Tarazona [@javiertarazona], 1 July 2021. Available at: <https://twitter.com/javiertarazona/status/1410793144883494913?s=20>; COFAVIC, Attack on the human rights defence in 2021, page 23. Available at: https://cofavic.org/wp-content/uploads/2022/04/Reporte_COFAVIC_2021_DefensaDDHH_Atques.pdf; Acceso a la Justicia, Chronology of the case of the NGO FundaRedes, 31 August 2023. Available at: <https://accesoaljusticia.org/cronologia-del-case-de-la-ong-fundaredes/>;

¹¹²⁶ Interview with Rafael Tarazona, 1 June 2023.

509. From inside the Prosecutor's Office, Javier Tarazona managed to publish on his social media that he was denouncing the harassment of the previous night¹¹²⁷. According to a source interviewed by the Mission, minutes after the unidentified officials arrived -later corroborated that they were members of the Special Action Forces (FAES by its Spanish acronym) and the Bolivarian National Intelligence Service that, without presenting a detention order, they detained three people by force, beat them and took them handcuffed to their offices¹¹²⁸.

510. On observing this situation, according to his version, Rafael Tarazona decided to flee in the vehicle, being followed by the security bodies for approximately 15 minutes. Before stopping the car, he was able to communicate by phone with his family and co-workers of FundaRedes, whom he informed about the detention of his brother and the activities and the persecution to which he was being subjected.¹¹²⁹ After stopping the vehicle, Rafael Tarazona was apprehended immediately and without detention order by members of the Special Action Forces (FAES by its Spanish acronym) and Bolivarian National Intelligence Service, he had a hood placed over his head and was driven to the headquarters of the Special Action Forces in Coro, where the other three were detained.¹¹³⁰

511. According to a source, in that political headquarters, the agents of the Special Action Forces confiscated their phones and left them handcuffed for several hours. According to his testimony, the four people were beaten repeatedly when they refused to give the passwords for their phones, and they were particularly vicious with Javier Tarazona.¹¹³¹ The four detainees could not make a phone call to their families and their detention was never officially communicated to them or their lawyers.¹¹³² The four detainees were later separated in different environments, without being able to communicate between themselves.¹¹³³

512. A few hours later, Johnny Romera was liberated by a decision of the Office of the Prosecutor.¹¹³⁴ Hours later, according to the information collected by the Mission, Javier Tarazona¹¹³⁵ and later Rafael Tarazona and Omar de Dios García were transferred handcuffed to the José Leonardo Chirino airport of Coro city. The detainees were transferred in different vehicles under the custody of approximately 250 agents of the Special Action Forces, Directorate General of Military Counter-Intelligence, Bolivarian National Intelligence Service (SEBIN by its Spanish acronym) and Bolivarian National Police.¹¹³⁶

513. They arrived in Caracas that same day in a small plane without a license number and were transported in two vehicles of the Bolivarian National Intelligence Service to El Helicoide.¹¹³⁷ On the journey, they were also prohibited from communicating among themselves.¹¹³⁸

514. On arrival in El Helicoide, the detainees were taken to a room where they were photographed. The agents of the Bolivarian National Intelligence Service demanded the passwords for their phones, but the detainees refused, demanding a judicial order and the presence of their lawyers. The agents of the Bolivarian National Intelligence Service gave bit them in the face and threaten to hit them harder if they did not give the information¹¹³⁹. They were also forced to sign documents which recognised that their detention had been legal. When they denied it, they were beaten again.¹¹⁴⁰

¹¹²⁷ Tweet from Javier Tarazona [@javiertarazona], 2 July 2021. Available at: <https://twitter.com/javiertarazona/status/1410944822429552640?s=20>.

¹¹²⁸ Interview with Rafael Tarazona, 1 June 2023.

¹¹²⁹ *Ibid.*

¹¹³⁰ *Ibid.*

¹¹³¹ *Ibid.*

¹¹³² *Ibid.*

¹¹³³ *Ibid.*

¹¹³⁴ COFAVIC, Attack on the defence of human rights in 2021, page 23. Available at: https://cofavic.org/wp-content/uploads/2022/04/Reporte_COFAVIC_2021_DefensaDDHH_Atques.pdf;

¹¹³⁵ Tweet from Diario La Nación [@lanacionweb], 2 July 2021. Available at: <https://twitter.com/lanacionweb/status/1411038917650960384?s=20>.

¹¹³⁶ Interview with Rafael Tarazona, 1 June 2023.

¹¹³⁷ *Ibid.*; Acceso a la Justicia, Chronology of the case of the NGO Fundaredes, 31 August 2023. Available at: <https://accesoaljusticia.org/cronologia-del-case-de-la-ong-fundaredes/>; COFAVIC, Attack on the defence of human rights in 2021, page 23. Available at: https://cofavic.org/wp-content/uploads/2022/04/Reporte_COFAVIC_2021_DefensaDDHH_Atques.pdf.

¹¹³⁸ Interview with Rafael Tarazona, 1 June 2023.

¹¹³⁹ *Ibid.*

¹¹⁴⁰ *Ibid.*

515. From the moment of their detention in Coro city on 2 July 2021, their families and lawyers went to the headquarters of the Bolivarian National Intelligence Service of Plaza Venezuela and El Helicoide, and in both agencies, their officials indicated that they did not know the whereabouts of the detainees, even though they were already detained in El Helicoide.¹¹⁴¹ The lawyers only had information of their whereabouts on 3 July, when they coincided with the detainees in the 3rd Tribunal of Control of the Penal Circumspection where they were presented. In that member, they started to circulate this information on social media.¹¹⁴²

Judicial Process

516. On 3 July 2021, at around 3 pm, the three detainees were presented in a preliminary hearing before Judge Luisa Garrido, head of the 3rd Special Judicial Court of First Instance with competency in terrorism matters.¹¹⁴³ During the hearing, the detainees were not permitted representation with their lawyers, they were assigned public defenders.¹¹⁴⁴ Although the activists had denounced being the objects of bad treatment since their detention, the judge did not take these allegations into account.¹¹⁴⁵

517. Around 6:30 pm, the judge accepted the accusation of the crimes of promotion or incitation of hate¹¹⁴⁶, terrorism¹¹⁴⁷ and treason¹¹⁴⁸, and ordered preventative prison for the three detainees in the Formation of New Men Centre “Simon Bolivar (previously known as “La Planta”), in Caracas.¹¹⁴⁹ However, the agents of the Bolivarian National Intelligence Service did not know the judicial order and took them back to El Helicoide.¹¹⁵⁰

518. On 6 July 2021, Prosecutor General Tarek William Saab publicly announced the detentions of Javier Tarazona and the two activists of FundaRedes, accusing them of carrying out activities in order to destabilise the country.¹¹⁵¹

¹¹⁴¹ *Ibid.*

¹¹⁴² *Ibid.* COFAVIC, Attack on the defence of human rights in 2021, page. 23. Available at: https://cofavic.org/wp-content/uploads/2022/04/Reporte_COFAVIC_2021_DefensaDDHH_Atques.pdf; Acceso a la Justicia, Chronology of the case of the NGO FundaRedes, 31 August 2023. Available at: <https://accesoalajusticia.org/cronologia-del-case-de-la-ong-fundaredes/>.

¹¹⁴³ Document HHDC103: Act of the presentation hearing of Javier Tarazona and others.

¹¹⁴⁴ Interview with Rafael Tarazona, 1 June 2023; Acceso a la Justicia, Chronology of the case of the NGO Fundaredes, 31 August 2023. Available at: <https://accesoalajusticia.org/cronologia-del-case-de-la-ong-fundaredes/>.

¹¹⁴⁵ Interview with Rafael Tarazona, 1 June 2023.

¹¹⁴⁶ Constitutional Law against Hate, for the Peaceful Coexistence and Tolerance, *Official Gazette* no. 41276 on the 10 November 2017 (from now on Law against Hate), art. 20.

¹¹⁴⁷ Law against Organised Crime and the Financing of Terrorism, art 52.

¹¹⁴⁸ Penal Code 2005 art. 129.

¹¹⁴⁹ Interview with Rafael Tarazona, 1 June 2023; Document HHDC103: Act of the presentation hearing of Javier Tarazona and others; COFAVIC, Attack on the defence of human rights in 2021, page 23. Available at: https://cofavic.org/wp-content/uploads/2022/04/Reporte_COFAVIC_2021_DefensaDDHH_Atques.pdf; Acceso a la Justicia, Chronology of the case of the NGO FundaRedes, 31 August 2023. Available at: <https://accesoalajusticia.org/cronologia-del-case-de-la-ong-fundaredes/>.

¹¹⁵⁰ Interview with Rafael Tarazona, 1 June 2023. NTN24, Activists from FundaRedes are given preventative prison and moved to El Helicoide, 3 July 2023. Available at: <https://www.ntn24.com/noticias-judicial/dictan-Prison-preventiva-contr-activistas-de-fundaredes-y-los-trasladan-a-el-helicoide-136496>; Acceso a la Justicia, Chronology of the case of the NGO Fundaredes, 31 August 2023. Available at: <https://accesoalajusticia.org/cronologia-del-case-de-la-ong-fundaredes/>.

¹¹⁵¹ El Pitazo, Saab: Declarations and demands of Fundaredes constitute acts of incitement to hate, 6 July 2021. Available at: <https://elpitazo.net/politica/saab-declaraciones-y-demandas-de-fundaredes-constituyen-acciones-de-incitacion-al-odio/>.

519. The preliminary hearing which should have started in September 2021 was deferred 13 times due to the detainees not being transferred from El Helicoide to the tribunal, and for unjustified reasons.¹¹⁵² The preliminary hearing took place on 9 December 2021.¹¹⁵³

520. On 25 July 2022, the lawyers of Foro Penal who were in charge of the case of Javier Tarazona informed that, for unknown reasons, the hearing of the opening of the trial was deferred.¹¹⁵⁴ On 16 August 2022, the oral and public trial started, however, after six hearings, the trial was interrupted due to health reasons of the judge presiding over the case.¹¹⁵⁵ On 8 December 2022, the second opening of the oral trial started, however, on 15 July 2023, it was again interrupted by a modification in the competencies of the Tribunal in charge of the case.¹¹⁵⁶

Torture and bad treatment

521. According to the testimonies collected by the Mission, on the return journey to El Helicoide, the three detainees were moved to a cell known as *El Tigrito* (Little tiger), a small space of approximately 4x4 meters, without ventilation and with a toilet inside the cell.¹¹⁵⁷ There they were kept for 45 days with the light on, causing them to lose notion of day and night.¹¹⁵⁸

522. According to this same testimonial, during the first 15 days in *El Tigrito* (Little Tiger), Javier Tarazona was transferred, on several occasions, to a room where he was tortured by agents of the Bolivarian National Intelligence Service. The agents beat him in the face and body, the asphyxiated him with a plastic bag over his head and they obliged him to ingest narcotic drinks in an attempt to make him film incriminating videos.¹¹⁵⁹

523. In the last five days of their stay in *El Tigrito*, the guards opened a small window that allowed the activists to revive natural light for the first time and they were allowed to leave the cell two times a week, then just once, for approximately 45 minutes. During their exits, they were heavily watched and photographed at every moment by the guards.¹¹⁶⁰

524. After 45 days in *El Tigrito* (Little Tiger), the three detainees were transferred to a new fully sealed cell in El Helicoide. According to a source interviewed by the Mission, the detention conditions in the new cell worsened, given that access to drinking water was limited and the food was scarce and putrid, which caused them stomach problems.¹¹⁶¹

¹¹⁵² Acceso a la Justicia, Chronology of the ONG Fundaredes case, 15 July 2023. Available at: <https://accesoalajusticia.org/cronologia-del-case-de-la-ong-fundaredes/>; Tweet from Funda Redes, [@FundaRedes], 13 October 2021. Available at: https://twitter.com/FundaREDES_/status/1448389914060541955?s=20; Monitoreamos, Preliminary hearing of FundaRedes activists was deferred for eighth time, 28 October 2021. Available at: <https://monitoreamos.com/venezuela/por-octava-vez-quedo-diferida-la-audiencia-preliminar-a-los-activistas-de-fundaredes>; El Nacional, The hearing of the three FundaRedes activists is delayed for the ninth time, 4 November 2021. Available at: <https://www.elnacional.com/venezuela/aplazon-por-novena-vez-la-audiencia-de-los-tres-activistas-de-fundaredes/>.

¹¹⁵³ Document HHDC109: Opening hearing of the oral and public trial of Javier Tarazona and others; Acceso a la Justicia. Chronology of the case of the ONG Fundaredes, 15 July 2023. Available at: <https://accesoalajusticia.org/cronologia-del-case-de-la-ong-fundaredes/>.

¹¹⁵⁴ YouTube Video- El Pitazo, The opening hearing of the trial of Javier Tarazona is deferred until 8 August, 25 July 2022. Available at: <https://youtu.be/nXHDgLh20H8?feature=shared>.

¹¹⁵⁵ Tweet from Funda Redes [@FundaRedes], 18 October 2022. Available at: https://twitter.com/FundaREDES_/status/1582535618433011713?s=20; Document HHDC110: Information on the trial of Javier Tarazona and others.

¹¹⁵⁶ Infobae, The Venezuelan Justice restarted the trial against one of the political prisoners of Maduro for a second time, 8 December 2022. Available at: <https://www.infobae.com/america/venezuela/2022/12/08/la-justicia-venezolana-reinicio-por-segunda-vez-el-juicio-contra-uno-de-los-presos-politicos-del-regimen-de-maduro/>.

¹¹⁵⁷ Interview with Rafael Tarazona, 1 June 2023.

¹¹⁵⁸ *Ibid.*

¹¹⁵⁹ *Ibid.*; Document HHDC102: Complaint to the Public Prosecutors Office and National Human Rights Institution - *Defensoría del Pueblo*.

¹¹⁶⁰ Interview with Rafael Tarazona, 1 June 2023.

¹¹⁶¹ *Ibid.*

525. During their first month of detention in El Helicoide, the three detainees lost a lot of weight.¹¹⁶² In October 2021, the three contracted COVID-19 and had to be taken to two medical centres in Caracas. Javier Tarazona was transferred last, the same day, to the Clinical Hospital of Caracas and they only carried out a few medical tests and then he was again transferred to El Helicoide.¹¹⁶³

Raid of the house of the mother of Javier and Rafael Tarazona

526. On 19 July 2021, officials of the Bolivarian National Intelligence Service raided the house of the mother of the Tarazona brothers and filmed videos of their mother, which were later shown to Javier Tarazona with the objective to pressure him to give them the information that they were looking for. On 22 July 2021, the mother of the two brothers suffered a thrombosis and paralysis in an arm, which her family members attributed to the stress caused during the raid.¹¹⁶⁴

Release of Rafael Tarazona and Omar de Dios García

527. On 27 October 2021, after 117 days of detention in El Helicoide, Rafael Tarazona and Omar de Dios García were released under precautionary substitutive measures of periodic presentation to the tribunals, every eight days.¹¹⁶⁵

Javier Tarazona's situation

528. Javier Tarazona remains detained in El Helicoide and his health has deteriorated considerably. He suffers from diverse conditions, such as a grade 2 venous insufficiency, which originated in his detention, cardiac arrhythmia, colitis, internal haemorrhoids, and anxiety. He must take around 20 pills a day to combat his various pathologies.¹¹⁶⁶

529. The few times in which he has received medical assistance have been via a Bolivarian National Intelligence Service doctor, he has never been allowed specialised assistance. His lawyers never had access to his medical file, and this has also not been included in his judicial case file. Both his family and his lawyers fear that the life of Javier Tarazona is in danger due to lack of adequate medical attention.¹¹⁶⁷

530. According to a source interviewed by the Mission, Javier Tarazona is still not allowed to move outside of his cell and is forbidden from having conversations with other detainees, who, on doing so, are sanctioned by being taken *El Tigrito* “Little Tiger.”¹¹⁶⁸ Between April and July 2022, he was forced to share a cell with highly dangerous detainees.¹¹⁶⁹ According to the source, Tarazona is still monitored 24 hours a day via a camera and by agents of the Bolivarian National Intelligence Service and the Ministry of Penitentiary Service, who constantly enter his cell to check if he has spoken to anyone or what books he reads.¹¹⁷⁰

¹¹⁶² *Ibid.*

¹¹⁶³ Interview with Rafael Tarazona, 1 June 2023; Observatory for the Protection of Human Rights Defenders (OMCT-FIDH), Urgent call – Venezuela, number. VEN 004 / 0721 / OBS 077.3 (Venezuela), 26 October 2021. Available at: <https://www.fidh.org/es/region/americas/venezuela/venezuela-infeccion-por-covid-19-de-los-miembros-de-fundaredes>.

¹¹⁶⁴ Interview with Rafael Tarazona, 1 June 2023.

¹¹⁶⁵ Agreeing with article 242(3) of the Penal Processing Code from 2012, which indicates that “If the alleged crimes which motivate the judicial privation of liberty can be reasonably satisfied with the application of another measure that is less severe for the defendant, the tribunal, by means of a request to the Public Prosecutors Office or the defendant, should impose instead, through a motivated resolution, some of the following measures: (...) 3. Periodic presentation before a designated tribunal or authority (...)”. Interview with Rafael Tarazona, 1 June 2023. Tweet from Alfredo Romero [@alfredoromero], 26 October 2021. Available at: <https://twitter.com/alfredoromero/status/1452994218343997444?s=20>.

¹¹⁶⁶ *Ibid.*

¹¹⁶⁷ Interview with Foro Penal, 13 April 2023; Interview with Rafael Tarazona, 1 June 2023; El Estímulo, Javier Tarazona could die due to health complications, 14 January 2022. Available at: <https://elstimulo.com/venezuela/2022-01-14/javier-tarazona-podria-morir-por-sus-complicaciones-de-salud/>; Tweet from Gonzalo Himiob S. [@HimiobSantome], 13 January 2022. Available at: <https://twitter.com/HimiobSantome/status/1481677072661716993?s=20>,

¹¹⁶⁸ Interview with Rafael Tarazona, 1 June 2023.

¹¹⁶⁹ *Ibid.*

¹¹⁷⁰ *Ibid.*

531. In the two years that he has been detained, his lawyers have only been permitted to visit him on two occasions, one of those under strict vigilance by officials of the Bolivarian National Intelligence Service and the Ministry of Penitentiary Service.¹¹⁷¹ His family are permitted to visit him every 15 days. In the first two months of the detention of the Tarazona brothers and Omar de Dios García, the family visits were subject to exhaustive searches and always accompanied by officials of the Bolivarian National Intelligence Service. On at least two occasions, the family members were forced to undress in order to access the precinct. Currently, there is only a search at the entrance to El Helicoide and a photograph of the moment that Javier Tarazona is reunited with his family.¹¹⁷²

532. On 30 October 2022, the Interamerican Commission of Human Rights amplified the precautionary measures in favour of Javier Tarazona. In their resolution, the Interamerican Commission of Human Rights requested that the government guarantee attention conditions “in accordance with international standards”, including avoiding isolation and in communication and other types of “punishment” against him, similarly guarantees of medical attention and treatment.¹¹⁷³

Conclusions

533. The Mission has reasonable grounds to believe that Javier Tarazona, Rafael Tarazona, Omar de Dios García and Jhonny Romero were arrested and detained arbitrarily. The detainees suffered bad treatment, both at the moment of their arrest and at the headquarters of the Special Action Forces in the city of Coro. The people responsible for these violations were officials of the Special Action Forces.

534. The Mission has reasonable grounds to believe that Javier Tarazona, Rafael Tarazona and Omar de Dios García were subjected to cruel, inhuman and degrading treatments in El Helicoide, taking into consideration their time in the cell known as *El Tigrito* (Little Tiger) during 45 days, and their stay in the “hermetic” cell which they were later transferred to. The Mission has previously concluded that there are reasonable motivations to believe that the detention in the installation of El Helicoide equates to a violation of the prohibition of torture and cruel, inhuman or degrading treatment.¹¹⁷⁴ Similarly, the decision to detain the three activists in El Helicoide carries greater gravity given the existence of a judicial order that they should be sent to a different detention centre. The Mission has reasonable grounds to believe that the detention of the three activists in El Helicoide had a punishing nature, given that the centre is known by the commission for its torture and bad detention conditions, ignoring the decision of the judge to send them to a different preventative detention centre.

535. In the case of Javier Tarazona, the Mission has reasonable grounds to believe that he suffered acts of torture. Officials of the Bolivarian National Intelligence Service participated in the aforementioned acts, similarly in the cruel, inhuman and degrading treatments mentioned above.

Case 12: Case of Freddy Guevara

Arbitrary detention

536. Freddy Guevara, the ex-member of the National Assembly for the 2016-2021 period for the Voluntad Popular political party, was detained on 12 July 2021 by the Bolivarian National Intelligence Service (SEBIN by its Spanish acronym) after having met with Juan Guaidó in Caracas.¹¹⁷⁵ Two days before his detention, Vice-president Delcy Rodríguez had accused Guevara and Guaidó of being involved in criminal events committed by criminal groups

¹¹⁷¹ *Ibid.*; Document HHDC101: Supplementary Information – Case Javier Tarazona.

¹¹⁷² Interview with Rafael Tarazona, 1 June 2023.

¹¹⁷³ Interamerican Commission of Human Rights, Resolution 60/2022: José Javier Tarazona Sánchez relating to Venezuela (Modification and follow up), Precautionary measures numbers. 258-20, paragraph. 68(c)(c).

¹¹⁷⁴ See for example A/HRC/45/CRP.11, paragraphs 576 and 759.

¹¹⁷⁵ Interview with Freddy Guevara, 3 July 2023; CCN, Venezuelan opposition Freddy Guevara has been detained, 12 July 2021. Available at: <https://cnnespanol.cnn.com/2021/07/12/freddy-guevara-detenido-venezuela-orix/>.

led by Carlos Revete, known as “El Koki.”¹¹⁷⁶ Rodríguez showed a tweet in which allegedly Guevara confessed his link with the aforementioned criminal groups.¹¹⁷⁷

537. On 12 July 2021, at midday, while Guevara drove his vehicle on the Caracas motorway in the company of his chauffeur John Acosta, he noticed that three cars and two motorbikes, which always watched him, were following him. Minutes later, the three vehicles blocked the road and from them, approximately 12 armed men with balaclavas descended, one of them identified himself as a General of the Bolivarian National Intelligence Service. The officials ordered Guevara to open the door and exit the vehicle to arrest him, however, Guevara decided to remain enclosed in his car and film the events live, via Instagram.¹¹⁷⁸

538. One of the officials dressed as a civilian, who seemed to be the General, knocked on the window of the car and communicated to Guevara that he was going to process his detention by orders of President Maduro. The official did not present him with a detention order. Guevara decided to leave the car and tried to convince the agents of the Bolivarian National Intelligence Service to not detain the chauffeur, but they ignored this request. Then, aggressively, the agents put Guevara in one of their vehicles, removing his mobile from him and telling him that he was a prisoner. The driver was placed in a different vehicle.¹¹⁷⁹

Detention in El Helicoide

539. Guevara was transferred directly to the headquarters of the Bolivarian National Intelligence Service in El Helicoide. Inside this detention centre, they covered his head with a hood, handcuffed him with his hands behind his back and they locked him in a cell where they played a song on repeat whose lyrics spoke of a prisoner who would not see their family again. Guevara lost the notion of time and does not know how long he remained with a hood over his head in that place.¹¹⁸⁰

540. In that same cell, four officials demanded several times that he tell them his phone password, which Guevara refused to do. They threatened him that, if he did not tell time, they would go to his grandmother’s house and give her COVID-19. Then they beat him on the back with a book, to which Guevara asked them “*Has the torture started yet?*”¹¹⁸¹ Guevara also told the agents that in the files of the Mission of the Determination of the Facts about Venezuela it had been established that in the Bolivarian National Intelligence Service, they tortured and that they had killed Fernando Albán. The agents replied that they did not torture, but that it had been done by the previous administration of the Bolivarian National Intelligence Service.¹¹⁸² After several hours, Guevara told them his phone password¹¹⁸³ Guevara warned that if they hit him, they could kill him, given that he suffered from heart conditions. On hearing this, the next day, the officials examined the health of Guevara.¹¹⁸⁴

Declarations of the Prosecutor General and the President of the National Assembly

541. In the afternoon of that same day, approximately five hours after the detention of Guevara, the Attorney General of the Republic, Tarek William Saab, published in his personal Twitter account a communication from the

¹¹⁷⁶ YouTube Video- Luigino Bracci Roa from Venezuela, Delcy Rodríguez and Carmen Meléndez in Balance of the Operation Cota 905 against gangs, 10 July 2021. Available at: <https://youtu.be/TfGYdthPjt8?t=834> [min.13:54].

¹¹⁷⁷ Interview with Freddy Guevara, 3 July 2023; El Diario, Officials of the regime detained Freddy Guevara “I am convinced that I did the right thing”, 12 July 2021. Available at: <https://eldiario.com/2021/07/12/detencion-freddy-guevara/>; Tweet from Freddy Guevara, [@FreddyGuevaraC], 8 July 2021. Available at: <https://twitter.com/FreddyGuevaraC/status/1413134645563072514?s=20>; El Mundo. “The opposition and former government representative, Freddy Guevara, has been detained and Guaidó denounced having been ‘momentarily kidnapped’, 12 July 2021. Available at: <https://www.elmundo.es/internacional/2021/07/12/60ec811921efa0c1618b458c.html>.

CCN, Venezuelan opposition Freddy Guevara has been detained, 12 July 2021. Available at: <https://cnnespanol.cnn.com/2021/07/12/freddy-guevara-detenido-venezuela-orix/>.

¹¹⁷⁸ Interview with Freddy Guevara, 3 July 2023; Tweet from Juan Guaidó [@jguaido], 12 July 2021. Available at: <https://twitter.com/jguaido/status/1414638771564392457?s=20>.

¹¹⁷⁹ Interview with Freddy Guevara, 3 July 2023.

¹¹⁸⁰ *Ibid.*

¹¹⁸¹ *Ibid.*

¹¹⁸² *Ibid.*

¹¹⁸³ *Ibid.*

¹¹⁸⁴ *Ibid.*

Public Prosecutors Office which requested that an apprehension order against Guevara was admitted to investigate alleged links to extremist and paramilitary groups associated with the Colombian government. In the communication, the Public Prosecutors Office announced that Guevara was accused of crimes of terrorism,¹¹⁸⁵ attempted to overthrow the constitutional order,¹¹⁸⁶ treason¹¹⁸⁷ and membership in an organised crime group.¹¹⁸⁸

542. On 13 July 2021, the president of the National Assembly, Jorge Rodríguez, held a press release that showed alleged proof, such as screenshots of WhatsApp conversations that allegedly linked Guevara and other members of Voluntad Popular with the clashes which occurred between police bodies and the criminal group la Cota 905, on 7 July.¹¹⁸⁹

Short-term enforced disappearance

543. On the same day as his detention, the family members of Guevara went to El Helicoide to ask about his whereabouts, but the Bolivarian National Intelligence Service officials said that Guevara was not detained in said place. Three days after his detention, Guevara was about to make a phone call to his family, who then found out about his whereabouts.¹¹⁹⁰

544. Guevara found out that his driver had also been detained. According to the source interviewed by the Mission, the General who participated in the detention of Guevara had spoken with President Maduro and given the message that they were going to respect his rights, but Guevara had to say that they hadn't beaten or tortured him.¹¹⁹¹ Guevara was transferred to a cell where they asked him questions about who financed him and, later, he was transferred to another cell where they banned him from talking to other detainees.¹¹⁹²

Presentation before the tribunals and release with substitutive measures

545. On 15 June 2021, at night, three days after his detention, Guevara and his driver were presented before the tribunals. They handcuffed their hands and feet, and they were escorted by armed guards. Judge Mascimino Márquez, of the 4th Tribunal of First Instance with competency in terrorism matters of the Judicial Penal Circuit of the Metropolitan Area of Caracas accused Guevara of the charges of treason according to article 128 of the Penal code, financing of terrorism and membership of an organised crime group, crimes according to articles 52 and 37 of the Organic Law against organised crime and financing of terrorism.¹¹⁹³ The judge dictated that Guevara should be placed under preventative detention and that Acosta be released, however, the driver remained detained in Bolivarian National Intelligence Service until Guevara was liberated, on the 15 August 2021.¹¹⁹⁴

¹¹⁸⁵ Law against Organised Crime and the Financing of Terrorism, art. 52.

¹¹⁸⁶ Penal Code de 2005, arts. 129 and 132.

¹¹⁸⁷ *Ibid.*, art. 128.

¹¹⁸⁸ Law against Organised Crime and the Financing of Terrorism, art. 37.

¹¹⁸⁹ YouTube Video- Luigino Bracci Roa from Venezuela, Jorge Rodríguez, full press release: Cota 905, Freddy Guevara and a new attempt against Maduro, 13 July 2021. Available at: https://youtu.be/YwmdZNzW-_A?t=463 [min. 7:43]; Libertad Digital, Chavism accuses Freddy Guevara of 'terrorism' and talks of a plan to assassinate Maduro with drones, 14 July 2021. Available at: <https://www.libertaddigital.com/internacional/latinoamerica/2021-07-14/el-chavismo-acusa-a-freddy-guevara-de-traicion-a-la-patria-y-habla-de-un-plan-para-asesinar-a-maduro-con-drones-6800696/>.

¹¹⁹⁰ Interview with Freddy Guevara, 3 July 2023; Facebook Post of Voice of America, [@VozdeAmérica], Father of Freddy Guevara speaks about his son in detention, 14 July 2021. Available at: <https://www.facebook.com/watch/?v=559071288459037>. Voz de América, Father of Freddy Guevara on his son: "he is an exchange piece, a high value hostage with which to negotiate", 14 July 2021. Available at: https://www.vozdeamerica.com/a/venezuela_padre-de-freddy-guevara-es-una-ficha-de-intercambio/6075219.html.

¹¹⁹¹ Interview with Freddy Guevara, 3 July 2023.

¹¹⁹² *Ibid.*

¹¹⁹³ *Ibid.*; CNN, Freddy Guevara has been accused of terrorism and other crimes: he will remain detained in el Helicoide, 15 July 2021. Available at: <https://cnnespanol.cnn.com/2021/07/15/venezuela-freddy-guevara-acusado-traicion-orix/>.

¹¹⁹⁴ Interview with Freddy Guevara, 3 July 2023; Tweet from Voluntad Popular (Popular Will) [VoluntadPopular], 15 July 2021. Available at: <https://twitter.com/VoluntadPopular/status/1415628302455296000?s=20>.

546. While Guevara was detained, he was allowed to receive visits from his father, but the officials of the Bolivarian National Intelligence Service never allowed his lawyer to visit him; also, his visits were always watched.¹¹⁹⁵

547. Before his release, Bolivarian National Intelligence Service officials forced Guevara to film several videos in which he had to say that he had not been tortured or beaten.¹¹⁹⁶ On 15 August, Guevara and John Acosta were released after 34 days of detention. Guevara was given a precautionary measure of presentation to the tribunal every 30 days, while Acosta had to present himself every 15 days.¹¹⁹⁷ According to the source interviewed by the Mission, the trial is still open and neither of the two have had access to the judicial case file.

Conclusions

548. Based on the events described, the Mission has reasonable motivations to believe that Freddy Guevara was detained arbitrarily on 12 July 2021 by Bolivarian National Intelligence Service officials. During his arrest, he was never presented with the corresponding judicial order and the act occurred before the announcement of the Attorney General's request for the apprehension of Guevara. The Mission observes that Guevara was the object of physical violence and that he was hooded, handcuffed with his hands behind his back, and shut in a cell, where he lost the notion of time. Similarly, he was subjected to psychological violence, being threatened with his grandmother being exposed to COVID-19.

549. The Mission has reasonable grounds to believe that Freddy Guevara was the object of an enforced short-term disappearance between 12 and 15 July 2021, the time in which he was detained in El Helicoide. In spite of the fact that his family figured out that he was located in the aforementioned place on the same day as his detention, the officials of the Bolivarian National Intelligence Service denied that Guevara was detained there.

Case 13: Aidaliz Guarisma Mérida

Background

550. Aidaliz Guarisma, professor at the School of Performing Arts of the Universidad de los Andes, in the city of Mérida, State of Mérida,¹¹⁹⁸ was also a member of the Hugo Chávez Battle Units where she was part of the training and cultural department, involved in social work with children and medical and community care.¹¹⁹⁹ According to sources interviewed by the mission, Aidaliz Guarisma was researching corruption within the government.¹²⁰⁰

Detention

551. Sources interviewed by the mission indicate that on 10 August 2021, at approximately 2:00 pm, Aidaliz Guarisma was at the home of her mother, Milagros Guarisma, located in Paseo de las Ferias, Mérida, when several Bolivarian National Intelligence Service (SEBIN by its Spanish acronym) officers in civilian clothes arrived asking for her daughter. Officials said they were conducting a suspect investigation and needed a 45-minute interview with Aidaliz Guarisma. Afterward, without showing an arrest warrant, the agents detained them both and took them to the Bolivarian National Intelligence Service facilities in Mérida.¹²⁰¹

552. At the Bolivarian National Intelligence Service, Aidaliz Guarisma was interviewed by an officer who repeatedly asked for her cell phone to check it. Aidaliz Guarisma replied that her phone had broken and was being repaired, to which the official told her that she could not leave until she agreed, and he analysed the information on

¹¹⁹⁵ Interview with Freddy Guevara, 3 July 2023.

¹¹⁹⁶ *Ibid.*

¹¹⁹⁷ *Ibid.*; BBC News Mundo, Venezuela: the political opposer Freddy Guevara has been released, 16 August 2021. Available at: <https://www.bbc.com/mundo/noticias-america-latina-58230518>; NTN24, Freddy Guevara remains under the regime of presenting himself to the tribunal every 30 days, 16 August 2021. Available at: <https://amp.ntn24.com/noticias-politica/freddy-guevara-queda-bajo-regimen-de-presentacion-cada-30-dias-383694>.

¹¹⁹⁸ Interview OOIV026; Observatory of Human Rights of the ULA, Professor of the ULA is being held prisoner in el Helicoide after an arbitrary detention, 26 August 2021. Available at: <https://www.uladdhh.org.ve/index.php/2021/08/26/profesora-ula-esta-presa-en-helicoide-tras-detencion-arbitraria/>

¹¹⁹⁹ Interview OOIV068.

¹²⁰⁰ *Ibid.*; Interview OOIV026.

¹²⁰¹ *Ibid.*

the cell phone. Aidaliz Guarisma was detained and remained handcuffed that night at the Bolivarian National Intelligence Service facilities. Officials allowed her mother to leave the premises.¹²⁰²

553. The following day, on 11 August 2021, a Bolivarian National Intelligence Service commission took Aidaliz Guarisma to the place where her cell phone was being repaired. The device was handed over to the agents, who returned to the Bolivarian National Intelligence Service headquarters with the detainee, where they checked the phone thoroughly.¹²⁰³

554. According to the source interviewed, the phone contained communications relating to the personal and financial information of high-ranking government officials, including their bank balances.¹²⁰⁴ At the Bolivarian National Intelligence Service, a commissioner identified as “El Zeta” interrogated her again, asking her in a hostile and threatening manner why she had requested the information.¹²⁰⁵ She explained that she was trying to find out the bank balances of these officials through an informant at Banco de Venezuela to gather information for her journalistic work on corruption.¹²⁰⁶ According to the testimony, “El Zeta” and another official then began shouting at her, threatening to take her to the “terror room” if she did not tell them who she was working with at the bank. They also asked her about the calls registered to the United States and Colombia, and in an attempt to obtain information and intimidate her, they told her that, in Caracas, they were torturing her confidant at the Banco de Venezuela.¹²⁰⁷

Torture under interrogation

555. As the agents could not find anything else on the phone and Guarisma did not provide them with useful information, they moved her to the “terror room”, a small, unlit room located inside the Bolivarian National Intelligence Service in Mérida. According to the source interviewed by the Mission, in that room Aidaliz Guarisma was handcuffed with her arms behind her back and made to squat down by six male officers.¹²⁰⁸ One of the agents stood behind her and put a black bag over her head. He then called a female officer who began to interrogate her, while the men kicked her and beat her with their fists, to the point that Guarisma found it difficult to breathe.¹²⁰⁹ After that, the bag was removed from her head and the officer began to cut her hair, while the others continued kicking her. An official broke a piece of wood over one of his knees.¹²¹⁰

556. During the interrogation, the Bolivarian National Intelligence Service agents asked her about the people who were talking to her on WhatsApp, even if they were not linked to the subject of her banking investigation. They also threatened to bring her mother and daughter in and do the same to them if she did not talk.¹²¹¹ In addition, they told her that she had got involved with the top dogs and because of this she would not see her mother again, nor her daughter for a long time.¹²¹²

557. Finally, “El Zeta” ordered the other officers to stop the beatings as he had to record some videos of her admitting to the crimes of computer espionage,¹²¹³ and conspiracy¹²¹⁴ while he threatened her family again¹²¹⁵. The source notes that Guarisma recorded the video under threat and against her will about 18 times, during which she had to repeat that she was making inquiries with the person at the bank to steal funds, and not as part of her investigation into corruption.¹²¹⁶ At the end of the day, she was told she had to go “to the big leagues in Caracas”. She was allowed to write a letter to her mother, but not to describe what had been done to her.¹²¹⁷

¹²⁰² Interview OOIV068.

¹²⁰³ *Ibid.*

¹²⁰⁴ *Ibid.*

¹²⁰⁵ *Ibid.*

¹²⁰⁶ *Ibid.*

¹²⁰⁷ *Ibid.*

¹²⁰⁸ *Ibid.*

¹²⁰⁹ *Ibid.*

¹²¹⁰ *Ibid.*

¹²¹¹ *Ibid.*

¹²¹² *Ibid.*

¹²¹³ Penal Code from 2005, art. 286.

¹²¹⁴ Law Number. 48. Special Law against Informatic Crimes, Official Gazette no. 37313 of the 30 of October 2001 (from now on, “Law against Informatic Crimes”), art. 11

¹²¹⁵ Interview OOIV068.

¹²¹⁶ *Ibid.*

¹²¹⁷ *Ibid.*

Transfer to El Helicoide

558. According to the source interviewed by the Mission, in the early morning of 13 August 2021, Aidaliz Guarisma was transferred to the Bolivarian National Intelligence Service El Helicoide headquarters in Caracas. Before her transfer, she was taken to a doctor who told her that if she was asked in El Helicoide why she was injured, she had to say that she had fallen off a horse and that the injuries had occurred prior to her arrest.¹²¹⁸

559. Once in El Helicoide, according to the source, Aidaliz Guarisma was taken to a room where she was interrogated and beaten again by Bolivarian National Intelligence Service agents. There, she was allegedly asked who had hired her to do the research and was told that she was going to be sent naked to a room with male officials. They also rebuked her “*Shut up bitch*” and told her that “*they didn't give a shit that she was a woman, that they didn't give a fuck about human rights.*”¹²¹⁹

560. The next day, on 14 August 2021, she was beaten again and told that she had to re-record the video of her confession. She accepted so that she would not continue to be beaten. They also told her that she would not see her mother again and that she would not be released for 30 years. Aidaliz was forced to sleep on the floor handcuffed to a piece of furniture¹²²⁰.

Judicial Process

561. On 17 August 2021, Aidaliz Guarisma was presented before Judge Claudia López, of the Sixth Special Court of Control against Terrorism for the arraignment hearing, where she was charged with the crimes of “improper access” to information,¹²²¹ computer espionage,¹²²² and conspiracy (membership of an organised crime group).¹²²³

562. Aidaliz Guarisma was detained until 30 August 2022 in El Helicoide. On that date, she was transferred to the National Institute for Female Orientation (INOF by its Spanish acronym) women's prison in Los Teques, Miranda State.

563. The opening hearing was held on 23 March 2023, with the attendance of the public defence. At the hearing, her defence attorney spoke with the judge, who suggested accepting the evidence of the confession recorded under torture to reduce the 24-year sentence requested by the Public Prosecutor's Office.¹²²⁴ Aidaliz Guarisma was sentenced to 7 years and 4 months of imprisonment for all the crimes.¹²²⁵ According to the source, Guarismo never had access to the court file on her case, as her lawyer demanded a large sum of money for access to it.¹²²⁶

Conclusions

564. Based on the facts described above, the Mission has reasonable grounds to believe that Aidaliz Guarisma was the victim of arbitrary detention, acts amounting to torture, and cruel, inhuman or degrading treatment, both during her stay at the Bolivarian National Intelligence Service headquarters in the city of Mérida, in particular the acts to which she was subjected in the “terror room”, including threats and beatings so that she would record an incriminating video; and during her stay at El Helicoide. With respect to the latter, the Mission has reasonable grounds to believe that acts of sexual and gender-based violence in the form of rape threats and sexist insults were committed against her, which also amount to acts of torture. Bolivarian National Intelligence Service officials were involved in acts of torture and cruel, inhuman and degrading treatment, including acts of sexual violence, against Aidaliz Guarisma, in particular the officer known as “El Zeta”, a Bolivarian National Intelligence Service officer from the State of Mérida.

Case 14: José Urbina*Background*

565. The State of Apure is situated in the southwest of the Bolivarian Republic of Venezuela, in the border area with the Republic of Colombia, specifically with the department of Arauca, municipality of Arauquita. Puerto

¹²¹⁸ *Ibid.*

¹²¹⁹ *Ibid.*

¹²²⁰ *Ibid.*

¹²²¹ Law against Informatic Crimes, art. 6.

¹²²² *Ibid.*, art. 11.

¹²²³ Law against Organised Crime and the Financing of Terrorism, art. 37.

¹²²⁴ Interview OOIV068.

¹²²⁵ *Ibid.*

¹²²⁶ *Ibid.*

Páez is a community in the State of Apure where, according to a source interviewed by the Mission, Bolivarian National Guard officers often demand money or extortion money (“vacunas”) from its inhabitants to allow them to carry out their economic activities.¹²²⁷

566. As of 2021, there have been reports of clashes between the Bolivarian National Guard and dissidents of the 10th Front of the Revolutionary Armed Forces of Colombia-People's Army (FARC-EP), resulting in a high number of deaths among the military, which the Government of the Bolivarian Republic of Venezuela has reportedly called “guerrilla casualties”¹²²⁸. The Government identifies these individuals with the acronym TANCOL (Terroristas Armados Narcotraficantes de Colombia).¹²²⁹ However, according to some sources, the majority of the people killed were non-belligerent civilians from communities in Puerto Páez, such as La Victoria.¹²³⁰ These deaths are popularly known as “false positives”, in reference to the fact that they are presented as successful results of the operations of the State's security forces, which would earn them rewards and recognition.¹²³¹

567. Also, according to open sources, in early 2022, several clashes began between Colombian armed groups: National Liberation Army and Revolutionary Armed Forces of Colombia -People's Army dissidents, who are disputing control of the border territory between the Colombian Department of Arauca and the Venezuelan State of Apure. Both groups are alleged to have committed multiple abuses, including killings, forced recruitment, including recruitment of children, and forced displacement of people.¹²³² According to the same sources, members of the Venezuelan security forces allegedly carried out joint operations with National Liberation Army members and were complicit in their abuses.¹²³³ Armed clashes generated a serious migratory crisis in the region,¹²³⁴ as many inhabitants of Puerto Páez decided to flee and settle in Colombia to avoid becoming victims of violence and abuse.¹²³⁵

¹²²⁷ Interview OOIV055.

¹²²⁸ RCNRadio, Personero de Arauquita complains about possible ‘false positives’ by the National Bolivarian Guard, 26 March 2021. Available at: <https://www.rcnradio.com/colombia/llanos/personero-de-arauquita-Complaint-positivos-falsos-positivos-por-parte-de-la-guardia>.

¹²²⁹ Infobae, Tancol: Who are they and why has Maduro declared war on them?, 22 January 2022. Available at: <https://www.infobae.com/america/colombia/2022/01/22/tancol-que-son-y-por-que-maduro-les-declaro-la-guerra/>.

¹²³⁰ RCNRadio, Representative of Arauquita complains about possible ‘false positives’ by the National Bolivarian Guard, 26 March 2021. Available at: <https://www.rcnradio.com/colombia/llanos/personero-de-arauquita-Complaint-positivos-falsos-positivos-por-parte-de-la-guardia>; Insight Crime, Los Tancol: the ghost enemy of Venezuela, 14 June 2023. Available at: [¹²³¹ The term “false positives” originated in Colombia, in relation to extrajudicial executions committed by officers of the Army in order to obtain certain benefits in the frame of the fight against guerrilla groups. See ACNUDH, press release: “Declaration from Professor Philip Alston, Special Rapporteur of the United Nations for arbitrary executions – Mission to Columbia on the 8 to 18 June 2009”, 18 June 2009; Human Rights Watch, Reports of the perverse incentives behind the “false positives”. Report in which the Human Rights Watch made an unpublished directive about insignia indicating honour in the army known, 11 November 2017; Infobae, Complaints about possible false positives in the National Bolivarian Guard: tension on the Colombia and Venezuela border grows, 27 March 2021. Available at: <https://www.infobae.com/america/colombia/2021/03/27/Complaint-positivos-falsos-positivos-de-la-guardia-nacional-bolivariana-crece-tension-en-la-frontera-de-colombia-y-venezuela/>.](https://es.insightcrime.org/noticias/tancol-enemigo-fantasma-venezuela/#:~:text=En%20Venezuela%2C%20el%20gobierno%20combate,este%20grupo%20por%20toda%20Venezuela; Infobae, Tancol: what are they and why did Maduro declare war on them?, 22 January 2022. Available at: https://www.infobae.com/america/colombia/2022/01/22/tancol-que-son-y-por-que-maduro-les-declaro-la-guerra/.</p>
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¹²³² Human Rights Watch, Colombia/Venezuela: Abuses by armed groups in the border zone. 28 March 2022. Available at: <https://www.hrw.org/es/news/2022/03/28/colombia/venezuela-abusos-de-grupos-armados-en-zona-fronteriza>.

¹²³³ *Ibid.*

¹²³⁴ Venezuelan Observatory of Migration, Conflict, violence, Migration and oblivion on the Venezuelan Arauca border, 12 July 2021. Available at: <https://www.observatoriovenezolanodemigracion.org/post/conflicto-violencia-migracion-y-olvido-en-la-frontera-del-arauca-venezolano>.

¹²³⁵ Infobae, Complaints about possible false positives of the National Bolivarian Guard: tension grows on the border between Colombia and Venezuela, 27 March 2021. Available at:

Facts

568. On 25 March 2021, the deaths of four members of the same family were reported in the community of La Victoria. Luz Dey Remolina, Emilio Ramírez, Ehiner Yafran Anzola Villamizar, and Jeferson Uriel Ramírez were the family members. According to media reports, the alleged perpetrators of these deaths were Bolivarian National Guard officers who allegedly took the victims from their residences to execute them. After the execution, Bolivarian National Guard officers dressed the bodies in paramilitary clothing and planted firearms and fragmentation grenades at the crime scene.¹²³⁶

569. José Gregorio Urbina, resident of the Codazzi Parish in Puerto Páez, communicator and director of the community radio station Frontera 92.5, who was also a militant of the Communist Party of Venezuela denounced these facts on 13 November 2021. José Urbina was a social leader and human rights defender in Puerto Ordaz who constantly used social networks to denounce human rights abuse by the State in that community.¹²³⁷ Most denunciations are broadcast on the Communist Party of Venezuela's Twitter account. In addition, he also revealed having received threats from Bolivarian National Guard Lieutenant Colonel Ramón Sánchez,¹²³⁸ for having denounced that innocent people were being taken from his town, passing them off as members of the so-called "TANCOL."¹²³⁹

570. A source interviewed by the Mission stated that on the same day, 13 November, he was at Urbina's house when a protest began in the community of Puerto Páez, Codazzi parish, against Bolivarian National Guard officers who were detaining fishermen from the area who were accused of belonging to armed groups. The community denounced that, in reality, the military detained the fishermen for not having paid them extortion money.¹²⁴⁰

571. The protest was growing in intensity and the demonstrators blocked the way to the Bolivarian National Guard command post on the highway, burning tires to block the way. Lieutenant Colonel Ramón Sánchez addressed the protesters in a threatening tone and it was then, according to the witness, that Urbina appeared on the scene and told the commander that the fishermen were innocent. The discussion between Urbina and Commander Sánchez escalated and ended with a threat from the soldier to Urbina telling him that "he was coming for him."¹²⁴¹

<https://www.infobae.com/america/colombia/2021/03/27/Complaint-n-possibles-falsos-positivos-de-la-guardia-nacional-bolivariana-crece-tension-en-la-frontera-de-colombia-y-venezuela/>.

¹²³⁶ Insight Crime, Invitation to war in Venezuela, 13 October 2021. Available at:

<https://es.insightcrime.org/investigaciones/invitacion-guerra-venezuela/>; Human Rights Watch, Venezuela:

Atrocities by security forces on the border with Colombia, 26 April 2021. Available at:

<https://www.hrw.org/es/news/2021/04/26/venezuela-atrocidades-por-fuerzas-de-seguridad-en-la-frontera-con-colombia/>; Infobae, Complaints about possible false positives of the National Bolivarian Guard: tension

grows on the border between Colombia and Venezuela, 27 March 2021. Available at:

<https://www.infobae.com/america/colombia/2021/03/27/Complaint-n-possibles-falsos-positivos-de-la-guardia-nacional-bolivariana-crece-tension-en-la-frontera-de-colombia-y-venezuela/>; El Pitazo, El Ripial: The

massacre which left two homes in mourning, 26 May 2021. Available at:

<https://elpitazo.net/politica/resumen-el-ripial-la-masacre-que-enluto-dos-hogares/>.

¹²³⁷ Interview OOIV069.

¹²³⁸ Runrun.es, A Communicator and social leader in Apure is killed after denouncing a head of the Bolivarian National Guard for violating human rights, 13 January 2022. Available at: <https://runrun.es/rr-es-plus/464351/matan-a-comunicador-y-lider-social-en-apure-luego-de-Complaint-r-a-un-jefe-de-la-gnb-por-violar-dd-hh/>.

¹²³⁹ Tweet from Communist Party of Venezuela [@PCV_Venezuela], 11 January 2020. Available at:

https://twitter.com/PCV_Venezuela/status/1481026130945662976?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweet%7Ctwtterm%5E1481026130945662976%7Ctwtgr%5E45671503f3000b85b59d0f248667460ff779a064%7Ctwtcon%5Es1_&ref_url=https%3A%2F%2Fefectococuyo.com%2Fpolitica%2Fmilitante-del-pcv-aseguro-recibir-amenazas-antes-de-ser-asesinado-en-apure%2F

¹²⁴⁰ Interview OOIV055.

¹²⁴¹ *Ibid.*

572. Faced with this act of intimidation, the person interviewed by the Mission advised Urbina to record a video to record the threats in the event of an attack against his physical integrity.¹²⁴² Meanwhile, Bolivarian National Guard officers detained several protesting fishermen and took them.¹²⁴³

573. According to another source interviewed by the Mission, on 10 January 2022, during the night, three men dressed in black arrived at José Urbina's house in Puerto Páez on a motorcycle and were not carrying any kind of police identification. However, the source heard that they spoke with a strong Colombian accent and observed that one of them was carrying a revolver-type weapon, since it had a cylinder.¹²⁴⁴ The source indicated that Urbina grappled with one of the subjects who tried to enter through one of the windows. Urbina received more than 25 bullet wounds to his body which came from another of the windows of the residence, the shots killed him in front of his wife and 10-year-old daughter.¹²⁴⁵ His wife immediately went to the police headquarters in Puerto Páez to seek help, but no one answered.

Conclusions

574. Based on the facts described above, the Mission has reasonable grounds to believe that José Gregorio Urbina was the victim of an arbitrary deprivation of life. The Mission expresses its concern over the serious human rights violations reported in the State of Apure in 2022 as a result of a conflict between various armed groups, including reports of the alleged collusion or participation of Venezuelan State security forces in operations carried out by these armed groups. The Mission urges the authorities to investigate these allegations.

575. The mission has reasonable grounds to believe that José Gregorio Urbina was threatened by Lieutenant Colonel Sánchez of the Bolivarian National Guard. These threats were allegedly made in response to complaints by José Gregorio Urbina regarding alleged extrajudicial executions by members of the Bolivarian National Guard. It also has reasonable grounds to believe that there was an altercation between the Lieutenant Colonel and Urbina. Given the proximity between the altercation and the death of the latter, the national authorities should treat as one of the possible hypotheses to investigate, among others, that there is a relationship between the threats, the altercation and the death of José Gregorio Urbina. Therefore, the Mission considers that additional investigations would be necessary to determine whether José Gregorio Urbina was the victim of an extrajudicial execution under the circumstances described above.

Case 15: Young Activists of Voluntad Popular

Detentions

576. On Tuesday, 7 June 2022 around noon, a group of family members and friends of Neomar Lander, the young man who died on 7 June 2017 during a demonstration in the municipality of Chacao,¹²⁴⁶ Miranda State, gathered to commemorate the fifth anniversary of his death in the place where he lost his life, near the mural of artist Juvenal Ravelo on Libertador Avenue. The event was also attended by young activists of the opposition political party Voluntad Popular.¹²⁴⁷ According to the Chacao police, the tribute to Neomar Lander took place “with total normality, even with traffic coordination to avoid inconveniences.”¹²⁴⁸

¹²⁴² Tweet from Partido Comunista de Venezuela (Communist Party of Venezuela) [@PCV_Venezuela], 11 January 2020. Available at: https://twitter.com/PCV_Venezuela/status/1481026130945662976?ref_src=twsrc%5Etfw%7Ctwcamp%5Etw%5Eembed%7Ctwterm%5E1481026130945662976%7Ctwgr%5E3674c5936fbc22f66f0e7f5b5728e8ab43a8f2d%7Ctwcon%5Es1_%2F%2Fwww.elnacional.com%2Fvenezuela%2Fmilitante-del-pcv-grabo-un-video-Complaint-ndo-amenazas-antes-de-ser-asesinado-en-apure%2F

¹²⁴³ Interview OOIV055.

¹²⁴⁴ Interview OOIV069.

¹²⁴⁵ Interview OOIV055.

¹²⁴⁶ YouTube Video- RunrunEstudio, Reconstruction of the events: The death of Neomar Lander, 18 June 2017. Available at: <https://www.youtube.com/watch?v=mgPvLcGN41M>; Runrun.es, Infografía and video: Neomar Lander would have been killed by a bomb fired by the la Bolivarian National Police”, 18 June 2017. Available at: <https://runrun.es/investigacion/313986/infografia-y-video-a-neomar-lander-lo-habria-matado-una-bomba-disparada-por-la-pnb/>.

¹²⁴⁷ Interview with Martha Tineo, 17 August 2023.

¹²⁴⁸ Tweet from the Municipal Police of Chacao [@policiachacao], 7 June 2022. Available at: <https://twitter.com/policiachacao/status/1534320294998966274>.

577. When the tribute concluded, four of the young activists, Jholbert Godoy, Argelis Rovaina, Carlos Maneiro and Luis Martinez were followed by members of the Chacao municipal police and detained after boarding a public transport bus. The police officers, about eight in number, asked them for their identity documents and, without further explanation, detained them.¹²⁴⁹ The police also detained five or six other people¹²⁵⁰ who were traveling on the bus, but who had not participated in the commemorative,¹²⁵¹ they were simply traveling in the same vehicle to their respective workplaces.

578. All detainees were taken to the main headquarters of the Chacao municipal police. According to a statement made by the mayor of this municipality, broadcast by video, the youths were arrested for painting graffiti on the Ravelo mural, although they have always denied this accusation. For the mayor, the graffiti was a misdemeanour and not a crime,¹²⁵² which is why the youths had not been searched, handcuffed or placed in a cell, but were placed in a room at police headquarters to receive a “talk” as a consequence of the alleged infraction¹²⁵³. According to a source interviewed by the Mission, from that room, one of the youths contacted his mother by telephone at 3:36 p.m. to tell her what had happened and where they were and indicated that they would be allowed to leave after being interviewed.¹²⁵⁴ Other young people contacted a lawyer.¹²⁵⁵

579. According to the mayor of Chacao's version, before the detainees received the talk, members of the Strategic Operations Group showed up at the municipal police facilities and demanded the surrender of the youths, claiming to have monitored the rally on Libertador Avenue and to be in charge of the case.¹²⁵⁶ The Chacao police agreed to the handover.¹²⁵⁷

580. A source interviewed by the Mission described the events that differed from the mayor's version. According to this source, three hours after the Voluntad Popular youths entered the police headquarters, some people dressed in civilian clothes arrived and made it clear that they were not officers of the Chacao police. The plainclothes officers interrogated each of the youths and photographed them as a group and individually. During the interrogation, they were asked what they were doing at the Libertador Avenue rally and who was financing them. Some of the detainees were interrogated twice.¹²⁵⁸

581. Subsequently, according to the same source, the plainclothes officers asked the youths for their cell phones and other belongings, put them in plastic handcuffs, and took them out of the municipal police headquarters, telling them that the interrogation was not over.¹²⁵⁹ The young men were taken hooded to the Directorate General of Military Counter-Intelligence headquarters in Boleíta,¹²⁶⁰ although at the time of the transfer they did not know where they were being taken.

¹²⁴⁹ Interview RRIV001.

¹²⁵⁰ The number of passengers detained varies according to the sources. According to a witness interviewed by the Mission, there were six people, but other sources indicate that there were five. See also: Foro Penal, Report of the political repression in Venezuela. First semester of 2022. Available at: https://foropenal.com/wp-content/uploads/2022/07/FP_REPORTE-PRIMER-SEMESTRE-2022_220718.pdf; Efecto Cucuyo, Ten keys to understanding Onapre's instructions and public sector protests, 23 August 2022. Available at: <https://efectocucuyo.com/la-humanidad/liberan-cinco-nueve-jovenes-detenidos-polichacao/>; El Estímulo, There are another three detained by Polichacao in the case of the grey wall, 8 June 2022. Available at: <https://elestimulo.com/venezuela/2022-06-08/polichacao-neomar-lander-vp-detenidos-pared-gris-mural-juvenal-ravelo-chacao/>.

¹²⁵¹ Interview RRIV001.

¹²⁵² YouTube Video-Somos tu voz, This is how the Mayor's office of Chacao explains the detention of the young people who painted graffiti in honour of Neomar Lander, 8 June 2022. Available at: <https://www.youtube.com/watch?v=44GqQOqnGEO>.

¹²⁵³ *Ibid.*

¹²⁵⁴ Interview with Martha Tineo, 17 August 2023.

¹²⁵⁵ Interview RRIV001

¹²⁵⁶ YouTube Video- Somos tu voz, This is how the Mayor's office of Chacao explains the detention of the young people who painted graffiti in honour of Neomar Lander, 8 June 2022. Available at: <https://www.youtube.com/watch?v=44GqQOqnGEO>.

¹²⁵⁷ *Ibid.*

¹²⁵⁸ Interview RRIV001.

¹²⁵⁹ *Ibid.*

¹²⁶⁰ *Ibid.*; AP News, Venezuela releases the young people detained for painting graffiti, 10 June 2022. Available at: <https://apnews.com/article/noticias-64f6078a69e8999a107012f4dfdf74cb>; Swissinfo, Militants of the

Period of disappearance

582. As the young man who had contacted his mother at 3:36 p.m. had not returned home, she went to the headquarters of the municipal police in the evening¹²⁶¹. There, she was informed that her son had been transferred to another location, without telling her where or giving her any other information.¹²⁶²

583. The lawyer who handled the case of some of the detainees and who was interviewed by the Mission reported that on the night of Tuesday, 7 June, and throughout Wednesday, 8 June, the mother of the young man who called and the relatives of the other detainees searched for them in different places where the security agencies usually hold people detained for political reasons.¹²⁶³ Among others, they visited the detention centres located in Boleíta and El Helicoide, in Caracas.¹²⁶⁴ At all these locations, law enforcement officials denied that the youths were in these facilities.¹²⁶⁵ In the case of one of the young men, his family and friends went to the Directorate General of Military Counter-intelligence headquarters at least five times to inquire about his whereabouts and the answer was always negative.¹²⁶⁶

584. Family members also went to the Public Prosecutor's Office to report the disappearances. However, these complaints were allegedly not accepted on the grounds that the minimum time of 72 hours to register this type of complaint had not elapsed.¹²⁶⁷

585. At 6:30 p.m. on Wednesday, 8 June, the other people detained on the same bus that the four young activists had been on, began to be released from the Boleíta detention centre,¹²⁶⁸ where they had all been held since they were transferred from the Chacao police station.¹²⁶⁹ As for the four young activists, their whereabouts remained unknown until midday on Thursday, 9 June, when they were allowed to make phone calls and inform their relatives that they were in the detention centre in Boleíta.¹²⁷⁰ During their stay in this detention centre, at least one of them was interrogated on the first night and accused of being a terrorist just because he was a member of Voluntad Popular.¹²⁷¹

586. Around 8:00 p.m. on Thursday, 9 June, the four young activists were brought before the First Criminal Control Court of the Metropolitan Area of Caracas by the 74th Prosecutor.¹²⁷² The youths were represented by a public defence attorney in a 30-minute hearing that was adjourned and resumed on Friday, 10 June.¹²⁷³

587.

López party are accused of three crimes in Caracas, 10 June 2022. Available at: https://www.swissinfo.ch/spa/venezuela-justicia_acusan-de-tres-delitos-a-militantes-del-partido-de-l%C3%B3pez-detenido-en-caracas/47662774.

¹²⁶¹ Interview with Martha Tineo, 17 August 2023.

¹²⁶² *Ibid.*

¹²⁶³ *Ibid.*

¹²⁶⁴ Somos tu voz, Where are those that were detained in Chacao for painting graffiti in homage to Neomar Lander?, 8 June 2022, Available at: <https://somostuvoz.net/donde-estan-los-detenido-por-supuestamente-pintar-grafitis-en-favor-de-neomar-lander/>.

¹²⁶⁵ Interview Martha Tineo on 17 August 2023.

¹²⁶⁶ *Ibid.*

¹²⁶⁷ *Ibid.*

¹²⁶⁸ Interview RRIV001; AP News, Venezuela releases the young people detained for painting, 10 June 2022. Available at: <https://apnews.com/article/noticias-64f6078a69e8999a107012f4dfdf74cb>; Swissinfo, Militants of the López party are accused of three crimes in Caracas, 10 June 2022. Available at: https://www.swissinfo.ch/spa/venezuela-justicia_acusan-de-tres-delitos-a-militantes-del-partido-de-l%C3%B3pez-detenido-en-caracas/47662774.

¹²⁶⁹ Interview RRIV001.

¹²⁷⁰ *Ibid.* Tweet from the Justice, Encounter and Forgive [@JEPvzla], 9 June 2022. Available at: <https://twitter.com/JEPvzla/status/1534962844655042563?t=IFOAKiNIP-t2dhAtTk4ZNA&s=19>

¹²⁷¹ Interview RRIV001.

¹²⁷² Tweet from Justicia, Encounter and Forgive [@JEPvzla], 9 June 2022. Available at: <https://twitter.com/JEPvzla/status/1535061561902960641>.

¹²⁷³ Tweet from Justicia, Encounter and Forgive [@JEPvzla], 9 June 2022. Available at: https://twitter.com/JEPvzla/status/1535094047680913409?t=nhzwiUIIjaCx_A_QzwLduDg&s=19.

588. The four young men were charged by the Public Prosecutor's Office with crimes of incitement to hatred,¹²⁷⁴ membership of an organised crime group,¹²⁷⁵ and obstruction of the public highway.¹²⁷⁶ The judge only admitted the accusation of obstruction of the public highway, despite the fact that the Chacao police declared that the homage to Neomar Lander had taken place normally and without causing traffic inconveniences.¹²⁷⁷

589. The judicial authority ordered precautionary measures as an alternative to preventive detention, including regular court appearances and prohibition from leaving the country and making statements in connection with the case.¹²⁷⁸

Conclusions

590. Based on the facts described above, the Mission has reasonable grounds to believe that the four Voluntad Popular activists Jholbert Godoy, Argelis Rovaina, Carlos Maneiro and Luis Martínez were arbitrarily detained for exercising their right to freedom of expression and for belonging to an opposing political party.

591. Similarly, the Mission has reasonable grounds to believe that these four persons were victims of enforced disappearance of short duration between 7 June 2022, when they were detained and taken from the Chacao municipal police headquarters to the Boleíta facilities, and 9 June 2021, when they were allowed to communicate with their relatives. During this period, officials at the Boleíta detention centre denied having any information on the activists' whereabouts.

592. The officials involved in the arbitrary detention of Jholbert Godoy, Argelis Rovaina, Carlos Maneiro and Luis Martínez are officers of the municipal police of Chacao, while those involved in their short-term enforced disappearance are and of both that entity and the Strategic Operations Group (GOES by its Spanish acronym).

¹²⁷⁴ Law against Hate, art. 20.

¹²⁷⁵ Law against Organised Crime and the Financing of Terrorism, art. 37.

¹²⁷⁶ Penal Code de 2005, art. 357.

¹²⁷⁷ Tweet from Municipal Police of Chacao [@policiachacao], 7 June 2022. Available at: <https://twitter.com/policiachacao/status/1534320294998966274>.

¹²⁷⁸ Tweet from Justicia, Encounter and Forgive [@JEPvzla], 11 June 2022. Available at: https://twitter.com/JEPvzla/status/1535688312652017664?t=E3Qm1Mf5H-Zw8WO_kuXifg&s=19.

Case 16: Six union leaders

Background

592. On 15 March 2022, the National Budget Office (ONAPRE) issued an instruction for the Adjustment Process of the Public Administration Remuneration System, Collective Agreements, Special Tables and Strategic Companies, known as “ONAPRE instructions”¹²⁷⁹.

593. The instruction was created with the purpose of regulating the wage tabulators of public sector workers and eliminated several of the labour commitments previously established through collective agreements between employers and unions. Among others, the payment of bonuses for seniority, holiday bonuses and the scales of professionalization of workers.¹²⁸⁰ The application of the instructions generated disagreement in different unions that began to protest in a peaceful manner and have continued to do so since March 24, 2022¹²⁸¹.

¹²⁷⁴ Anti-Hate Act, art. 20.

¹²⁷⁵ Law against Organized Crime and Financing of Terrorism, art. 37.

¹²⁷⁶ Criminal Code of 2005, art. 357.

¹²⁷⁷ Tweet by Chacao Municipal Police [@policiachacao], June 7, 2022. Available at: <https://twitter.com/policiachacao/status/1534320294998966274>.

¹²⁷⁸ Tweet by Justicia, Encuentro y Perdón [@JEPvzla], June 11, 2022. Available at: https://twitter.com/JEPvzla/status/1535688312652017664?t=E3Qm1Mf5H-Zw8WO_kuXifg&s=19.

¹²⁷⁹ Document OODC002: ONAPRE, Instructions: Process of Adjustment of the Public Administration Remuneration System, Collective Agreements, Special Tables and Strategic Companies, 22 March, 2022); Manifest, One year after the ONAPRE instruction. The Protest Continues, 13 March, 2023. Available at: <https://manifestar.org/sobre-onapre/#easy-footnote-bottom-1-3713>.

¹²⁸⁰ El Diario, What is the Onapre instruction and why are public workers asking for its annulment? August 4, 2022. Available at: <https://eldiario.com/2022/08/04/que-es-el-instructivo-de-la-onapre/>;

¹²⁸¹ Efecto Cucuyo, Ten keys to understanding the Onapre instructions and the public sector protests, August 23, 2022. Available at: <https://efectocucuyo.com/la-humanidad/instructivo-onapre-protetas-sector-publico/>.

594. Between 4 and 7 of July 2022, six union leaders were arrested and charged with committing the crimes of membership of an organised crime group¹²⁸² and conspiracy¹²⁸³. Néstor Astudillo, Gabriel Blanco, Alcides Bracho, Reynaldo Cortés, Alonso Meléndez and Emilio Negrín.¹²⁸⁴ According to a source interviewed by the Mission, the arrests were carried out on the basis of information provided by the figure of the “cooperating patriot,”¹²⁸ whose statement was the basis of the accusation of the Public Prosecutor's Office.¹²⁸⁶

595. The accusatory statement of the anonymous “cooperating patriot”¹²⁸⁷ pointed to the six trade unionists as participants in the seizure of a barracks in Mérida on 4 July 2022, where they were allegedly going to steal 120 rifles, and then go to Caracas and sabotage the patriotic acts of 5 July.¹²⁸ The common element of the arrest of these trade union leaders was their participation in demonstrations rejecting the application of the ONAPRE instructions.¹²⁸⁹ During the hearings held in the Fourth Special Court of Terrorism of Caracas, they were charged with the crimes of terrorism, sabotage, membership of an organised crime group and conspiracy under anti-terrorist legislation¹²⁹⁰.

¹²⁸² Law against Organized Crime and Financing of Terrorism, art. 37.

¹²⁸³ Criminal Code, art. 132.

¹²⁸⁴ Interview OOIV057.

¹²⁸⁵ The figure of the cooperating patriot was mentioned by President Maduro in a press conference, held on January 17, 2017. In that press conference, the President indicated that the cooperating patriots “will undertake intelligence work by parishes in order to offer information” regarding “threats against the State and criminal gangs.”; See Venezuela Awareness, Maduro Officializes System of “Cooperating Patriots” in Intelligence Work by Parish”, 18 of January 2017. Available at: <https://www.venezuelaawareness.com/2017/01/maduro-oficializa-sistema-de-patriotas-cooperantes-en-labores-de-inteligencia-por-parroquia/>.

According to open sources, the system of cooperating patriots is regulated through the Popular Protection System for Peace (SP3), under the command of the general director of the Bolivarian Intelligence Service (SEBIN), Gustavo González López appointed as responsible for its coordination.

SP3 was created in 2015, by Decree 1471, published in the Official Gazette of January 16, 2015. According to these regulations, the objective of SP3 is to coordinate all State organs to establish criminal policy and security plans against external and internal threats, in an integrated people-government manner (art. 1). Likewise, the Decree establishes that the people actively participate “as guarantors of peace”, “based on a high disposition to defend our Homeland from people who intend to violate peace” (Article 2). The Decree as such does not speak of cooperating patriots, but it does refer to the participation of the population in intelligence operations. According to the Decree, four powers make up SP3, including the Popular Subsystem, which refers to the active participation of the people in organized communities, for example, through “Communes, Communal Councils, Socialist Mission Base, all Popular Organization, alternative community media, Religious, Sports, Cultural and other grassroots community organizations, popular intelligence” to “carry out surveillance tasks, Security and Social Comptrollership, establishing coordinated and intertwined networks” (art.2); Tweet by Rocío San Miguel [@rociosanmiguel], January 17, 2017. Available at:

<https://twitter.com/rociosanmiguel/status/821494683272642560>.

¹²⁸⁶ Interview OOIV057.

¹²⁸⁷ Venezuela Awareness, Maduro formalizes system of “cooperating patriots” in intelligence work by parish, 18 January 2017. Available at: <https://www.venezuelaawareness.com/2017/01/maduro-oficializa-sistema-de-patriotas-cooperantes-en-labores-de-inteligencia-por-parroquia/>.

¹²⁸⁸ Interview OOIV057.

¹²⁸⁹ *Ibid.*; Provea, Teacher and Plastic Artist Alcides Bracho, Completes 150 Days of Unjust Detention, 1 December, 2022. Available at: <https://provea.org/actualidad/docente-y-artista-plastico-alcides-bracho-cumple-150-dias-de-injusta-detencion/>.

¹²⁹⁰ Interview OOIV057.

The case of Alcides Bracho

596. Alcides Bracho is a university Professor, union leader of the Venezuelan Federation of Teachers and militant of the political party Bandera Roja. Since March 2022, he has supported the protests against the ONAPRE instructions¹²⁹¹.

Detention

597. According to sources interviewed by the Mission, on 4 July 2022, at 11:00 a.m., Alcides Bracho was with his daughters at his home located at kilometre four of El Junquito, in Caracas, when, suddenly, an undetermined number of heavily armed officials of the DGCIM and the PNB entered. The officers did not have arrest or search warrants and entered the home threatening Bracho's family with firearms if he did not hand over his phone and password. According to a source interviewed by the Mission, PNB officials searched the house and stole approximately USD 400 in cash, computers and cell phones from the building and took Alcides Bracho into custody.¹²⁹²

598. According to testimonies gathered by the Mission, Alcides Bracho was taken in a PNB van to the La Quebradita detention centre in Caracas, where he was held isolated for 48 hours and handcuffed to a grating, in addition to being beaten up. During this period, he was not given food or access to a lawyer, nor was he brought before a representative of the Public Prosecutor's Office.¹²⁹³ The La Quebradita detention centre was attached to the Directorate of Strategic Intelligence, now the Strategic Intelligence Division of the Directorate of Strategic and Tactical Actions of the PNB (DAET/DIE).¹²⁹⁴

599. Bracho's preliminary hearing was held on June 6. Following the hearing, Bracho was transferred to the PNB detention centre of La Yaguara, in Caracas, where he remained until July 11, 2022. In the early hours of that day, Bracho was transferred to the PNB Detention Centre known as Zone 7, located south of the district of Boleíta,¹²⁹⁵ also in Caracas. When he got there, he was placed in the collective cell known as "El Tigrito" along with common prisoners. The cell is known for its unsanitary conditions and because prisoners cannot lie down due to overcrowding.¹²⁹⁶

¹²⁹¹ Interview OOIV057; Provea, Docente y artista plástico Alcides Bracho, cumple 150 días de injusta detención, 1 December 2022. Available at: <https://provea.org/actualidad/docente-y-artista-plastico-alcides-bracho-cumple-150-dias-de-injusta-detencion/>.

¹²⁹² Interview OOIV063; INFOBAE, Persecución en Venezuela: exigen la liberación de un militante opositor detenido por protestar contra la dictadura, July 2022. Available at: <https://www.infobae.com/america/venezuela/2022/07/07/persecucion-en-venezuela-exigen-la-liberacion-de-un-militante-opositor-detenido-por-protestar-contra-la-dictadura/>.

¹²⁹³ Interview OOIV063.

¹²⁹⁴ Tweet by MPPRIJP [@MijpVzla], 12 July 2021. Available at: <https://twitter.com/MijpVzla/status/1414768151275917312>; La Voce d'Italia, PNB libera a integrantes de la ONG Convite, 16 December 2020. Available at: <https://lavoceditalia.com/2020/12/16/545686/pnb-libera-a-integrantes-de-la-ong-convite-audio-noticia/>; Cross Reference CRP DAET-DIE/PNB.

¹²⁹⁵ National Assembly, Zone 7 Preventive Centre Will Be Inspected This Wednesday, September 8, 2023. Available at: <https://www.asambleanacional.gob.ve/noticias/inspeccionaran-este-miercoles-al-centro-preventivo-zona-7>; Tweet by MPPRIJP [@MijpVzla], 25 July 2023. Available at: https://twitter.com/MijpVzla/status/1684004423456944128?ref_src=twsrc%5Etfw.

¹²⁹⁶ Interview OOIV063; A/HRC/CRP.11, para. 1188

600. In “El Tigrito”, Bracho was assaulted by the other prisoners because the guards had spread the news that he was a policeman. According to one source, Bracho had to pay USD 100 to remove the detainee from that cell in order to remain in a safer place.¹²⁹⁷ He further indicated that, in order to visit him and bring him food, one also had to pay. Bracho had to relieve himself inside bags and has no access to drinking water. In this other cell, Bracho was taken in by common prisoners, who treated him better because they knew him as a “political prisoner” and not a policeman.¹²⁹⁸ Alcides Bracho currently suffers from ulcers and has three hernias that still afflict his state of health.¹²⁹⁹

The case of Emilio Negrín

601. Emilio Negrín is the president of the Federation of Court Workers and a member of the National Trade Union Coalition of Workers (CSNT). Negrín actively supported the protests against ONAPRE Instructions.¹³⁰⁰

Detention

602. On the afternoon of 4 July 2022, Emilio Negrín accompanied Professor Yorbelys Oropeza, wife of Professor Alcides Bracho, to the National Human Rights Institution to denounce his detention and request his release. He also called for Bracho’s release on social media, tagging the International Labor Organization (ILO) and Venezuelan labor unions.¹³⁰¹

603. A source interviewed by the Mission indicated that on 5 July 2022, Emilio Negrín was at home in El Junquito parish in Caracas. According to this testimony, around 9:00 a.m., an undetermined number of DGCIM officials, dressed in civilian clothes and heavily armed, showed up around his home, with neither a search nor arrest warrant. The officials entered the building and demanded that Emilio Negrín accompany them to make a statement regarding the complaint filed at the National Human Rights Institution on the detention of Alcides Bracho.¹³⁰²

604. According to the same testimony, Emilio Negrín requested to be shown the arrest and search warrants and requested the presence of a representative of the Public Prosecutor's Office and his defence lawyer. DGCIM officials did not accede to these demands and threatened Negrín with “*destroying the house in the presence of his family if he did not accompany them.*” According to this source, before being apprehended, Negrín managed to call members of the Communal Council to witness his “arbitrary detention.” According to the same source, Negrín was arrested by DGCIM officials inside his home, in front of his young children,¹³⁰³ and not on a public road as indicated in the arrest report.

605. According to a source interviewed by the Mission, the main reason for Negrín's arrest was because he had denounced Bracho's detention through social media networks and to the National Human Rights Institution. This contradicts the accusation of the Public Prosecutor's Office, which, according to the case file, indicates that the union leaders were arrested as a result of a counterintelligence report by the Strategic Intelligence Directorate (DIE). Currently this direction is one of the divisions of the Directorate of Strategic and Tactical Actions (DAET) of the PNB.¹³⁰⁴ The investigation would have started on 4 July 2022, that is, on the same date that Alcides Bracho was arrested.¹³⁰⁵

¹²⁹⁷ Interview OOIV063.

¹²⁹⁸ *Ibid.*

¹²⁹⁹ *Ibid.*

¹³⁰⁰ Interview OOIV057.

¹³⁰¹ Interview OOIV058.

¹³⁰² *Ibid.*

¹³⁰³ *Ibid.*

¹³⁰⁴ See CRP DAET.

¹³⁰⁵ Document OODC001.

Ill treatment

606. After his arrest, Negrín was transferred by the DGCIM to the PNB headquarters in La Quebradita, Caracas.¹³⁰⁶ In turn, DGCIM officials gave DIE officials Negrín's cell phone to be analysed.¹³⁰⁷ A source interviewed by the Mission indicated that, during Emilio Negrín's detention in La Quebradita prison, between the 5th and 8th of July, he was placed in solitary confinement, as he was alone in a locked room, denied the right to receive food and the right to communicate with his family.¹³⁰⁸

The case of Alonso Meléndez

607. Alonso Meléndez is a fishing engineer and union leader in the municipality of Los Taques, Falcón State.¹³⁰⁹ He is also a member of the Bandera Roja party.¹³¹⁰ The privatization of fuels has affected fishing activity in the region. According to a source interviewed by the mission, Meléndez's political militancy and his participation in the protests against the ONAPRE instructions have made him a public figure and an important union leader.¹³¹¹

Detention

608. A source interviewed by the Mission reported that on 5 July 2022, Alonso Meléndez was with his family at his residence in Santa Cruz de los Taques. Around 11:00 a.m., a contingent of the DIE arrived at his residence with an undetermined number of officials.¹³¹² According to the testimony, the DIE officials wearing bulletproof vests with DIE insignia entered the house without any search or arrest warrant. Meléndez was arrested immediately after being identified and taken from his home, without saying a word. Not knowing where he was, his relatives asked about his whereabouts at the CICPC, failing to obtain any information. On 8 July 2022, the family learned of Meléndez's whereabouts thanks to members of the Red Flag party, as well as information published by the media.

Ill treatment

609. According to testimony gathered by the Mission, Meléndez was held from the 5 to 8 of July in the PNB prison in La Quebradita, Caracas. On the 8 July 8, 2022, Meléndez was taken to the La Yaguara PNB detention centre, also in Caracas.¹³¹³ There, he was questioned by DIE/PNB officials about his membership in the Red Flag political party, in addition to personal data of government officials and political leaders that he did not even know about.¹³¹⁴

610. According to the same source, during the interrogations, Alonso Meléndez was subjected to threats and ill-treatment by PNB officials. Meléndez was also taken handcuffed to a room with very low air conditioning where he was forced to crawl on the floor to make himself feel cold. They also kept him detained in a cell where they left white lights turned on for days, with the aim of making him lose track of time. They also assured him that they would release him if he provided the information they required. PNB officials also threatened to harm his wife and mother.¹³¹⁵

¹³⁰⁶ Provea, Government detains trade unionist and humanitarian worker Gabriel Blanco amid new wave of repression, 7 July 2022. Available at: <https://provea.org/actualidad/gobierno- detiene-al-sindicalista-y-trabajador-humanitario-gabriel-blanco-en-medio-de-nueva-ola- represiva/>.

¹³⁰⁷ Interview OOIV058.

¹³⁰⁸ *Ibid.*

¹³⁰⁹ Interview OOIV061.

¹³¹⁰ *Ibid.*

¹³¹¹ *Ibid.*

¹³¹² *Ibid.*

¹³¹³ Interview OOIV061.

¹³¹⁴ *Ibid.*

¹³¹⁵ *Ibid.*

The case of Gabriel Blanco

611. Gabriel Blanco had previously worked in an NGO working on migration issues and in a humanitarian organization.¹³¹⁶ In addition, at the time of his arrest, he was providing care for women victims of gender-based violence.¹³¹⁷ Gabriel Blanco had previously served as a leader of the Independent Trade Union Alliance and had had an active presence on social networks against the ONAPRE instructions, and in support of the protests that were organized against that regulation.¹³¹⁸

612. According to a source interviewed by the Mission, on 6 July 2022, at around 7:30 p.m., DGCIM officers showed up at Gabriel Blanco's home located in the Carlos Delgado Chalbaud urbanization, in the Coche parish, southwest of Caracas. The officers asked him to accompany them to an interview, which Gabriel Blanco refused, since they did not have an arrest warrant against him. Several neighbours immediately arrived at Blanco's house to help him, and a PROVEA team also went to the house to provide him with legal assistance and to prevent him being detained without a court order.¹³¹⁹

613. At first, the DGCIM agents stated that the order was in process, it was finally presented to Blanco on 7 July at 1:45 a.m.¹³²⁰

614. A source interviewed by the Mission said that on 10 July, Gabriel Blanco was transferred to PNB detention centre No. 5 in Caracas, known as La Yaguara.

The case of Reynaldo Cortés

615. Reynaldo Cortés is a member of the Red Flag political party, an educator and a union leader. He is the delegate of the Confederation of Workers of Venezuela (CTV) in the State of Guárico. Reynaldo Cortés also denounced the application of the ONAPRE instruction, in particular the impact of this instruction on the salary tables of university professors.¹³²¹

Detention

616. According to the testimony of a source interviewed by the Mission, on 7 July 2022, at 1:00 in the morning, approximately 20 hooded and armed men arrived in four DGCIM vehicles at the house of Reynaldo Cortés' mother, located in San Juan de los Morros, capital of the State of Guárico.¹³²² The officials presented an arrest warrant signed by Judge José Mascimino Márquez, judge of the Fourth Special Court of Terrorism of Caracas, raided the house, and seized the unionist's cell phone. Reynaldo Cortés was arrested and, according to testimony, relatives had no news of his whereabouts for two days, until they learned that he had been taken to the PNB detention centre in La Quebradita in Caracas.¹³²³ According to this testimony, during this period, Reynaldo Cortés did not have access to a lawyer.

¹³¹⁶ Interview OOIV054.

¹³¹⁷ Runrun.es, Humanitarian worker Gabriel Blanco charged with two crimes, 10 July 2022. Available at: <https://runrun.es/noticias/478152/acusan-de-dos-delitos-al-trabajador-humanitario-gabriel-blanco/>.

¹³¹⁸ Interview OOIV057.

¹³¹⁹ Interview OOIV054. See: PROVEA, Government detains trade unionist and humanitarian worker Gabriel Blanco amid new wave of repression, 7 July 2022. Available at: <https://provea.org/actualidad/gobierno-detiene-al-sindicalista-y-trabajador-humanitario-gabriel-blanco-en-medio-de-nueva-ola-represiva/>

¹³²⁰ PROVEA, Government detains trade unionist and humanitarian worker Gabriel Blanco in the midst of a new wave of repression 7 July 2022. Available at: <https://provea.org/actualidad/gobierno-detiene-al-sindicalista-y-trabajador-humanitario-gabriel-blanco-en-medio-de-nueva-ola-represiva/>

¹³²¹ Interview OOIV062.

¹³²² *Ibid.*; El Pitazo, Who is Reynaldo Cortés and why is he imprisoned in the PNB of La Yaguara?, 29 January 2023. Available at: <https://elpitazo.net/reportajes/quien-es-reynaldo-cortes-y-por-que-esta-presos-en-la-pnb-de-la-yaguara/>.

¹³²³ Interview OOIV062.

Ill treatment

617. After his hearing before the Fourth Special Terrorism Judge of Caracas, held on July 9, Reynaldo Cortés was transferred to the PNB detention centre called La Yaguara, where he had to share a 4x4-meter cell with 20 common prisoners. In the cell he was assaulted by the other prisoners, which affected him psychologically and emotionally.¹³²⁴

The case of Néstor Astudillo

618. Néstor Astudillo is a union leader and militant of the political party Red Flag. He was arrested on several occasions for defending the rights of workers in the State of Miranda.¹³²⁵

619. In 2022, Astudillo was working on an electoral bill for the primary elections, which sought to generate a consensus in the opposition regarding a single candidate for the 2024 presidential elections. According to sources interviewed by the Mission, these actions had caused annoyance in the Government, since, if the project prospered in the National Assembly, it could affect the vote of the ruling party.¹³²⁶

620. On 5 July 2022, Néstor Astudillo was unofficially informed by his relatives that he would be arrested by state security forces.¹³²⁷ A source interviewed by the Mission indicated that, on the morning of 6 July, Astudillo was at his residence, where he lived with his mother. From 7:00 am people began to arrive at the house who told the mother that they were childhood friends of her son and that they needed to talk to him, in order to open the door of the residence. Meanwhile, Astudillo asked his mother not to open the door to them because he knew that they were police and that they were going to arrest him.¹³²⁸

621. According to another source interviewed by the Mission, at approximately 2:00 p.m. on the same day, four officers wearing vests bearing the PNB's DIP badges forcibly entered the house without presenting any arrest or search warrant.¹³²⁹ After searching the building, they seized the documentation on the electoral bill that the union leader kept in the building.¹³³⁰ Astudillo was detained and his relatives did not know his whereabouts for two days. During that time his relatives would have searched for him at the Charallave police station, without obtaining information about his whereabouts from them.¹³³¹

¹³²⁴ *Ibid.*

¹³²⁵ Interview OOIV066.

¹³²⁶ *Ibid.*; Interview OOIV067.

¹³²⁷ Interview OOIV066.

¹³²⁸ Interview OOIV067.

¹³²⁹ Interview OOIV066. The acronym "DIP" corresponds to those of the former Directorate of Criminal Investigations, attached to the FAES/PNB: From its creation, on 27 July 2022, the new Directorate of Strategic and Tactical Actions (DAET) absorbed this Directorate, becoming the *Criminal* Investigations Division. See the second conference room paper accompanying the Mission's report.

¹³³⁰ Interview OOIV067.

¹³³¹ *Ibid.*; Interview OOIV066.

The judicial procedure of trade unionists

622. On 6 July 2022, Alcides Bracho taken to the presentation hearing before the judge of the Fourth Special Court of Terrorism of Caracas, José Macsimino Márquez.¹³³² On 22 September 2022, Bracho's preliminary hearing was held. During that hearing, the judge proposed that he plead guilty to the crime of terrorism, thus imposing a sentence of five years and three months, after which he would probably be released and, failing that, he would be sentenced to 25 years' imprisonment.¹³³³

623. In the preliminary hearing, the judge charged Alcides Bracho with the crimes of "terrorism,"¹³³⁴ "sabotage,"¹³³⁵ "association to commit a crime"¹³³⁶ and "conspiracy"¹³³⁷, under anti-terrorist legislation. Bracho's accusation was based on a statement by a so-called "cooperating patriot," who denounced him for attempting to hang protest banners on the day of the Independence Day celebration, on 5 July.¹³³⁸ The "cooperating patriot"¹³³⁹, also implicated Bracho in an alleged conspiracy to take a strong military base in the city of Mérida, in order to steal weapons to sabotage the acts of Independence Day.¹³⁴⁰

624. The rest of the trade unionists (Astudillo, Blanco, Cortez, Meléndez and Negrín) were first presented to the Public Ministry on Friday 8 July 2022 at 11:00 p.m. On the next day, 9 July, at 5:00 p.m., the presentation hearing took place.

¹³³² Interview OOIV063; Interview OOIV058.

¹³³³ *Ibid.*

¹³³⁴ Law against Organized Crime and Financing of Terrorism, art. 4.

¹³³⁵ Computer Crime Act, art. 7.

¹³³⁶ Law against Organized Crime and Financing of Terrorism, art. 37

¹³³⁷ Criminal Code of 2005, arts. 128 and 132.

¹³³⁸ Document OODC001.

¹³³⁹ The figure of the cooperating patriot was mentioned by President Maduro in a press conference, held on January 17, 2017. In that press conference, the President indicated that the cooperating patriots "will undertake intelligence work by parishes in order to offer information" regarding "threats against the State and criminal gangs."; See Venezuela Awareness, Maduro formalizes system of "cooperating patriots" in intelligence work by parish," January 18, 2017. Available at: <https://www.venezuelaawareness.com/2017/01/maduro-oficializa-sistema-de-patriotas-cooperantes-en-labores-de-inteligencia-por-parroquia/>. According to open sources, the system of cooperating patriots is regulated through the Popular Protection System for Peace (SP3), under the command of the general director of the Bolivarian Intelligence Service (SEBIN), Gustavo González López appointed as responsible for its coordination. SP3 was created in 2015, by Decree 1471, published in the Official Gazette of January 16, 2015. According to these regulations, the objective of SP3 is to coordinate all State organs to establish criminal policy and security plans against external and internal threats, in an integrated people-government manner (art. 1). Likewise, the Decree establishes that the people actively participate "as guarantors of peace", "based on a high disposition to defend our Homeland from people who intend to violate peace" (Article 2). The Decree as such does not speak of cooperating patriots, but it does refer to the participation of the population in intelligence operations. According to the Decree, four powers make up SP3, including the Popular Subsystem, which refers to the active participation of the people in organized communities, for example, through "Communes, Communal Councils, Socialist Mission Base, all Popular Organization, alternative community media, Religious, Sports, Cultural and other grassroots community organizations, popular intelligence" to "carry out surveillance tasks, Security and Social Comptrollership, establishing coordinated and intertwined networks" (art.2); Tweet by Rocío San Miguel [@rociosanmiguel], 17 January 2017. Available at: <https://twitter.com/rociosanmiguel/status/821494683272642560>.

¹³⁴⁰ Interview OOIV063.

before the Special Fourth Court of First Instance in control functions with jurisdiction in cases related to crimes associated with terrorism with jurisdiction at the national level (Special Fourth Terrorism Court) in Caracas,¹³⁴¹ five days after his arrest. The Mission found that the arrest warrant in the trade unionists' file was issued on 6 July, i.e., one day after their arrest.¹³⁴² The preliminary hearing took place on 26 September 2022.

625. The judge in charge of the trial of the rest of the trade unionists was José Mascimino Marquéz, the same judge assigned to Bracho.¹³⁴³ As in Bracho's case, during the preliminary hearing, the judge threatened the defendants with 25 years in prison if they did not plead guilty to the crime of terrorism,¹³⁴⁴ offering them a five-year sentence in exchange for accepting guilt.¹³⁴⁵ The trade unionists decided to go to trial considering that there was no evidence linking them to the accusations against them.¹³⁴⁶

626. The five trade unionists were charged with the same crimes as Bracho (“terrorism,”¹³⁴⁷ “sabotage,”¹³⁴⁸ “criminal association”¹³⁴⁹ and “conspiracy”¹³⁵⁰). The judicial accusation was based on the statement of the same “cooperating patriot” that Bracho betrayed, who associated them with the alleged conspiracy to take the Mérida barracks¹³⁵¹. Likewise, the accusation was based on a counterintelligence report prepared by the DIE of the PNB dated 4 July 2022 – the same day on which the arrests were carried out – prepared with forensic digital materials.¹³⁵²

627. On 6 February 2023, the trial was opened¹³⁵³. According to a source interviewed by the Mission, the judicial process suffered continuous undue delays due to the failure of the Public Prosecutor's Office and the prosecution witnesses to appear at the hearings, which meant that only 13 of the hearings were actually held, while nine were deferred and one suspended.¹³⁵⁴ This situation generated profound uncertainty for the detainees and their families¹³⁵⁵.

628. According to the source interviewed by the Mission, the hearings of the judicial process against Cortés began on February 1, 2023. The deferrals and suspension occurred because witnesses did not appear to testify. Cortés was charged with terrorism, in connection with the alleged sabotage of the Independence Day events, on 5 July. In March 2023, Judge Mascimino Márquez was arrested as part of an anti-corruption operation¹³⁵⁶.

¹³⁴¹ Document OODC001.

¹³⁴² Document OODC001.

¹³⁴³ Infobae, Who is José Mascimino Márquez, the judge who arrested Freddy Guevara and persecutes opponents of the Maduro regime?, 22 June 2023. Available at: <https://www.infobae.com/america/venezuela/2021/07/15/de-camarero-a-juez-quien-es-jose-mascimino-marquez-el-magistrado-que-detuvo-a-freddy-guevara-y-persigue-a-los-opositores-del-regimen-de-maduro/>.

¹³⁴⁴ Law against Organized Crime and the Financing of Terrorism, art. 52.

¹³⁴⁵ Interview OOIV063; Interview OOIV058.

¹³⁴⁶ Interview OOIV062.

¹³⁴⁷ Organized Crime and Financing of Terrorism Act, art. 4.

¹³⁴⁸ Special Law against Computer Crimes, art. 7.

¹³⁴⁹ Law against Organized Crime and Financing of Terrorism, art. 37

¹³⁵⁰ Penal Code of 2005, arts. 128 and 132.

¹³⁵¹ Document OODOC001.

¹³⁵² *Ibid.*

¹³⁵³ Interview OOIV058.

¹³⁵⁴ Interview OOIV054.

¹³⁵⁵ *Ibid.*

¹³⁵⁶ Nuevo Día, “Who is José Mascimino Márquez? Judge indicted for corruption”, 18 March 2023. Available at: <https://nuevodía.com.ve/quien-es-jose-mascimino-marquez-juez-acusado-por-corrupcion/>; Runrun.es, Perfil: José Mascimino Márquez, el juez acusado de corrupción que perseguía a opositores del Gobierno de Maduro. 18 March 2023. Available at: <https://runrun.es/noticias/497446/perfil-jose-mascimino-marquez-el-juez-acusado-de-corrupcion-que-perseguia-a-opositores-del-gobierno-de-maduro/>;

629. On 1 August 2023, Judge Greindy Duque Carvajal, head of the Second Special Court of First Instance in trial functions with jurisdiction in cases related to crimes associated with terrorism, convicted the six trade unionists for the crimes of “conspiracy”¹³⁵⁷ and “membership of an organised crime group”¹³⁵⁸ by the Penal Code and the Organic Law against Organized Crime and Financing of Terrorism¹³⁵⁹.

630. According to their lawyer, during the hearing of reading of the ruling, the judge based the conviction of the trade unionists solely on the counterintelligence report presented by the DIE, using as evidence facts such as participation in WhatsApp groups or shared tweets¹³⁶⁰. This report reflected only the extraction of the telephones of trade unionists¹³⁶¹. According to the same source, the trade unionists were convicted for the use of banners and graffiti allegedly intended to destabilize the country, although the file does not contain photographs of these media¹³⁶². The judge dispensed with the statement of the “cooperating patriot”, the main basis of the prosecution's accusation, because the witness could not be located or notified¹³⁶³.

631. On 11 August 2022, the United Nations Special Rapporteur on the promotion and protection of human rights while countering terrorism and the Special Rapporteur on the rights to freedom of peaceful assembly and of association denounced the “chronic abuse in the presence of chronic abuse of counter-terrorism measures” against “those who defend the rights of workers, seek to improve working conditions, and participate in trade union organizations in Venezuela”¹³⁶⁴. The experts also drew attention to the “irregularities and exceptionalities” of trials conducted under anti-terrorism legislation, warning that “the harshness of sentences serves as a warning to others who might engage in dissident or associative activities, contrary to the views of the government.”¹³⁶⁵

¹³⁵⁷ Penal Code of 2005, art. 132.

¹³⁵⁸ Law against Organized Crime and the Financing of Terrorism, art. 37.

¹³⁵⁹ El Pitazo, Perfil: Greindy Duque, the judge who sentenced 6 trade unionists to 16 years in prison, 2 August 2023. Available at: <https://elpitazo.net/politica/perfil-greindy-duque-la-jueza-que-condeno-a-16-anos-de-carcel-a-seis-sindicalistas/>; Efecto Cocuyo, Who are the trade union leaders sentenced to 16 years in prison? 1 August 2023. Available at: <https://efectococuyo.com/la-humanidad/quienes-son-los-lideres-sindicales-condenado-a-16-anos-de-carcel/>.

¹³⁶⁰ Interview OOIV058.

¹³⁶¹ Document OODC001.

¹³⁶² Interview OOIV062.

¹³⁶³ These notification attempts were unsuccessfully executed by the Sucre state police on June 9 and 10, 2023. Official Document OODC001.

¹³⁶⁴ Press release: Venezuela: UN experts condemn use of anti-terrorism laws to convict trade unionists and trade union leaders, 11 August 2022. Available at: <https://www.ohchr.org/es/press-releases/2023/08/venezuela-un-experts-condemn-use-counter-terrorism-laws-convict-trade>.

¹³⁶⁵ Press release: Venezuela: UN experts condemn use of anti-terrorism laws to convict trade unionists and trade union leaders, 11 August 2022. Available at: <https://www.ohchr.org/es/press-releases/2023/08/venezuela-un-experts-condemn-use-counter-terrorism-laws-convict-trade>.

Conclusions

632. On the basis of the facts described, the Mission has reasonable grounds to believe that Néstor Astudillo, Gabriel Blanco, Alcides Bracho, Reynaldo Cortés, Alonso Meléndez and Emilio Negrín were arrested in connection with their trade union activities and the defence of labour rights. Consequently, the Mission has reasonable grounds to believe that the detentions of these six trade unionists were arbitrary, as a result of the exercise of their right to freedom of assembly and, in the case of Alcides Bracho, Alonso Meléndez, Reynaldo Cortés and Néstor Astudillo, also because of the exercise of their political rights, since all four are members of the political party Bandera Roja. The Mission notes that, in addition, five of the arrests were carried out without a warrant.¹³⁶⁶

633. The Mission also has reasonable grounds to believe that, in these arbitrary detentions, Judge José Mascimino Márquez, of the Fourth Special Court of Terrorism in Caracas, played a leading role, because he offered the trade unionists a five-year sentence if they pleaded guilty to the crime of terrorism and warned them that, if they did not do so, they would be punished. They would be sentenced to 25 years in prison. The Mission also considers that another common element of these arbitrary detentions is the participation of the “cooperating patriots”, whose testimony is said to have been central to the prosecution of the Public Prosecutor's Office; However, these “cooperating patriots” did not appear at the hearings, their identity is unknown, and the defence did not have the opportunity to question them, in violation of the trade unionists' right to due process.

634. In addition, the Mission has reasonable grounds to believe that PNB officials subjected Alonso Meléndez to ill-treatment and threats during his stay in La Yaguara. The Mission also has reasonable grounds to believe that Alcides Bracho was the victim of ill-treatment in both La Quebradita and Boleíta; whereas Emilio Negrín was subjected to ill-treatment in La Quebradita; and that Reynaldo Cortés was ill-treated in La Yaguara. The Mission also considers that torture and cruel, inhuman, or degrading treatment were committed against four of the six trade unionists: Alcides Bracho, Reynaldo Cortés, Alonso Meléndez and Emilio Negrín. With regard to Néstor Astudillo and Gabriel Blanco, the Mission considers that the testimonies collected do not support the conclusion that they were subjected to torture and cruel, inhuman, or degrading treatment; and considers that further investigations would be necessary to determine whether such violations took place.

635. The Mission has reasonable grounds to believe that the DGCIM and the PNB were involved in the human rights violations described above, suffered by Alcides Bracho, Emilio Negrín, Gabriel Blanco, Reynaldo Cortés and Néstor Astudillo.

Case 17: Zikiu Rivas

636. Zikiu Rivas is a transgender woman, defender of LGTBIQ+ rights, militant of the United Socialist Party of Venezuela (PSUV). Rivas was director of the Directorate of Sexual Diversity of the Municipality of Píritu, in the State of Anzoátegui.¹³⁶⁷

Arbitrary detention

637. On the night of Friday 31 March 2023, Jesús Méndez, mayor of the municipality of Píritu, presented his report and account of the fiscal year 2022¹³⁶⁸ in San Francisco de Miranda Square¹³⁶⁹. During the mayor's speech, Zikiu Rivas raised her voice to criticize the failures of the municipal water service and public lighting, and asked him: “*Where are the improvements in basic services?*”¹³⁷⁰. Rivas also criticized the mayor regarding the municipality's public water and electricity services¹³⁷¹.

¹³⁶⁶ An arrest warrant was only presented in the case of Gabriel Blanco.

¹³⁶⁷ Interview with Zikiu Rivas, June 28, 2023.

¹³⁶⁸ Tweet by Provea [@Provea], April 2, 2023. Available at: https://twitter.com/_Provea/status/1642931946845093892?s=20.

¹³⁶⁹ Espacio Público, Zikiu Rivas, LGTBIQ activist arrested in Píritu for criticizing mayor, May 8, 2023. Available at: <https://espaciopublico.org/zikiu-rivas-activista-lgtbiq-detenida-en-piritu-por-criticas-a-alcalde/>; Runrun.es, Espacio Público denounces the detention of one of its community leaders in Anzoátegui <https://runrun.es/noticias/498663/espacio-publico-denuncia-detencion-de-una-de-sus-lideres-comunitarias-en-anzoategui/>; Efecto Cocuyo, Espacio Pública demands the release of Anzoátegui community leader, 2 April 2023. Available at: <https://efectococuyo.com/la-humanidad/espacio-publico-exige-liberacion-de-lider-comunitaria-de-anzoategui/>.

¹³⁷⁰ Interview with Zikiu Rivas, June 28, 2023; Tweet by Provea [@_Provea], April 2, 2023.

Available at: https://twitter.com/_Provea/status/1642693317702942720?s=20.

¹³⁷¹ Tweet by Provea [@_Provea], April 2, 2023. Available at: https://twitter.com/_Provea/status/1642693317702942720?s=20.

638. According to Rivas' testimony, immediately after her speech at the mayor's event, four agents of the Anzoátegui State Police (Oeste II Píritu Base) approached her on their motorcycles and ordered her to get on one of them¹³⁷². Rivas asked the reason for her detention, without receiving a response, and told them that they had no right to detain her because she had only exercised her right to freedom of expression to address the mayor. According to his testimony, one of the policemen told her that if she did not calm down, they would beat her up. Rivas got on the motorcycle so as not to be mistreated¹³⁷³. There were two policemen on the motorbike, with her in the middle.¹³⁷⁴

639. According to Rivas' testimony, she was taken to the Píritu Police Coordination Centre around 8:00 p.m. At that police station, officers did not allow Rivas to make a phone call. Rivas told the Mission: *"I was very afraid of what could happen to me during my detention, they told me that they were going to release me the next day, but they didn't, and it wasn't until Saturday that they gave me permission for a phone call."*

640. According to her testimony, the next day, 1 April 2023, Rivas asked again what the reason for the arrest was and one of the police officers told her that she had been arrested for disorderly conduct and that she had a hearing scheduled.¹³⁷⁶ During her detention, an official, who identified herself as the head of police services, told her: *"if you don't have leverage [influence], we won't let you go."* In addition, at least two police officers approached her cell and told her: *"Carlos Rivas, you are a man," "faggot, you are going to rot in there."*¹³⁷⁷ The humiliation during her detention was constant and affected her psychologically, leading her to have suicidal thoughts inside her cell, infested with rats and cockroaches, and where she had no access to clean water.¹³⁷

641. Also on 1 April, Rivas received a visit from the former mayor of the municipality of Píritu, William Speti, a member of the PSUV, who had been her boss in the mayor's office when she was in charge of the Directorate of Sexual Diversity. During the visit, Speti took some photos of Rivas in the cell. According to Rivas herself¹³⁷⁹, from then on, her arrest was made public on social networks and media¹³⁸⁰.

642. On 3 April 2023, Rivas was transferred from the Píritu Police Coordination Centre to the cells of the Second Municipal Control Court of the Criminal Judicial Circuit of the State of Anzoátegui, located in Barcelona. Upon arrival, one of the bailiffs of the cells, located in the basement of the courthouse, searched her, and forced her to undress in front of 10 male detainees. The other officers taunted her, and Rivas began to cry as she undressed. According to her own testimony, it was a traumatic experience that still affects her psychologically. When the judge ordered her to go to the courtroom, one of the bailers told her *"you won't leave until I say so"* and held her for a few minutes until finally another sheriff escorted her to the courtroom where the presentation hearing was held.¹³⁸¹

¹³⁷² Interview with Zikiu Rivas, June 28 2023.

¹³⁷³ *Ibid.*

¹³⁷⁴ *Ibid.*

¹³⁷⁵ *Ibid.*

¹³⁷⁶ *Ibid.*

¹³⁷⁷ *Ibid.*

¹³⁷⁸ *Ibid.*

¹³⁷⁹ Interview WWIV016.

¹³⁸⁰ Efecto Cocuyo, Espacio Público demands release of Anzoátegui community leader, April 2, 2023. Available at: <https://efectococuyo.com/la-humanidad/espacio-publico-exige-liberacion-de-lider-comunitaria-de-anzoategui/>; Publicación en Instagram de Atrio Noticias [@atrionoticias]. Available at: https://www.instagram.com/p/Cqjismz7OXgY/?utm_source=ig_web_copy_link&igshid=MzRlODBiNWFlZA==.

¹³⁸¹ Interview with Zikiu Rivas, June 28, 2023.

Judicial process

643. Zikiu Rivas was presented before the Second Municipal Control Court of the Criminal Judicial Circuit of the State of Anzoátegui,¹³⁸² in charge of Judge Lucibel María Coa Rengel¹³⁸³. The Prosecutor in *flagrante delicto* of the Public Prosecutor's Office requested release without restrictions, arguing that “the Investigation Act dated 31 March 2023, does not establish any criminal offense contemplated in the Venezuelan legal system.”¹³⁸⁴ The judge accepted the prosecutor's request, since “the police procedure was carried out without carrying out or determining the real or certain intention to commit any crime.”¹³⁸⁵ Zikiu Rivas was released from the courthouse on 3 April 2023.¹³⁸⁶

Conclusions

644. Based on the facts reported, the Mission has reasonable grounds to believe that Zikiu Rivas was arbitrarily detained for publicly questioning the management of the Mayor of Píritu. The Mission also has reasonable grounds to believe that Zikiu Rivas, as a transgender woman, was subjected to degrading treatment and sexual and gender-based violence while detained in the Píritu Police Coordination Centre and in the cells of the Second Municipal Control Court of the Criminal Judicial Circuit of the State of Anzoátegui, where she was verbally humiliated and forced to strip naked in front of 10 men, respectively.

645. PNB officials participated in the arbitrary detention on 31 March 2023 and subjected Zikiu Rivas to degrading treatment during his detention. Similarly, bailiffs of the cell of the Second Municipal Control Court of the Circuit Criminal Court of the State of Anzoátegui exercised sexual and gender-based violence, as well as degrading treatment against Rivas on 1 April 2023.

¹³⁸² The name recorded in the judicial file is Carlos José Rivas Guaregua.

¹³⁸³ Document WWDC009: Resolution of the Municipal Control Court No. 02 of the Criminal Judicial Circuit of the State of Anzoátegui, of April 3, 2023.

¹³⁸⁴ *Ibid.*

¹³⁸⁵ *Ibid.*

¹³⁸⁶ *Ibid.*; Tweet by Provea [@_Provea], April 3, 2023. Available at: https://twitter.com/_Provea/status/1642931946845093892?s=20; Tal cual, Zikiu Rivas is granted full freedom: she was arrested for demanding water and electricity in Anzoátegui. Available at: <https://talcualdigital.com/otorgan-libertad-plena-a-zikiu-rivas-fue-detenido-por-exigir-agua-y-luz-en-anzoategui/>

Case 18: Leonardo Azócar and Daniel Romero, trade unionists of SIDOR

Background

646. Starting in January 2023, protests were held at the Orinoco Steel Plant “Alfredo Maneiro” (SIDOR), located in Ciudad Guayana, Bolívar State. In these protests, the workers demanded the dollarization of their salaries, the payment of pending bonuses and contractual benefits already established. The protests were supported by workers from other basic state enterprises, such as CVG Aluminio del Caroní (Alcasa), CVG Bauxilum, Ferrominera Orinoco, Industria Venezolana de Aluminio (CVG *Venalum*), Maderas del Orinoco and CVG, as well as by the union of retired people from the steel industry¹³⁸⁷.

Events

647. As part of the protests, on 13 January 2023, SEBIN and DGCIM arrested a total of 18 people, including trade union leaders and workers from the companies who joined the demands. The detainees were released on 14 January, after negotiations with the Governor of the State of Bolívar, Ángel Marcano, Deputy Ronald Quiaragua, and the Mayor of Caroní, “Tito” José Oviedo¹³⁸⁸. They were released and given alternative measures of reporting every 30 days to the supervisory court, and being banned from participating in other protests. The workers’ demands, however, were not met¹³⁸⁹.

648. On 7 June 2023, at the Pellas plant of the SIDOR company in Ciudad Guayana, another labour protest began demanding better wages and the restitution of other rights and benefits derived from collective agreements, such as the right to receive medical assistance or maternity leave.¹³⁹⁰ According to a source interviewed by the Mission, one of the reasons for the loss of labour benefits was the application of the ONAPRE instructions, in force since 2022, which triggered union protests that led to the persecution of their leaders.¹³⁹¹

¹³⁸⁷ Infobae, Using police forces and jailing labor leaders, the Venezuelan regime crushed the protest of steelworkers, January 15, 2023. Available at: <https://www.infobae.com/america/venezuela/2023/01/15/usando-a-cuerpos-policiales-y-encarcelando-a-lideres-obreros-el-regimen-venezolano-aplasto-la-protesta-de-trabajadores-siderurgicos/>; Tal Cual, Protests in Sidor: management responds with dismissals and persecution, January 12, 2023, Available at: <https://talcualdigital.com/protestas-en-sidor-directiva-responde-con-despidos-y-persecucion-a-lideres-laborales/>.

¹³⁸⁸ Infobae, Using police forces and imprisoning labor leaders, the Venezuelan regime crushed the protest of steelworkers. January 15, 2023. Available at: <https://www.infobae.com/america/venezuela/2023/01/15/usando-a-cuerpos-policiales-y-encarcelando-a-lideres-obreros-el-regimen-venezolano-aplasto-la-protesta-de-trabajadores-siderurgicos/>; Efecto Cocuyo, Worker arrests don't stop, 2023 cases, August 23, 2023. Available at: <https://efectococuyo.com/politica/detenciones-trabajadores-no-se-detienen-casos-2023/>.

¹³⁸⁹ Infobae, Using police forces and imprisoning labor leaders, the Venezuelan regime crushed the protest of steelworkers. January 15, 2023. Available at: <https://www.infobae.com/america/venezuela/2023/01/15/usando-a-cuerpos-policiales-y-encarcelando-a-lideres-obreros-el-regimen-venezolano-aplasto-la-protesta-de-trabajadores-siderurgicos/>.

¹³⁹⁰ Tal Cual Digital, Relatives of Sidor workers detained by DGCIM, still do not know their whereabouts, June 13, 2023. Available at: <https://talcualdigital.com/familiares-de-trabajadores-de-sidor-detenidos-por-la-dgcim-aun-desconocen-su-paradero/>; Tweet by Provea [@_Provea], June 13, 2023. Available in https://twitter.com/_Provea/status/1668736557937729536.

¹³⁹¹ Interview OOIV065.

649. In the context of the protests, SIDOR employees appointed union leaders Leonardo Azocar and Daniel Romero, grievance secretary and delegate of the Single Union of Steel and Allied Industry Workers (SUTISS), respectively, as representatives in the workers' strike.¹³⁹²

650. In the early morning hours of 11 June, Romero and Azocar were called to an emergency meeting that was to be held at the Pellas plant. According to the source interviewed by the Mission, when the two trade union leaders were on their way to the site, accompanied by a third person who worked for the SIDOR company, identified as Juan Cabrera, they were intercepted by a DGCIM vehicle. Several officials got out of the vehicle and, without any warrant, detained the three people and took them to the DGCIM office in Puerto Ordaz, a sector of Ciudad Guayana.¹³⁹³ According to the same source, on the same day Azocar and Romero contacted their families, telling them that they were being held at the DGCIM and that they were in good health. After that date, the families were no longer able to communicate with the detainees.¹³⁹⁴

651. According to the source, on 12 June 2023, the Fifth Control Judge of the Criminal Judicial Circuit of the State of Bolívar and a representative of the Third Prosecutor's Office of the Public Prosecutor's Office of the Second Circuit of this district travelled to the facilities of the DGCIM. There, outside the courtroom, and at an unusual time, at 11:30 p.m., Azocar, Romero and Cárdenas were presented in an initial hearing.¹³⁹⁵ In this procedural act, the detainees were charged with the crimes of “*agavillamiento*” (association to commit a crime)¹³⁹⁶, “*instigation to hatred*”¹³⁹⁷ and “*boycott*”¹³⁹⁸. According to the same source, they were not allowed access to a private lawyer and were represented by a public defender provided by the State. The judge ordered the preventive detention of Romero and Azocar, while Cárdenas was released, without alternative measures¹³⁹⁹.

652. According to the source interviewed by the Mission, the families of Azocar and Romero, insisted on finding out the whereabouts of their relatives, both at the CICPC and the DGCIM offices.¹⁴⁰⁰ They also requested proof that they were alive from the Attorney General, Tarek William Saab.¹⁴⁰¹ Finally, on 21 June 2023, the Ombudsman's Office issued a ruling on the whereabouts of the trade unionists, confirming that both were being held at the Caracas II Centre for Convicts and Women's Annexes, at Boleíta.¹⁴⁰²

653. On 13 June 2023, in the production area of SIDOR's Pellas plant, a GNB commission read aloud a list of 22 union leaders and warned of the possible arrest of these persons in the coming days.¹⁴⁰³ Up to this date, however, no further arrests have been documented following the arrest of Azocar and Romero.

Conclusions

654. Based on the facts described, the Mission has reasonable grounds to believe that Leonardo Azocar and Daniel Romero were victims of arbitrary detention, since they were carried out in connection with the exercise of their right to freedom of assembly. In addition, the Mission determined that these arrests were carried out without a warrant.

¹³⁹² *Ibid.*; La Patilla, The trap set by Chavismo to imprison Sidor trade unionists, June 15, 2023. Available at: <https://www.lapatilla.com/2023/06/15/la-trampa-que-monto-el-chavismo-para-apresar-a-sindicalistas-de-sidor/>.

¹³⁹³ Interview OOIV065.

¹³⁹⁴ *Ibid.*

¹³⁹⁵ *Ibid.*

¹³⁹⁶ Penal Code of 2005, art. 286.

¹³⁹⁷ Anti-Hate Act, art. 12.

¹³⁹⁸ Organic Law on Fair Prices, *Official Gazette* No. 6202 Extraordinary of November 8, 2015, art. 53.

¹³⁹⁹ Interview OOIV065.

¹⁴⁰⁰ Interview OOIV065.

¹⁴⁰¹ Soy Nueva Prensa Digital, Exigen al fiscal general Tarek Saab, fe de vida de Daniel Romero y Edgar Azocar, June 19, 2023. Available at: <https://soynuevaprensadigital.com/npd/exigen-al-fiscal-general-tarek-saab-fe-de-vida-de-daniel-romero-y-edgar-azocar/>.

¹⁴⁰² El Diario de Guayana, Detention site confirmed for workers Azocar and Romero, June 21, 2023. Available at: <https://eldiariodeguayana.com.ve/confirman-sitio-de-reclusion-de-los-trabajadores-azocar-y-romero/>

¹⁴⁰³ El Nacional, GNB represses workers in Bolívar state, threatens the press, June 12, 2023. Available at: <https://www.elnacional.com/venezuela/gnb-reprime-a-trabajadores-en-el-estado-bolivar-y-amenaza-a-la-prensa/>; La Patilla, La trampa que montó el chavismo, para apresar a sindicalistas de Sidor, June 15, 2023. Available at: <https://www.lapatilla.com/2023/06/15/la-trampa-que-monto-el-chavismo-para-apresar-a-sindicalistas-de-sidor/>.

Case 19: José Antonio Cádiz Morales

Background

655. José Antonio Cádiz Morales is an intensive care nurse in Caracas. Since 2018 he began to support Juan Guaidó and has been involved in the fight for labour and health rights in Venezuela¹⁴⁰⁴, actively participating in several calls of the College of Nurses¹⁴⁰⁵. In 2022 it participated in the mobilizations to demand ONAPRE¹⁴⁰⁶ instructions and in 2023 in the protests of nurses, teachers, retirees and the elderly¹⁴⁰⁷, as well as in those organized to demand the arrest of the six union leaders Emilio Negrín, Gabriel Blanco, Néstor Astudillo, Alonso Meléndez, Alcides Bracho and Reynaldo Cortés¹⁴⁰⁸.

Arrest

656. According to a source interviewed by the Mission, on 21 August 2023, at approximately 5:15 p.m., José Antonio Cádiz was on his way home with two people after attending a job interview. Upon arriving at their home, located in the Altagracia parish of the municipality of Libertador, Caracas, the three people were approached by a police officer on a motorcycle who wore DAET badges on his uniform, specifically of the Motorized Division of that police directorate¹⁴⁰⁹.

657. The official asked them for their IDs and after thoroughly checking them, he moved a few meters away and made radio calls, alleging that the system for inquiring people was slow. Moments later, the official returned and told Cádiz that he was wanted by the police for having participated in a protest at the Miguel Pérez Carreño Hospital, so he had to accompany him.¹⁴¹⁰

658. A short time later, a grey Toyota Tacoma truck arrived at the scene with four officers in black uniforms and DAET insignia on their vests. An agent got out of the truck and ordered the patrolman to put José Antonio Cádiz in the front seat of the vehicle and the other two people in the back of the truck¹⁴¹¹. According to the source interviewed, the van left the scene and moments later one of the DAET officials ordered the two people in the back to get out and leave, since the matter had nothing to do with them.¹⁴¹²

¹⁴⁰⁴ Interview OOIV77; OOIV78 Interview.

¹⁴⁰⁵ *Ibid.*; Tweet by Provea [@_Provea], August 22, 2023. Available at: https://twitter.com/_Provea/status/1694018771449467113?t=KQ0ymMCrrhMh1jA_gE9mw&s=09.

¹⁴⁰⁶ *Ibid.*

¹⁴⁰⁷ Interview OOIV77; OOIV78 Interview.

¹⁴⁰⁸ Interview OOIV78.

¹⁴⁰⁹ Interview OOIV77.

¹⁴¹⁰ Interview OOIV080.

¹⁴¹¹ *Ibid.*

¹⁴¹² *Ibid.*

Transfer and torture

659. According to the source interviewed, during the time that José Cádiz was in the vehicle, he was handcuffed and hooded. A firearm was also put to his head while he was threatened with death. Cádiz was transferred to facilities whose location he could not specify because he had been hooded.¹⁴¹³

660. In those facilities, Cádiz was handcuffed to a chair inside an environment that appeared to be the building's kitchen. In that room, three individuals, who were called by their surnames, Acevedo, Bolívar and Sosa, who identified themselves as officials of the PNB, SEBIN and the DGCIM, checked his cell phone and observed the videos of the protests in which Cádiz participated.¹⁴¹⁴ The officials slapped him while interrogating him, asking him about the whereabouts of several members of the National Trade Union Coalition of Workers and four councillors of Voluntad Popular. They showed him the photographs of these people, told him they were going to come after all of them, and forced him to say that they were all terrorists while they ran electricity to his genitals.¹⁴¹⁵ The subjects also demanded that he tell them the names of all the demonstrators who led the protests in which he had participated, telling him that they were terrorists and that “*socialism cannot be overthrown by anyone.*”¹⁴¹⁶

661. Throughout the night of 21 August and part of the early morning of 22 August, the source interviewed indicates that José Cádiz was beaten in the face with open hands and with plastic tubes in the ribs, which hit a mat that his assailants used to avoid leaving visible marks on his body. The individuals told him that they would force him to sign a statement and kept shouting at him that he was a terrorist and threatening to kill him if he continued to protest.¹⁴¹⁷ These acts were repeated at least six times in periods of approximately 20 minutes.¹⁴¹⁸ During one of these episodes, Cádiz suffered an increase in blood pressure and his aggressors gave him a pill, indicating that it was to stabilize him and “*continue to give him rumba.*”¹⁴¹⁹ The source interviewed states that at approximately 2:00 a.m. on August 22, the officials stopped torturing and interrogating Cádiz, and at 8:00 a.m. they put the hood back on him and transferred him to an office in the same building while he was threatened with “*being passed off as a terrorist.*”¹⁴²⁰

662. On 22 August, from the early hours of the morning, José Antonio Cádiz's relatives searched for him in all the offices of the DAET in Caracas, including in the Motorized Division located in El Helicoide. They also searched for him in other PNB offices, but nowhere did they give them information about Cádiz's whereabouts. The officials consulted said that Cádiz was not where his relatives asked for him.¹⁴²¹ Family members also visited the courts to verify whether José Antonio Cádiz had been brought to justice, which had not happened. For this reason, the family decided to file a missing person's report with the Special Victims and Missing Persons Unit of the CICPC.¹⁴²²

¹⁴¹³ *Ibid.*

¹⁴¹⁴ *Ibid.*

¹⁴¹⁵ *Ibid.*

¹⁴¹⁶ *Ibid.*

¹⁴¹⁷ *Ibid.*

¹⁴¹⁸ *Ibid.*

¹⁴¹⁹ *Ibid.*

¹⁴²⁰ *Ibid.*

¹⁴²¹ Interview OOIV77; OOIV78 Interview.

¹⁴²² Interview OOIV77; Document OODC004.

Release

663. At 10:30 p.m. on 22 August 2023, José Antonio Cádiz was transferred from the facilities where he had been detained since the previous day in a van, again with the hood on his head, and was released in a wooded place called Los Estadios, at the height of Plaza Venezuela. When they released him, they threatened him by stating that if he continued to protest, he already knew what was going to happen to him¹⁴²³.

Conclusions

664. Based on the facts reported, the Mission has reasonable grounds to believe that José Antonio Cádiz Morales was arbitrarily detained on 21 August 2023 by officials of the Directorate of Strategic and Tactical Actions of the Bolivarian National Police (DAET/PNB). The Mission also has reasonable grounds to believe that Cádiz was the victim of acts of torture in order to, on the one hand, extract information from him about trade union leaders and politicians of Voluntad Popular and, on the other, punish him for having participated in protests over labour demands.

665. The Mission also has reasonable grounds to believe that Cádiz was the victim of a short-term enforced disappearance between the time of his arrest and his release 29 hours later, given that he was arrested on 21 August at 5:15 p.m. and released on 22 August at 10:30 p.m., and that his family inquired about his whereabouts and were informed that he was not in the hands of the authorities. Agents of the DAET/PNB, DGCIM and SEBIN, including officials with the last names Acevedo, Bolívar and Sosa, according to what Cádiz heard, were involved in the crimes and violations suffered by Cádiz.

IV. Other forms of repression

A. Introduction

1. Background

666. In its resolution 51/29 of 13 October 2022, the Human Rights Council expressed concern about “continuing reports of restrictions on civic and democratic space”, including, in addition to cases of arbitrary detention, “acts of intimidation and reprisals, public defamation of protesters, journalists and other media workers, lawyers, human rights defenders and other civil society stakeholders.”¹⁴²⁴ This chapter analyses the different forms of repression which, together with the human rights violations and crimes analysed in chapter III, have progressively restricted civic and democratic space in the Bolivarian Republic of Venezuela.

667. In its first report, published in 2020, the Mission documented acts constituting human rights violations and international crimes as part of a policy to silence, discourage and quash opposition, including extrajudicial executions and arbitrary deprivations of life, short-term arbitrary detentions, torture and other cruel, inhuman or degrading treatment, and sexual and gender-based violence.¹⁴²⁵ The evolution of these violations and crimes since 2020 was analysed in chapter III above.

¹⁴²³ Interview OOIV080.

¹⁴²⁴ A/HRC/RES/51/29, preamble, point. 8.

¹⁴²⁵ *Ibid.*, para. 242.

669. The Mission also identified other forms of repression against civil society actors and political leaders and referred to: “(1) physical attacks or threats; (2) smear and stigmatization campaigns; (3) administrative retaliation (especially the removal of politicians, judges, and prosecutors or public officials from their posts); [and] (4) criminal proceedings in judicial proceedings that do not conform to the norms of due process”¹⁴²⁶. The Mission also identified a pattern of “harassment and threats against family members or people close to the main victims”¹⁴²⁷. These forms of repression constitute violations of rights that are indispensable for the existence of civic and democratic space,¹⁴²⁸ and have occurred continuously, at least since 2014.

670. The crackdown targeted people “critical of the government with high public profiles,” “people who have risen to prominence or who pose a particular threat because of their actions,”¹⁴²⁹ and “people who have been seen to challenge official narratives.”¹⁴³⁰ These included social activists and political leaders at the forefront of the protests, opposition politicians, military dissidents accused of rebellion, coup plotting, or otherwise;¹⁴³¹ public officials, including judges, prosecutors, and health workers; NGO workers; journalists and bloggers, and social media users,¹⁴³² as well as people associated with these actors, including family members, friends and colleagues or NGO workers and human rights defenders.¹⁴³³

671. This chapter discusses these other forms of repression, with particular emphasis on the post-2020 period, when the Mission's first report was submitted. During this period, the Mission has identified other forms of repression that have become prevalent in recent years, such as censorship and control of public information, restrictions and closure of media outlets, limitations on the creation and autonomous functioning of organizations, including NGOs, trade unions and political parties, and political disqualifications against members of opposition political parties, including candidates for the presidential elections scheduled for 2024.

672. The forms of repression analysed in this chapter, which have been facilitated and promoted in cases by the adoption of norms that contradict the constitutional order and the international obligations of the Bolivarian Republic of Venezuela, also constitute human rights violations that affect, above all, the rights and freedoms inherent in civic space – freedom of opinion and expression, freedom of opinion and expression, freedom of peaceful assembly, and freedom of association – as well as political rights. These forms of repression are particularly focused on people who play a key role in shaping civil society, particularly human rights defenders – including NGO activists, journalists, trade unionists and social leaders – as well as politicians. What they all have in common is that they represent voices perceived as critical of the government and its policies and, from that perspective, a threat to its maintenance in power.

¹⁴²⁶ *Ibid.*

¹⁴²⁷ *Ibid.*

¹⁴²⁸ The United Nations system has developed standards regarding the conditions and environment necessary to achieve a free and independent civil society, such as international human rights standards relating to freedom of expression, association and peaceful assembly and the right to participate in public affairs. Office of the United Nations High Commissioner for Human Rights (OHCHR), *Civil Society Space and the United Nations Human Rights System: A Practical Guide* (2024); United Nations Development Programme-International Centre for Non-Profit Law, *Legal Frameworks Regulating Civic Space* (2021).

¹⁴²⁹ A/HRC/45/CRP.11, para. 243.

¹⁴³⁰ *Ibid.*, para. 244.

¹⁴³¹ *Ibid.*, para. 243.

¹⁴³² *Ibid.*, para. 244.

¹⁴³³ *Ibid.*, para. 245.

2. Conceptual framework: civic and democratic Space

672. It is generally recognized that for there to be real respect for human rights, there must be broad public participation in policy-making and decision-making processes that impact society as a whole or particular groups, as well as the ability to safely denounce policies, decisions or other actions and omissions that adversely affect society itself and constitute violations of rights of its members. In addition, for there to be meaningful public participation, there must be an open civic space, so that civil society has the possibility to operate in meaningful, inclusive, and safe ways.¹⁴³⁴

673. There is no consensus around the concept of civic space. Given the diversity of the processes through which members of society interact within their respective communities, and in particular civil society organizations, there seems to be agreement that this concept encompasses multiple factors (legal, political, administrative, economic, customary, and cultural) that determine the extent to which members of society can either individually or collectively, engage in civic action. In other words, civic space refers to the conditions that allow a civil society to operate freely and dynamically.¹⁴³⁵

674. The United Nations High Commissioner for Human Rights has identified five essential elements for creating and maintaining a safe and enabling environment for civil society:

- i. a strong legal framework that respects international human rights standards and facilitates access to justice;
- ii. an enabling policy environment for civil society activities;
- iii. ensuring access to information;
- iv. the existence of opportunities for civil society to participate in policy formulation and decision-making; and
- v. support for civil society organizations, including in the area of resources.¹⁴³⁶

675. In addition, in order for an open and pluralistic civic space to exist, States must respect, protect and guarantee certain rights, especially freedom of opinion and expression, freedom of peaceful assembly and freedom of association.¹⁴³⁷ Other rights, such as freedom of conscience, thought and religion, have also been linked to the existence of a safe and pluralistic civic space.¹⁴³⁸ These rights, together with the principle of non-discrimination, are essential tools for the civic activities, and through their exercise, people can contribute to the political, social, cultural, economic¹⁴³⁹ and environmental development of a country.

¹⁴³⁴ United Nations Guidance Note on the Promotion and Protection of Civic Space, September 2020, p. 2. Available at: [Note%20of%20Orientation%C3%B3n%20de%20las%20Naciones%20Unidas%20sobre%20la%20protecci%C3%B3n%20y%20promoci%C3%B3n%20del%20espacio%20c%C3%ADvico%20\(Septiembre%202020\).pdf](https://www.un.org/sites/default/files/2021-12/PNUD-ICNL-Marcos-Jur%20de%20las%20Naciones%20Unidas%20sobre%20la%20protecci%C3%B3n%20y%20promoci%C3%B3n%20del%20espacio%20c%C3%ADvico%20(Septiembre%202020).pdf).

¹⁴³⁵ United Nations Development Programme (UNDP) and International Centre for Non-Profit Law, *Legal Frameworks Regulating Civic Space – A Basic Guide* (2021), p. 2. Available at: <https://www.undp.org/sites/g/files/zskgke326/files/2021-12/PNUD-ICNL-Marcos-Jur%20de%20las%20Naciones%20Unidas%20sobre%20la%20protecci%C3%B3n%20y%20promoci%C3%B3n%20del%20espacio%20c%C3%ADvico-Gu%C3%ADa-B%20C3%A1sica-SP.pdf>.

¹⁴³⁶ A/HRC/32/20, para. 4.

¹⁴³⁷ OHCHR, *What is civic space?* Available at: [https://www.ohchr.org/es/civic-space;United Nations Development Programme \(UNDP\) and International Centre for Non-Profit Law, Legal Frameworks Regulating Civic Space – A Basic Guide \(2021\), pp. 11-13](https://www.ohchr.org/es/civic-space;United%20Nations%20Development%20Programme%20(UNDP)%20and%20International%20Centre%20for%20Non-Profit%20Law,%20Legal%20Frameworks%20Regulating%20Civic%20Space%20-%20A%20Basic%20Guide%20(2021),%20pp.%2011-13). Available at: <https://www.undp.org/sites/g/files/zskgke326/files/2021-12/PNUD-ICNL-Marcos-Jur%20de%20las%20Naciones%20Unidas%20sobre%20la%20protecci%C3%B3n%20y%20promoci%C3%B3n%20del%20espacio%20c%C3%ADvico-Gu%C3%ADa-B%20C3%A1sica-SP.pdf>.

¹⁴³⁸ A/HRC/52/CRP.5, paras. 466, 476, 477.

¹⁴³⁹ A/HRC/32/20, para. 12.

676. On the other hand, the concept of democratic space is directly related to the notion of democracy, which implies respect for human rights, including, inter alia, the rights set out above, as well as the right to participate in the conduct of public affairs, the right to recognition of juridical personality, and the right to participate in the conduct of public affairs. the right to vote in a pluralistic system of political parties and organizations, and the right to be elected in periodic, genuine, free and fair elections held by universal and equal suffrage, and by secret ballot that guarantees the free expression of the will of the electors.¹⁴⁴⁰ Likewise, the concept of democracy is intimately linked to the concepts of the rule of law, the separation of powers, the independence of the judiciary, transparency, accountability on the part of public authorities and the existence of free, independent, and pluralistic media.¹⁴⁴¹

677. The organization of elections, despite being a fundamental element for the existence of democracy, is not the only one that defines it; It is very important that citizens have the possibility of controlling the political process in an uninterrupted manner, and that this control is not limited to the electoral moment.¹⁴⁴² Civil society organizations, political parties and movements play a fundamental role in this task.

678. The interdependence between democracy and human rights has been established in several international human rights instruments, such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (ICCPR)¹⁴⁴³, to which the Bolivarian Republic of Venezuela is a party. The 1999 Constitution of the Bolivarian Republic of Venezuela also enshrines key rights for the protection of civic and democratic space.

679. Despite this broad recognition, over the past few decades, the authorities of the Bolivarian Republic of Venezuela have adopted a series of legislative, administrative, and practical norms and decisions that have restricted constitutional guarantees. As will be shown throughout this chapter, this has led to a dramatic shrinking of civic and democratic space.

¹⁴⁴⁰ A/HRC/RES/19/36, para. 1; Commission on Human Rights resolution 2002/46 on measures to promote and consolidate democracy, adopted on 23 April 2002.

¹⁴⁴¹ A/HRC/22/29, para. 8.

¹⁴⁴² A/HRC/22/29, para. 9.

¹⁴⁴³ A/HRC/22/29, para. 21.

3. Legal context

(a) Freedoms of expression and opinion

680. The right to freedom of opinion and expression is essential for all societies and is one of the pillars of free and democratic societies.¹⁴⁴⁴ This right is enshrined in several international human rights treaties.¹⁴⁴⁵ Article 19 of the ICCPR, to which the Bolivarian Republic of Venezuela is a party,¹⁴⁴⁶ enshrines freedom of expression and opinion, which refers to the right to seek, receive and impart information and ideas of all kinds, regardless of frontiers.¹⁴⁴⁷

681. Freedom of expression is also manifested through political thought, commentary on one's own and public affairs, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious thought.¹⁴⁴⁸ Freedom of expression also includes access to information held by public bodies.¹⁴⁴⁹ The right of access to information, read in conjunction with Article 25 of the ICCPR, includes the right of the media to have access to information on public affairs and the right of the general public to receive the results of the work of the media.¹⁴⁵⁰ On the other hand, freedom of expression is the basis for the enjoyment and exercise of other rights, including the rights to freedom of assembly and association, and for the exercise of the right to vote.¹⁴⁵¹

¹⁴⁴⁴ Human Rights Committee, General Comment No. 34, article 19 (Freedom of opinion and expression); CCPR/C/GC/34, para. 2. In the same vein, the Inter-American Court of Human Rights has stated that “freedom of expression is a cornerstone of the very existence of a democratic society. It is indispensable for the formation of public opinion. It is also a *conditio sine qua non* for the full development of political parties, trade unions, scientific and cultural societies, and in general, those who wish to influence the community. It is, in short, a condition for the community, when exercising its options, to be sufficiently informed. Therefore, it is possible to affirm that a society that is not well informed is not fully free.” Inter-American Court of Human Rights. Compulsory membership of the association of journalists (Articles 13 and 29 of the American Convention on Human Rights). Advisory Opinion OC-5/85 of 13 November 1985. Series A No. 51, paragraph 70.

¹⁴⁴⁸ Human Rights Committee, General Comment No. 34. Article 19: Freedom of Opinion and Expression, CCPR/C/GC/34 (2011), para. 11.

¹⁴⁴⁹ International Covenant on Civil and Political Rights (ICCPR), art. 19(2).

¹⁴⁵⁰ Human Rights Committee, Human Rights Committee, General Comment No. 34.

Article 19: Freedom of Opinion and Expression, CCPR/C/GC/34 (2011), para. 18. CteIDH. *Case of Gomes Lund et al. (“Guerrilha do Araguaia”) v. Brazil*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 24, 2010. Series C No. 21920, paragraph 197. The Inter-American Commission on Human Rights has pointed out that “Article 13 of the Convention, by expressly stipulating the rights to seek and receive information, protects the right of every person to request access to information under the control of the State, with the exceptions permitted under the Convention's regime of restrictions. Consequently, this article protects the right of individuals to receive such information and the positive obligation of the State to provide it, in such a way that the person may have access to and know that information or receive a reasoned response when, for any reason permitted by the Convention, the State may limit access to it for the specific case.”

¹⁴⁵¹ Human Rights Committee, Human Rights Committee, General Comment No. 34. Article 19: Freedom of Opinion and Expression, CCPR/C/GC/34 (2011), para. 4.

682. The State's obligations with respect to freedom of expression imply that the State must take the necessary measures to ensure that all persons under its jurisdiction are able to exercise this right without undue interference, including from private entities or persons¹⁴⁵². Any attack on freedom of expression, no matter who it comes from, must be investigated, the perpetrators must be brought to justice, and the victims must be adequately redressed.¹⁴⁵³ The Mission notes that the Government accepted a number of recommendations made during the Universal Periodic Review held in 2022,¹⁴⁵⁴ in particular, it accepted 13 recommendations related to the guarantee of freedom of expression and opinion.¹⁴⁵⁵

683. The enjoyment of freedom of expression and opinion brings with it responsibilities and duties. For this reason, they may be subject to specific restrictions defined by law, and necessary for respect for the rights and reputations of others, or the protection of national security, public order, or public health or morals¹⁴⁵⁶. In relation to these restrictions, the Human Rights Committee has established that States parties to the Covenant should not prohibit criticism of institutions, such as the military or the administration, since all public figures, including those holding the most important political positions, such as heads of State or Government, they may be legitimately subject to criticism and political opposition; and that laws should not provide for harsher penalties based on the position of the person criticized.¹⁴⁵⁷ In this regard, the Committee expressed concern at the existence in the Bolivarian Republic of Venezuela of norms that criminalize defamation, a crime that extends its application to those who offend or disrespect the President or other high-ranking officials; and recommended that defamation be decriminalized and that the use of criminal law be restricted to only the most serious cases.¹⁴⁵⁸

¹⁴⁵² *Ibid.* Paragraph 7

¹⁴⁵³ *Ibid.*, para. 23.

¹⁴⁵⁴ A/HRC/50/8.

¹⁴⁵⁵ A/HRC/50/8/Add.1, para. 12

¹⁴⁵⁶ International Pact on Civil and Political Rights, Article 19(3). The Human Rights Committee explains how restrictions on freedom of expression may be established in its general comment on article 19 of the Covenant. CCPR/C/GC/34, paras. Verses 21-36.

¹⁴⁵⁷ Human Rights Committee, Human Rights Committee, General Comment No. 34.

Article 19: Freedom of Opinion and Expression, CCPR/C/GC/34 (2011), para. 38. CteIDH. *Case of Usón Ramírez v. Venezuela*. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 20, 2009. Series C No. 207, paragraph 83. In this regard, the Committee has expressed concern about rules enshrining the defamation of the head of State or the protection of the honour of public officials. For its part, the Inter-American Court of Human Rights has stated that "expressions concerning the exercise of functions of State institutions enjoy greater protection, in such a way as to promote democratic debate in society. This is because it is assumed that in a democratic society the institutions or entities of the State as such are exposed to public scrutiny and criticism, and their activities are inserted in the sphere of public debate. This threshold is not based on the quality of the subject, but on the public interest of the activities that are carried out. Hence the greater tolerance of statements and assessments made by citizens in the exercise of such democratic control. Such are the demands of the pluralism proper to a democratic society, which requires the widest circulation of reports and opinions on matters of public interest."

¹⁴⁵⁸ Human Rights Committee. Concluding observations on the fourth periodic report of the Bolivarian Republic of Venezuela, CCPR/C/VEN/CO/4 (2015), para. 19.

677. The Constitution of the Bolivarian Republic of Venezuela protects freedom of expression,¹⁴⁵⁹ guaranteeing everyone the right to “freely express his or her thoughts, ideas or opinions.”¹⁴⁶⁰ The Constitution limits freedom of expression, not allowing anonymity, war propaganda, discriminatory messages, or those promoting religious intolerance. Likewise, the Constitution prohibits the censure of public officials in order to render an account of their responsibilities.¹⁴⁶¹ On the other hand, article 58 states that everyone has the right to “timely, truthful and impartial information (...), as well as to the right to reply and rectification when it is directly affected by inaccurate or offensive information (...)”. In turn, Article 51 establishes the right to seek information.¹⁴⁶²

678. The set of norms that regulate the exercise of freedom of expression includes the Constitutional Law against Hate for Peaceful Coexistence and Tolerance (2017)¹; the Organic Law for Telecommunications (LOTEL)², which creates the National Communications Commission (CONATEL); the Law of Social Responsibility in Radio and Television, known as the RESORTE Law (2010)³; and the Regulation of General Telecommunications Channels (2022)⁴.

(b) Right to peaceful assembly

679. The right to peaceful assembly enshrined in the International Covenant on Civil and Political Rights has been enshrined in other international and regional instruments.¹⁴⁶⁷ Article 21 of the ICCPR recognizes the right to peaceful assembly, which allows individuals to express themselves collectively and participate in shaping societies.¹⁴⁶⁸ Peaceful assemblies can play a key role in enabling participants to present ideas and goals to which they aspire in the public sphere and to determine the degree of support or opposition to those ideas and goals. When used to bring grievances or grievances, they can create opportunities for inclusive, participatory and peaceful resolution of differences.¹⁴⁶⁹ “Gathering” is the intentional and temporary gathering of people in a private or public space for a specific purpose. Along these lines, the concept encompasses demonstrations, assemblies inside premises, strikes, processions and rallies, among others.¹⁴⁷⁰

680. The right to peaceful assembly protects the non-violent assembly of persons for specific, primarily expressive purposes and is a right that is exercised in a collective manner.¹⁴⁷¹ Its exercise may be subject only to restrictions provided for by law that are necessary in a democratic society, in the interests of national security, national security or public safety, public order, the protection of public health or morals, or

¹⁴⁵⁹ Constitution of the Bolivarian Republic of Venezuela, art. 57.

¹⁴⁶⁰ *Ibid.*, art. 58.

¹⁴⁶¹ *Ibid.*, art. 57.

¹⁴⁶² *Ibid.* Article 51: “Every person has the right to submit or address petitions to any authority, public official or public official on matters within their competence, and to obtain a timely and adequate response. Those who violate this right shall be punished in accordance with the law and may be removed from office.” See also article 143, which enshrines the right “to be informed in a timely and truthful manner by the Public Administration about the status of the proceedings in which they are directly interested, and to know the final decisions adopted in this regard. They also have access to administrative archives and records, without prejudice to the limits acceptable within a democratic society in matters relating to internal and external security, criminal investigation and the privacy of private life, in accordance with the law regulating the classification of documents of confidential or secret content. No censorship shall be permitted on public officials who report on matters under their responsibility.”

¹ National Assembly, *Gaceta Oficial* núm. 41.276, of 8 Novembre 2017.

² Organic Law for Telecommunications, *Gaceta Oficial* núm. 39.610, of 7 February 2011.

³ Law of Social Responsibility in Radio and Television, *Gaceta Oficial* núm. 39579, of 22 December 2010.

⁴ Decree 4652 on Regulation of General Telecommunications Channels, *Gaceta Oficial* 6690 extraordinary of 15 March 2022.

¹⁴⁶⁷ See, e.g., Universal Declaration of Human Rights, article 20, para. 1; European Convention for the Protection of Human Rights and Fundamental Freedoms, Article 11; American Convention on Human Rights, Article 15; and the African Charter on Human and Peoples' Rights, article 11. Specific obligations regarding participation in peaceful assemblies can also be found in the Convention on the Rights of the Child (Article 15), the International Convention on the Elimination of All Forms of Racial Discrimination (Article 5 (d) (ix)) and the African Charter on the Rights and Welfare of the Child (Article 8).

¹⁴⁶⁸ Human Rights Committee, General Comment No. 37 on the right to peaceful assembly, CCPR/C/GC/37 (2020), para. 1.

¹⁴⁶⁹ *Ibid.*

¹⁴⁷⁰ A/HRC/20/27, para. 24.

¹⁴⁷¹ Human Rights Committee, General Comment No. 37 on the right to peaceful assembly, CCPR/C/GC/37 (2020), para. 4.

the protection of the rights and freedoms of others.¹⁴⁷²

688. The State has a duty to respect and protect the right to organize and participate in peaceful demonstrations. This is only possible when other rights that are very often connected with it are protected, such as freedom of expression, freedom of association and political participation¹⁴⁷³.

689. Article 68 of the Venezuelan Constitution enshrines the right of all citizens to demonstrate peacefully and without weapons, with no requirements other than those established by law¹⁴⁷⁴. In addition, this article prohibits the use of firearms and toxic substances in the control of demonstrations by the security forces¹⁴⁷⁵.

690. The Law on Political Parties, Public Meetings and Demonstrations¹⁴⁷⁶ states that all persons have the right to assemble in public places or to demonstrate, with no limitations other than those established by law¹⁴⁷⁷. According to the same rule, organizers of public meetings or demonstrations must inform the first civil authority of the jurisdiction at least 24 hours in advance¹⁴⁷⁸. In this regard, the Constitutional Chamber of the Supreme Court of Justice¹⁴⁷⁹ has stated that, in compliance with the aforementioned law, political parties and/or organizations, as well as for those who decide to hold public meetings or demonstrations, must exhaust the administrative procedure for authorization before the first civil authority of the corresponding jurisdiction, in order to be able to fully exercise their constitutional right to peaceful demonstration¹⁴⁸⁰.

¹⁴⁷² International Covenant on Civil and Political Rights, art. 21.

¹⁴⁷³ Human Rights Committee, General Comment No. 37 on the right to peaceful assembly, CCPR/C/GC/37 (2020), para. 9.

¹⁴⁷⁴ Constitution of the Bolivarian Republic of Venezuela of 30 December 1999, art. 68.

¹⁴⁷⁵ *Ibid.*

¹⁴⁷⁶ Law on Political Parties, Public Meetings and Demonstrations, *Official Gazette* No. 6.013 Extraordinary of December 23, 2010.

¹⁴⁷⁷ *Ibid.*, art. 41

¹⁴⁷⁸ *Ibid.*, art. 43

¹⁴⁷⁹ Supreme Court of Justice. Judgment No. 276, dated April 24, 2014 and Judgment No. 944 of 15 November 2016.

¹⁴⁸⁰ Supreme Court of Justice. Judgment No. 276 of April 24, 2014. Human Rights Committee, Concluding observations on the fourth periodic report of the Republic of Venezuela, CCPR/C/VEN/CON/4 (2015), para. 20. The Human Rights Committee expressed concern about this restriction of the right of assembly, since despite the fact that, according to the representatives of the State, this obligation to inform the authorities about a demonstration does not constitute a real request for authorization, the decision of the Supreme Court of Justice makes it mandatory, thereby creating a restriction on this right.

(c) Freedom of association

691. International human rights law provides for the right of everyone to freedom of association.¹⁴⁸¹ Article 22 of the International Covenant on Civil and Political Rights states: “Every person has the right to associate freely with others, including the right to form and join trade unions for the protection of their interests.” The term “association” refers to “any group of natural or legal persons grouped together to collectively express, promote, claim or defend a group of common interests.”¹⁴⁸² The Human Rights Committee, the body charged with monitoring the implementation of the Covenant, has indicated that freedom of association is an individual right to be exercised collectively.¹⁴⁸³ For his part, the Special Rapporteur on the rights to freedom of peaceful assembly and of association has stated that freedom of association includes the right to form and join associations, as well as the right to form and join trade unions in order to protect one’s own interests.¹⁴⁸⁴ This right protects associations from their creation to their dissolution.¹⁴⁸⁵ An important principle of this right is that no one may be compelled to belong to an association,¹⁴⁸⁶ and that associations should be free to choose their members and accept all applicants.¹⁴⁸⁷

692. When interpreting article 22 of the Covenant, the Human Rights Committee has stated that “the right to freedom of association is not only related to the right to form associations, but also guarantees the right of associations to freely pursue the activities provided for in their statutes.”¹⁴⁸⁸ Freedom of association also includes the right to be protected from undue interference to access funding from resources, and to participate in public affairs.¹⁴⁸⁹

693. With regard to freedom of association, the International Covenant on Economic, Social and Cultural Rights (ICESCR), to which the Bolivarian Republic of Venezuela is a party,¹⁴⁹⁰ establishes that the right of everyone to form trade unions and to join the trade union of his or her choice must be guaranteed for the promotion and protection of his or her economy and social interests.¹⁴⁹¹ In addition, the ILO Convention on Freedom of Association and Protection of the Right to Organise (No. 87)¹⁴⁹², to which the Bolivarian Republic of Venezuela is also a party,¹⁴⁹³ states that workers and employers, without distinction and without prior authorization, have the right to form and join organizations of their own choosing, on the sole condition of observing the statutes of these.¹⁴⁹⁴ In addition, public authorities must refrain from any intervention that tends to limit this right or to hinder its legal exercise.¹⁴⁹⁵ On the other hand, the Mission emphasizes that the right to form and join trade unions requires that trade unionists be protected against any discrimination, harassment, intimidation, or reprisals.¹⁴⁹⁶

¹⁴⁸¹ This right is guaranteed by article 20 of the Universal Declaration of Human Rights, article 22 of the International Covenant on Civil and Political Rights, article 8 of the International Covenant on Economic, Social and Cultural Rights, article 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, article 16 of the American Convention on Human Rights, and article 10 of the African Charter of Human Rights and article 5 of the Declaration on Human Rights Defenders.

¹⁴⁸² A/HRC/20/27, parr. 51; A/59/401, parr. 46.

¹⁴⁸³ Human Rights Committee, General Comment No. 31 (2004), Nature of the general legal obligation imposed on States parties to the Pact, para. 9.

¹⁴⁸⁴ A/HRC/20/27, para. 53.

¹⁴⁸⁵ A/HRC/20/27, para. 75.

¹⁴⁸⁶ A/HRC/52/CRP.5, para. 474; A/HRC/20/27, para. 55.

¹⁴⁸⁷ European Commission for Democracy through Law (Venice Commission) and OSCE Office for Democratic Institutions and Human Rights (ODIHR), Key Guiding Principles of Freedom of Association, Principle 3 “Freedom of constitution and membership” Available at [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2014\)046-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2014)046-e)

¹⁴⁸⁸ Belyatsky et al. v. Belarus (CCPR/C/90/D/1296/2004), para. 7.2

¹⁴⁸⁹ A/HRC/20/27, paras. 63-74.

¹⁴⁹⁰ UN Treaty body database, Ratification status for Venezuela. Available at https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=191&Lang=EN ¹⁴⁹¹ International Covenant on Economic, Social and Cultural Rights (ICESCR), Article 8.

¹⁴⁹² International Labour Organization, Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). Available at: https://www.ilo.org/dyn/normlex/es/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:CO87.

¹⁴⁹³ International Labour Organization, Ratification of Venezuela (Bolivarian Republic of) https://www.ilo.org/dyn/normlex/es/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102880.

¹⁴⁹⁴ International Covenant on Economic, Social and Cultural Rights (ICESCR), art. 2

694. Like the freedoms of expression and assembly, only “certain restrictions” may be applied to freedom of association, with freedom being the rule and restriction the exception¹⁴⁹⁷. In order for this right to be justifiably restricted, the restriction should be prescribed by law and necessary in a democratic society¹⁴⁹⁸.

695. The 1999 Constitution provides that everyone has the right to associate for lawful purposes in accordance with the law, including the right to associate for political purposes¹⁴⁹⁹. In addition, according to its Constitution, the State is obliged to facilitate the exercise of this right¹⁵⁰⁰ and to protect the right to form trade union organizations, without distinction of any kind and without the need for prior authorization, as well as the right to join or not to join them.¹⁵⁰¹

696. The main provisions that develop freedom of association are found in the Organic Law on Labour, Workers (LOTTT)¹⁵⁰², which recognizes the freedom of association of workers¹⁵⁰³. According to the LOTTT, the purpose of trade unions is “the study, defence, development and protection of the social process of work, the protection and defence of the working class, of the people as a whole, of national independence and sovereignty (...), as well as the defence of the interests of their members”¹⁵⁰⁴. In addition, if the trade union organization does not have as its object the powers and purposes provided for in the LOTTT, the National Register of Trade Union Organizations may abstain from registering a trade union organization.¹⁵⁰⁵

¹⁴⁹⁵ International Pact on Economic, Social and Cultural Rights (ICESCR), art. 3 (2).

¹⁴⁹⁶ Joint statement of the Committee on Economic, Social and Cultural Affairs, Human Rights and the Human Rights Committee, E/C.12/2019/3-CCPR/C/2019/1.

¹⁴⁹⁷ A/HRC/20/27, para. 16

¹⁴⁹⁸ *Ibid.*

¹⁴⁹⁹ Constitution of the Bolivarian Republic of Venezuela of 30 December 1999, art. 67.

¹⁵⁰⁰ *Ibid.*, art. 52

¹⁵⁰¹ *Ibid.*, art. 95

¹⁵⁰² Decree with the rank, value and force of law, as indicated in the judgment of the Supreme Court of Justice of June 4, 2019.

¹⁵⁰³ *Official Gazette* No. 6.076 Extraordinary of May 7, 2012. ¹⁵⁰⁴ Organic Law on Labour, Workers and Workers, art. 365.

¹⁵⁰⁵ *Ibid.*, art. 387 (1).

697. The Supreme Court of Justice, in a ruling rejecting a popular action of unconstitutionality filed by several trade unions, alleging the incompatibility of the LOTT with the ILO Convention on Freedom of Association and the Protection of the Right to Organise,¹⁵⁰⁶ concluded that the LOTT did not violate freedom of association.¹⁵⁰⁷ Specifically, the Court considered that the requirements on constitution and registration established in the LOTT did not constitute a violation of freedom of association, on the understanding that failure to comply with the purposes established in the regulation did not lead to abstention from registration or the dissolution of a trade union organization.¹⁵⁰⁸ On the other hand, with regard to the participation of the CNE in the organization of trade union elections, the TSJ indicated that this was done in order to “guarantee the principles and human rights to protagonist participation, to trade union democracy, to suffrage, to the free election and alternation of the representatives of trade union organizations, for which the State provides technical advice and logistical support.”¹⁵⁰⁹ For its part, an ILO Commission of Inquiry¹⁵¹⁰ recommended in 2019 that the LOTT should be subject to tripartite consultation, as it “raised problems of compatibility with the ILO standards in light of the conclusions of the Committee of Inquiry and the comments of the ILO supervisory bodies”¹⁵¹¹.

¹⁵⁰⁶ Among the plaintiffs' allegations were the following: Excessive regulation by the LOTT of freedom of association, for example through several articles: a) Article 367 (2) and (3) establishes as the powers and purposes of trade unions “To contribute to the production and distribution of goods and services for the satisfaction of the needs of the people” and “To exercise control and surveillance over costs and profits, so that the prices of the goods and services produced are fair to the people”, and in the event that a trade union does not comply with the powers established in that article, the Government shall refrain from registering it, as indicated in article 387 of the same law; (b) the obligation to enshrine in its statutes the alternation of members of the Board of Directors (Articles 399 and 403); (c) the notification to be made to the National Electoral Council of the call for elections by the governing bodies of trade unions, including any logistical and technical support for holding such elections (article 405); (d) the obligation of trade union officials to submit an affidavit of assets, treating them as public servants, even though they are private persons; (e) if the term of office of a trade union has expired, it may not represent workers in negotiations with employers, and (f) the obligation to bring its statutes into line with the provisions of the LOTT on 31 December 2013, i.e. a little more than one year after the entry into force of the LOTT, among others. TSJ, Judgment No. 170 dated June 4, 2019. Available at: <http://historico.tsj.gob.ve/decisiones/scon/julio/305892-0170-4719-2019-13-1207.HTML>

¹⁵⁰⁷ Organic Law on Labour, Workers. Articles 387 (1) and 426 (5).

¹⁵⁰⁸ The TSJ indicated that it was making an interpretation of the LOTT-calling the interpretation “constitutional”- in relation to the requirements established in its articles 387 (2) and (3) and 426(5), in the sense that it should be understood that this did not comply with the requirements established in the aforementioned paragraphs of the first mentioned article -387(2) and (3)-, It was not possible to impose the sanction established in the second mentioned article-426(5) concerning non-registration. Judgment No. 170 dated June 4, 2019. Available at: <http://historico.tsj.gob.ve/decisiones/scon/julio/305892-0170-4719-2019-13-1207.HTML>.

¹⁵⁰⁹ In addition, the TSJ indicated that “the imposition of the defense of the population, independence and sovereignty in the context of the Constitution does not constitute a violation of the right to associate, nor does it impose regulations that empty the fundamental right to associate and freedom of association, [and that] on the contrary constitutes a legal development consistent with duties constitutionally imposed on all persons.” The TSJ also indicated that freedom of association was not an absolute right, and that it was permissible to impose restrictions in accordance with the other norms of the legal system. Judgment No. 170 dated June 4, 2019. Available at: <http://historico.tsj.gob.ve/decisiones/scon/julio/305892-0170-4719-2019-13-1207.HTML>

¹⁵¹⁰ The Commission of Inquiry is the ILO's highest-level investigative procedure. In general, the commission is invoked when a Member State is accused of committing persistent and grave violations, and the Member State has repeatedly refused to put an end to the violations. So far, 14 commissions of inquiry have been created, the one that was opened against the Bolivarian Republic of Venezuela was initiated in 2018. See: <https://www.ilo.org/global/standards/applying-and-promoting-international-labour-standards/complaints/lang-en/index.htm#:~:text=The%20committee%C3%B3n%20of%20survey%20is,repeatedly%20a%20take%20care%20of%20it>.

¹⁵¹¹ Report of the Commission of Inquiry established under article 26 of the Constitution of the International Labour Organization to examine the observance by the Government of the Bolivarian Republic of Venezuela of the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26), of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), p. 231. Available at: https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_722037.pdf

(d) Right to participate in public affairs

698. A number of international human rights instruments enshrine the right to participate in public affairs.¹⁵¹² Article 25 of the ICCPR guarantees (a) the right of everyone to participate in the conduct of the public affairs of his or her country, directly or through freely chosen representatives; (b) the right to vote and to be elected in genuine periodic elections, held by universal and equal suffrage and by secret ballot guaranteeing the free expression of the will of the electors; and (c) the right of equal access to the public service of their country. According to the Human Rights Committee, any restriction on rights must be based on objective and reasonable criteria.¹⁵¹³

699. The Bolivarian Republic of Venezuela has an international obligation to effectively guarantee the full exercise and respect of the rights reflected in Article 25 of the ICCPR, in the three dimensions mentioned above. The Mission also emphasizes that the freedoms of expression, assembly, and association are essential conditions for the effective exercise of the right to participate in public affairs.¹⁵¹⁴ The State must therefore take the necessary measures to ensure that all persons are able to participate in political activities, either individually or through political parties; so that they can publicly discuss public affairs; to be able to participate in demonstrations or other political gatherings in a peaceful manner, including those critical of the government; as well as the freedom to organize political campaigns and publish political material or propaganda¹⁵¹⁵.

700. The 1999 Constitution protects the fundamental political rights of all citizens¹⁵¹⁶ to participate freely in public affairs, the participation of the people in the formation, execution and control of public administration,¹⁵¹⁷ the right to vote,¹⁵¹⁸ the right to receive public, transparent and periodic accounts from their representatives on their management,¹⁵¹⁹ and the right to associate for political purposes.¹⁵²⁰ The exercise of the right of citizens to participate in politics is limited in the case of minors under 18 years of age and citizens subject to civil interdiction or political disqualification.¹⁵²¹ The Constitution also limits the exercise of political rights to citizens in very specific circumstances defined by law, such as convictions for crimes against public property within the time limits set by law.¹⁵²²

¹⁵¹² Universal Declaration of Human Rights, article 21; International Convention on the Elimination of All Forms of Racial Discrimination, Article 5(c); Convention on the Elimination of All Forms of Discrimination against Women, Article 7(a); American Convention on Human Rights, Article 23.

¹⁵¹³ Human Rights Committee, General Comment No. 25, article 25 (Right to participate in public affairs, right to vote and right to equal access to public service), CCPR/C/21/Rev.1/Add. para. 4.

¹⁵¹⁴ CCPR/C/GC/34, paras. 2, 4 and 20.

¹⁵¹⁵ AHRC/527CRP.5, para. 465.

¹⁵¹⁶ Constitution of the Bolivarian Republic of Venezuela, Chapter IV, On Political Rights and the Popular Referendum, Section One: On Political Rights, arts. 62-70.

¹⁵¹⁷ *Ibid.*, art. 62. All citizens have the right to participate freely in public affairs, directly or through their elected representatives.

¹⁵¹⁸ *Ibid.*, art. 63. Suffrage is a right. It shall be exercised by free, universal, direct and secret ballots. The law shall guarantee the principle of personalization of suffrage and proportional representation.

¹⁵¹⁹ *Ibid.*, art. 66. Voters have the right to have their representatives render public, transparent and periodic accounts of their management, in accordance with the programme presented.

¹⁵²⁰ *Ibid.*, art. 67. All citizens have the right to associate for political purposes, through democratic methods of organization, functioning and management. Its governing bodies and its candidates for elected office will be selected in internal elections with the participation of its members. Citizens, on their own initiative, and associations with political aims, have the right to participate in electoral processes by nominating candidates.

¹⁵²¹ *Ibid.*, art. 64.

¹⁵²² *Ibid.*, art. 65.

701. The set of fundamental norms and laws that govern political rights includes the Organic Law of the Electoral Power – LOPE (2002),¹⁵²³ the Organic Law of Electoral Processes (2009),¹⁵²⁴ and the Law of Political Parties, Meetings and Demonstrations (2010).¹⁵²⁵ On the other hand, the General Regulations of the Organic Law of Electoral Processes (2013) and include the rules of organization and operation of the Electoral Power.

B. Attacks, threats, surveillance, and harassment

1. Introduction

702. As noted above, in its 2020 report, the Mission identified a pattern of “physical attacks and threats” as part of targeted repression directed against civil society actors, representatives of political parties, and other dissenting voices.¹⁵²⁶ These attacks and threats, along with other forms of harassment, have been ongoing during the period covered by the Mission’s mandate, from 2014 onwards.¹⁵²⁷

703. The Mission analysed the precautionary measures issued by the Inter-American Commission on Human Rights (IACHR) in relation to the Bolivarian Republic of Venezuela in “situations of gravity and urgency that present a risk of irreparable harm to persons”¹⁵²⁸ between 2014 and 2023. During this period, the IACHR issued a total of 87 precautionary measures, at least 26 of them focused on the protection of victims of harassment, threats, and aggression, both by state agents and by unidentified individuals. The IACHR reiterated its concern over the continuous and persistent acts of harassment directed against human rights defenders, political opponents, trade unionists and journalists.¹⁵³⁰

¹⁵²³ National Electoral Council, Organic Law of the Electoral Power. Available at: http://www.cne.gob.ve/web/normativa_electoral/ley_organica_poder_electoral/indice.php.

¹⁵²⁴ National Electoral Council, Organic Law on Electoral Processes. Available at: http://www.cne.gob.ve/web/normativa_electoral/ley_organica_procesos_electorales/indice.php.

¹⁵²⁵ National Electoral Council, Law on Political Parties, Meetings and Demonstrations. Available In: http://www.cne.gob.ve/web/normativa_electoral/ley_partidos_politicos/indice.php.

¹⁵²⁶ A/HRC/45/CRP.11, para. 242.

¹⁵²⁷ *Ibid.*, para. 242.

¹⁵²⁸ Rules of Procedure of the Inter-American Commission on Human Rights, approved by the Commission at its 137th regular session (as amended in 2011 and 2013), art. 25(1).

¹⁵²⁹ IACHR, Precautionary Measures Venezuela. Available at: <https://www.oas.org/es/cidh/decisiones/cautelares.asp?Year=2023&Country=VEN>.

¹⁵³⁰ IACHR, 2019 Press Release: IACHR Expresses Concern over Continued Harassment of Human Rights Defenders in Venezuela, 2019. Available at: <https://www.oas.org/es/cidh/prensa/comunicados/2019/040.asp>; IACHR, 2020 Press Release: IACHR Expresses Concern over the Continued Acts of Harassment and Stigmatization Against Human Rights Defenders in Venezuela, 2020. Available at: <https://www.oas.org/es/cidh/prensa/comunicados/2020/165.asp>; IACHR, Press Release 2023: IACHR Grants Precautionary Measures to Trade Union Leaders in Venezuela, 2023. Available at: <https://www.oas.org/es/CIDH/jsForm/?File=/es/cidh/prensa/comunicados/2023/056.asp>.

704. In 2018, the Office of the United Nations High Commissioner for Human Rights (OHCHR) reported that, following the culmination of mass protests in 2017, state authorities continued attacks against the political opposition of “any person expressing dissenting or discontented opinions.”¹⁵³¹ Between 2018 and 2019, OHCHR continued to document acts of harassment and threats. Among them, there were cases of union leaders and workers being dismissed following protests demanding better working conditions; health professionals threatened for denouncing the crisis in the health system; university staff threatened with not being paid their salaries; human rights defenders’ victims of defamation in pro-government media, and cases of surveillance, intimidation, and harassment by security forces. The attacks also targeted supporters of former President Hugo Chávez, dissident military officers, civil servants, and state employees considered opponents of the Government.¹⁵³²

Between 2020 and 2022, several Special Procedures’ mandate holders of the United Nations Human Rights Council spoke out about systematic attacks and harassment against human rights defenders and civil society organizations in Venezuela ¹⁵³³.

2. Physical assaults

705. The Mission identified that, especially since 2022, members of collectives and other groups of government supporters have threatened and physically attacked individuals participating in activities organized by opposition political parties. This has happened in tours and rallies organized by opposition candidates and at events to promote opposition primary elections.

¹⁵³¹ OHCHR, Human Rights Violations in the Bolivarian Republic of Venezuela: A Downward Spiral with No End in Sight, 2018, p. IV. Available at: https://www.ohchr.org/sites/default/files/Documents/Countries/VE/VenezuelaReport2018_SP.pdf

¹⁵³² A/HRC/41/18.

¹⁵³³ AL VEN 10/2022, Terms of reference of the Working Group on Arbitrary Detention; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders. Available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25689>; AL VEN 7/2021, Mandate of the Special Rapporteur on the situation of human rights defenders; the Group on Arbitrary Detention; the Special Rapporteur on the rights to freedom of assembly, peaceful assembly and association; and the Special Rapporteur on the promotion of counterterrorism. Available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26550>; VEN 9/2021, Mandate of the Special Rapporteur on the situation of human rights defenders; the Group on Arbitrary Detention; the Special Rapporteur on the rights to freedom of assembly, peaceful assembly and association; the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism. Available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26930>.

706. In most of these incidents, the security forces present refrained from intervening to protect the victims or prevent the attacks.¹⁵³⁴ Conversely, in some cases, security forces intimidated supporters of opposition political parties, and in one case a victim reported being assaulted by security force officers.¹⁵³⁵ The Mission investigated eight of these incidents that occurred between February 2020 and May 2023, four of which occurred during the first half of 2023 (see *below*, Case 38: María Corina Machado; Case 20: ECV04; Case 21: Delsa Solórzano Bernal; and Case 22: Juan Guaidó Márquez).

3. Surveillance and harassment of civil society and in the context of political and trade union activities

707. The Mission documented numerous cases of acts of intimidation and harassment against political leaders, trade union representatives, journalists, health workers and human rights defenders (including activists, lawyers, members of human rights NGOs). These acts took place while they were participating in public activities that could in some way be considered critical of the government or its policies, or, in the case of journalists, simply for carrying out their communication work. Harassment was sometimes directed against users of public services who criticized the quality or availability of public services.

708. The Mission identified that trade union activities have been subject to attacks and constant surveillance. According to information gathered by the Mission, the years 2022 and 2023 have been marked by growing trade union mobilisation activity focused on the demand for fair working conditions, decent wages, and adequate pensions. The uptick in mobilization was linked to the approval of the so-called “ONAPRE instructions,” an administrative rule approved by the National Budget Office (ONAPORE) in March 2022 that affected wage tabulators and limited other benefits for public sector workers.¹⁵³⁶ Trade union mobilisation has manifested itself through a significant increase in the frequency of trade union meetings, public demonstrations and protests.¹⁵³⁷

709. Several sources interviewed told the Mission of acts of harassment by State security forces, including the SEBIN, the GNB and the PNB, in trade union activities, particularly since 2022. This harassment is manifested through surveillance at union meetings and the presence of undercover intelligence agents taking photos of workers, as well as security force agents, in uniform or in civilian clothes, doing the same at demonstrations and public events organized by the unions.¹⁵³⁸

¹⁵³⁴ Interview PPIV060; Interview PPIV063; Interview PPIV066; Interview with María Corina Machado, July 13, 2023; Document HHDC074: Summary of Violent Incident in the State of Vargas; Document HHDC071; Document HHDC076: Videos of violent incident in the State of Vargas.

¹⁵³⁵ Interview with Juan Guaidó, July 24, 2023; Document HHDC079.

¹⁵³⁶ See chap. II.B above.

¹⁵³⁷ Interview OOIV027; Venezuelan Observatory of Social Conflict, Social Conflict in Venezuela in May 2023. Available at: <https://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/conflictividad-social-en-venezuela-en-mayo-de-2023>.

¹⁵³⁸ Interview OOIV027; Interview PPIV078; Human Rights Observatory, Press Release: Alert to the criminalization of peaceful protests by trade unions. Persecution and intimidation of university professor Julio García. Available at: <https://www.uladdhh.org.ve/index.php/2023/01/29/comunicado-alerta-criminalizacion-protesta-persecucion-y-amedrentamiento-profesor-universitario-julio-garcia/>.

710. The Mission investigated the case of harassment and surveillance against four members of the National Trade Union Coalition of Workers (CSNT) in Caracas. The four trade unionists, two women and two men, as well as some of their family members, were subjected to various forms of harassment by the PNB, SEBIN and GNB between March 2022 and February 2023, after having taken an active role in trade union demands and mobilisations during this period (see Case 23: National Trade Union Coalition of Workers, *infra*). In April 2023, the IACHR granted precautionary measures for the benefit of these and other trade unionists.¹⁵³⁹

711. The Mission received information about repeated episodes of harassment during assemblies and protests by professional associations in Valencia, in the State of Carabobo.¹⁵⁴⁰ According to a source who was present at these activities, at least six trade union assemblies and meetings held between the end of 2022 and May 2023 were infiltrated and monitored by State agents, pro-Government groups and other unidentified individuals. According to the source:

- At the end of 2022, during a union activity in a district of the State of Carabobo, the presence of two people affiliated with UBCH (Hugo Chávez Battle Units) was reported to show up to record the event.⁵⁴¹
- On 11 January 2023, around 70 people participated in a union assembly at the headquarters of the College of Nurses of the State of Carabobo. Outside the event, GNB officials were watching. Inside the assembly, the presence of SEBIN agents in civilian clothes was discovered. Union members identified the officers because they recognized them from other incidents where uniformed officers had appeared. On this occasion, these individuals had infiltrated posing as members of the union, and filmed those leading the assembly with their cell phones.¹⁵⁴²
- In March 2023, around 30 demonstrators participated in a demonstration in the vicinity of the Carabobeño Institute for Health Foundation (INSALUD)¹⁵⁴³ in the State of Carabobo. The protest was broken up by the police, whose officers, who more than doubled the number of demonstrators, questioned, and surrounded them. Some trade unionists were able to identify SEBIN plainclothes agents by taking photographs of the rally.¹⁵⁴⁴
- On 20 April 2023, during a meeting of workers in the State of Carabobo for the purpose of discussing wage negotiations, the presence of an individual identified by the workers as a SEBIN agent was reported. This individual recorded the meeting by pretending to be a journalist.¹⁵⁴⁵
- On 23 May 2023, during a forum focused on the salary issue held in a room of approximately 10x12 meters in the State of Carabobo, the participating trade unionists identified four SEBIN agents in civilian clothes who were guarding the meeting.¹⁵⁴⁶

¹⁵³⁹ IACHR, Resolution No. 15/2023, Precautionary Measures No. 66-23: Carlos Eduardo Salazar Ojeda et al. (Union leaders of the civil association National Trade Union Coalition of Workers) with respect to Venezuela, April 1, 2023.

¹⁵⁴⁰ Interview OOIV027; Radio Fe y Alegría, Unions and guilds of Carabobo demand protection when they protest, February 2, 2023. Available at: <https://www.radiofeyalegrianoticias.com/sindicatos-y-gremios-de-carabobo-exigen-proteccion-en-las-protestas/>.

¹⁵⁴¹ Interview PPIV067.

¹⁵⁴² *Ibid.*

¹⁵⁴³ INSALUD – Carabobeño Institute for Health Foundation – Operational and financial body of the Regional Health System of the State of Carabobo. Available at: <https://insalud.gob.ve>.

¹⁵⁴⁴ Interview PPIV067.

¹⁵⁴⁵ *Ibid.*

¹⁵⁴⁶ *Ibid.*

712. The Mission identified that similar acts of surveillance, harassment and threats were directed against human rights defenders. The Mission documented four incidents of harassment related to human rights activities perpetrated by State security forces between January 2020 and July 2023.

713. On 14 January 2020, the offices of the organization Prepara Familia in Caracas were raided, without a warrant, by agents of the PNB. The agents attempted to seize boxes of donations for needy families, claiming that they were donated by Juan Guaidó, and were therefore “illegal.” A PNB agent warned the director of the NGO, Katherine Martínez, that the organization should “stop its activities” (see Case 24: Katherine Martínez García and Prepara Familia, *infra*).¹⁵⁴⁷

714. At the end of April 2022, Manuel Virgüez, a member of the NGO Movimiento Vinotinto, and Servando Carbone, coordinator of the National Union of Workers of Venezuela, were at a hotel in Caracas to denounce abuses and detention of trade unionists to ILO representatives visiting Venezuela. Virgüez informed the Mission that DGCIM agents were present in hotel lobby, taking intimidating photos of the participants.¹⁵⁴⁸

715. On 20 September 2022, SEBIN officials were stationed outside the headquarters of the human rights organisation PROVEA when a press conference was scheduled to be held to demand the release of arbitrarily detained trade unionists¹⁵⁴⁹. According to a person present during the event, the officials wanted to enter the headquarters, but when they did not show any legal order that would provide a basis for that action, the members of PROVEA denied them entry.¹⁵⁵⁰ SEBIN troops remained at the entrance to the building during the event, watching who entered and left.¹⁵⁵¹

716. Nancy Herrera, an indigenous leader of the Cubeo indigenous peoples, has publicly denounced, since at least 2020, the complicity of the Venezuelan military with irregular armed groups in threats to the rights of indigenous people.¹⁵⁵² On 2 July 2023, Herrera, daughter of the chief of the Yapacana community, Amazonas State, appeared before a FANB commission that was deployed in the territory of her community as part of an operation against illegal mining. Herrera filed a complaint with the head of the FANB commission, who identified himself as General Viloría Sosa, that another high-ranking officer of the FANB, General José Ramón Maita González, head of the ZODI Amazonas (ZODI 63), was involved in illegal mining activities.¹⁵⁵³ The next day, Nancy Herrera was forced by General Maita to apologize to her, being filmed and surrounded by armed soldiers. A representative of the Attorney General’s Office, present during the incident, warned her that she could be imprisoned for the videos she had published denouncing violations of the rights of indigenous peoples¹⁵⁵⁴. According to a person interviewed by the Mission, on 10 July 2023, armed soldiers showed up in the community of Piedra Blanca, where Herrera lives, and in other neighbouring communities asking about her, so the indigenous leader had to flee and take refuge elsewhere for fear of being arrested or killed.¹⁵⁵⁵

¹⁵⁴⁷ Interview with Katherine Martínez, June 15, 2023; Document PPDC052.

¹⁵⁴⁸ Interview with Manuel Virgüez, February 15, 2023

¹⁵⁴⁹ Interview with Marino Alvarado, August 28, 2023; SEBIN officials attempted to enter Provea's headquarters. September 20, 2022. Available at: <https://provea.org/actualidad/funcionarios-del-sebin-intentaron-ingresar-a-la-sede-de-provea/>; Efecto Cocuyo, SEBIN is located outside the headquarters of Provea, September 20, 2022. Available at: <https://efectococuyo.com/la-humanidad/sebin-se-encuentra-a-las-afueras-de-la-sede-de-provea/>.

¹⁵⁵⁰ Interview with Marino Alvarado, August 28, 2023.

¹⁵⁵¹ *Ibid.*; SEBIN officials attempted to enter Provea's headquarters. September 20, 2022. Available at: <https://provea.org/actualidad/funcionarios-del-sebin-intentaron-ingresar-a-la-sede-de-provea/>; Efecto Cocuyo, SEBIN is located outside the headquarters of Provea, September 20, 2022. Available at: <https://efectococuyo.com/la-humanidad/sebin-se-encuentra-a-las-afueras-de-la-sede-de-provea/>.

¹⁵⁵² RAISG, Amazonas Indians Reject Mining Activities of FARC Dissidents in Their Territories, September 26, 2020. Available at: <https://www.raisg.org/es/radar/indigenas-de-amazonas-reject-mining-activities-of-dissidents-of-the-farc-in-their-territories/>; Fundaredes, Armed Forces cooperate with irregular armed groups, November 16, 2020. Available at: <https://www.fundaredes.org/2020/11/16/boletin26-fuerzas-armadas-venezuelan-cooperate-with-irregular-armed-groups/>.

¹⁵⁵³ Tweet by Olnar Ortiz Bare [@olnarortizbare], July 3, 2023. Available at: <https://twitter.com/olnarortizbare/status/1675869674603532291?s=46&t=hOa63gEyRXFxyAtFQFNq-g>; Interview PPIV081.

¹⁵⁵⁴ Tweet by Jesús Medina Ezaine [@jesusmedinae], July 3, 2023. Available at: <https://twitter.com/jesusmedinae/status/1675996993271767040>; Tweet by Olnar Ortiz Bare [@olnarortizbare], July 4, 2023. Available at: <https://twitter.com/olnarortizbare/status/1676324936384671744>.

¹⁵⁵⁵ Tweet by Olnar Ortiz Bare [@olnarortizbare], July 4, 2023. Available at: <https://twitter.com/olnarortizbare/status/1676324936384671744>.

¹⁵⁵⁶ Interview PPIV081.

717. The Mission also documented acts of intimidation, threats, and harassment against journalists in the course of their work, sometimes accompanied by restrictions on public spaces. The incidents were carried out by state agents, including security force agents, and sometimes by civilians acting with the acquiescence of the security forces.

718. In one such incident that took place on 11 February 2020, at least 12 press workers were pushed and beaten by pro-government groups while covering Juan Guaidó's arrival at Simón Bolívar International Airport in Maiquetía, Vargas state. The attacks took place in front of airport security officials and the PNB, who did not intervene to protect the journalists.¹⁵⁵⁷

719. In April 2020, during a protest over water shortages in the state of Guárico, journalist Arnaldo Sumoza filmed the events and interviewed the participants. A GNB agent told him to stop taking statements and threatened him: "*Stop recording because I'm going to make your life miserable.*" Sumoza withdrew from the site but returned after some time and was detained by the GNB (see Case 3: Arnaldo Sumoza, *infra*).¹⁵⁵⁸

720. On 1 April 2021, the relatives and colleagues of journalists from the television station NTN24, Luis Gonzalo Pérez and Rafael Hernández, and activists from the NGO Fundaredes, Juan Salazar and Diógenes Tirado, reported that they were being retained and held uncommunicated by GNB officials during the afternoon of 31 March 2021, when they were covering the armed clashes between the FANB and the Colombian guerrilla in the Apure State¹⁵⁵⁹. After more than 24 hours, they were released without being presented to judicial authorities, and their telephone and recording equipment was confiscated.¹⁵⁶⁰

¹⁵⁵⁷ Video on YouTube – Punto de Corte, Punto de Corte journalist Nurelyin Contreras gives details of the attack where she was a victim, February 11, 2020. Available in <https://www.youtube.com/watch?v=Zpk4xSm3YBA>; Tweet by NTN24 Venezuela [@NTN24ve], February 11, 2020. Available at: <https://twitter.com/NTN24ve/status/1227344862904815617>; NTN24 Facebook post, Moment journalist Nurelyin Contreras is assaulted, February 11, 2020. Available in https://m.facebook.com/NTN24/videos/momento-en-el-que-agreden-a-periodista-nurelyin-contreras/1037389799972857/?locale=es_LA; At least 12 journalists were assaulted by Chavista supporters in Maiquetía, February 12, 2020. Available at: <https://espaciopublico.org/al-menos-12-periodistas-fueron-agredidos-por-simpatizantes-del-chavismo-en-maiquetia/>.

¹⁵⁵⁸ Interview with Arnaldo Sumoza, July 28, 2023.

¹⁵⁵⁹ InfoBae, Videos 'Rosali Hernández a 24 horas de la detención de su hermano' y 'Javier Tarazona expresó su preocupación por los periodistas desaparecidos', April 1, 2021. Disponible en <https://www.infobae.com/america/venezuela/2021/04/01/tras-casi-un-dia-el-arresto-en-venezuela-el-regimen-de-maduro-no-revelo-el-paradero-de-los-periodistas-de-ntn24-no-tenemos-informacion/>; Publication on Fundaredes Instagram [@fundaredes], April 1, 2021, disponible en <https://www.instagram.com/p/CN1vul8FvoH/>.

¹⁵⁶⁰ Tweet by NTN24 [@NTN24], April 3, 2021. Available at: <https://twitter.com/NTN24/status/1378502366979354624>; Espacio Público, Video by Javier Tarazona, April 1, 2021. Available at: <https://espaciopublico.org/liberan-a-los-periodistas-de-ntn24-y-a-los-activistas-de-fundaredes-detenido-en-apure/>; IPYS Venezuela, Liberados los dos periodistas y los dos activistas que fueron detenidos y desaparecidos por la GNB en Apure, 1 de abril de 2021. Available at: <https://ipysvenezuela.org/alerta/alerta-ipysve-liberados-los-dos-periodistas-y-los-dos-activistas-que-fueron-detenido-y-desaparecidos-por-la-gnb-en-apure/>.

721. On 6 January 2023, in the municipality of El Tigre, Anzoátegui state, journalist Nilsa Varela and photographer Manuel Ruiz of the newspaper El Mirada were harassed by officials from the mayor's office while covering the installation of the Municipal Chamber. Mayoral officials denied them access to the premises, recorded them, and took photos in an intimidating manner.¹⁵⁶¹ According to El Vistazo, they were also threatened with water contaminated with rodenticide¹⁵⁶².

722. The Chief Information Officer of an international television outlet operating in the country informed the Mission that, in June 2023, a uniformed SEBIN official took intimidating photos of the outlet's reporters while they were covering protests in the Zulia State. The chief information officer received similar complaints from her reporters on at least four more occasions, between January and June 2023, in several states across the country. The same source indicated that in 2022, this type of harassment of the media's journalists by security force agents occurred two to three times a month¹⁵⁶³.

723. The Mission also documented cases of threats and harassment by public officials against persons who denounced or attempted to denounce poor hospital conditions or health services. Between December 2020 and May 2023, journalists' organizations publicly denounced at least six incidents at four public hospitals in the states of Falcón, Lara, Monagas, and Táchira, in which security personnel at medical centres prevented patients and their families from speaking to journalists. In addition, the latter were prevented from recording and obtaining information on allegations of lack of access to medical services.¹⁵⁶⁴

¹⁵⁶¹ IPYS Venezuela, Workers from the El Tigre mayor's office intimidated the staff of Diario El Vistazo, 13 January 2023. Available at: <https://ipysvenezuela.org/alerta/alerta-ipysve- trabajadores-de-la-alcaldia-de-el-tigre-intimidaron-al-equipo-de-diario-el-vistazo/>.

¹⁵⁶² Nilsa Varela Vargas, Access to the Mayor's Office of El Tigre and Municipal Chamber suspends installation for the second time, January 7, 2023. Available at: <https://diarioelvistazo.com/limitan-acceso-a-la-alcaldia-de-el-tigre-y-camara-municipal-suspende- instalacion-por-segunda-vez/>; IPYS Venezuela: Workers from the El Tigre mayor's office intimidated the team of Diario El Vistazo, January 13, 2023. Available at: <https://ipysvenezuela.org/alerta/alerta-ipysve- trabajadores-de-la-alcaldia-de-el-tigre-intimidaron- al-equipo-de-diario-el-vistazo/>.

¹⁵⁶³ Interview PPIV078.

¹⁵⁶⁴ Espacio Público, News coverage at Augustin Zubillaga Pediatric Hospital is prevented, December 2, 2020. Available at: <https://espaciopublico.org/impiden-cobertura-noticiosa-en-el- hospital-pediatrico-agustin-zubillaga/>; Espacio Público, News coverage prevented at Augustin Zubillaga Pediatric Hospital Barquisimeto, November 10, 2021. Available at: <https://espaciopublico.org/impiden-acceso-a-la-prensa-en-el-hospital-pediatrico-agustin- zubillaga-de-barquisimeto/>; Espacio Público, Afectan labor periodística en hospital de Coro, 5 de enero de 2022. Available at: <https://espaciopublico.org/afectan-labor-periodistica-en-hospital-de-coro/>; Tweet by SNTP [@sntpvenezuela], 4 de enero de 2022. Available at: <https://twitter.com/sntpvenezuela/status/1478470520068878340>; Espacio Público, A group of journalists are intimidated at the central hospital in San Cristóbal, June 9, 2022. Available at: <https://espaciopublico.org/intimidan-a-un-grupo-de-periodistas-en-el-hospital-central-de-san- cristobal/>; IPYS Venezuela, Alerta IPYS / Reporters limit their work at Monagas hospital, February 17, 2023. Available at: <https://ipysvenezuela.org/alerta/alerta-ipysve- prohiben-el-acceso-a-reporteros-en-hospital-de-monagas/>.

Journalist Víctor Ugas told the Mission that in 2022, when he visited a public hospital in Caracas to inquire about the availability of medicines and the situation of health services, officials at that medical centre told him not to take photos or report these issues¹⁵⁶⁵.

724. A humanitarian NGO documented the cases of 14 people (patients and relatives) who, since 2022, have been warned by hospital management or government officials not to meet with NGOs, participate in demonstrations, or make public complaints, as a condition of receiving treatment¹⁵⁶⁶. According to the NGO, two patients who publicly criticized the lack of medicines received calls from government health program managers to intimidate them and their families into stopping their criticism¹⁵⁶⁷.

725. The information obtained by the Mission demonstrates that the activities of opposition political parties have also been subject to ongoing surveillance and harassment. This type of action has frequently taken place in marches, meetings and gatherings. In the cases investigated by the Mission, harassment generally took the form of monitoring and surveillance by uniformed or plainclothes officials. In some of the cases investigated, the acts of harassment took place on the way and in the hotels where members of the opposition were staying, when they were travelling to participate in partisan activities.

726. Four independent sources informed the Mission that, between August 2022 and January 2023, in most of the activities of Vente Venezuela, Primero Justicia, and Encuentro Ciudadano there was a recurring presence of vehicles without license plates and with tinted windows, with uniformed or plainclothes SEBIN agents inside, who filmed these activities¹⁵⁶⁸. The Mission investigated 17 incidents that occurred between January 2020 and July 2023, in the States of Aragua, Barinas, Bolívar, Lara, Miranda, Monagas, Nueva Esparta, Portuguesa, Táchira, Trujillo, Sucre, Yaracuy, and Zulia (see *below*, Case 26: Karim Vera; Case 21: Delsa Solórzano; Case 38: María Corina Machado).

727. In the 17 incidents, there was a permanent presence of vehicles, some with license plates and others without, with uniformed officials and people dressed in civilian clothes, filming and monitoring candidates of opposition parties on the roads, checkpoints, hotels, streets, and in the activities they organized. In some cases, officials also threatened and verbally harassed supporters of opposition parties, and physically intervened to prevent the free conduct of activities (see *infra*, Case 26: Karim Vera and Case 38: María Corina Machado). The similarity of acts in 13 different states over the past three years indicates a coordinated policy of surveillance and intimidation by security forces against members of opposition political parties.

4. Break-ins, surveillance and home vandalization

728. Harassment of opponents or perceived as such does not only occur when they are participating in or traveling to their different activities, but also occurs in their own homes. The Mission identified that the acts of harassment in the homes of these persons include acts of surveillance, searches without a warrant and appropriation of property, without a formal investigation being carried out.

¹⁵⁶⁵ Interview with Víctor Ugas, June 5, 2023.

¹⁵⁶⁶ Interview PPIV108; Interview PPIV109.

¹⁵⁶⁷ *Ibid.*

¹⁵⁶⁸ Interview with Orlando Moreno, March 9, 2023; Interview HHIV077; Document HHDC041; Interview with María Corina Machado, July 13, 2023.

729. In several cases documented by the Mission, individuals who publicly criticized President Maduro's government repeatedly reported that their homes were guarded by agents or - alleged agents of the State - operating from vehicles. In some cases, the vehicles were identified with SEBIN or DGCIM signs and, in others, the vehicles, which had tinted windows, were not marked, or had license plates. The Mission documented five cases of surveillance of the homes of opponents or perceived opponents in the period from February 2020 to January 2023. This surveillance was carried out against members of opposition political parties (see *below*, Case 26: Karim Vera; and Case 22: Juan Guaidó Márquez), journalists from independent media (see Case 40: VPItv, *infra*), and human rights defenders (see Case 28: Franklin Alfredo Caldera Cordero, *infra*).

730. With the increase in trade union mobilisations in 2022, public servants who were demanding their labour rights also became subject to surveillance. In January 2023, a person interviewed by the Mission reported that SEBIN officials, in a vehicle with SEBIN identification, remained for several days in front of the home of the trade unionist and president of the College of Nurses of the State of Carabobo (see Case 27: Julio García, *infra*).¹⁵⁶⁹ Servio Gudiño, an employee of the state-owned electricity company CORPOLEC, reported that on 25 January 2023, a DGCIM vehicle remained parked in front of his residence, with agents monitoring and recording people entering and leaving his home. This occurred two days after Gudiño participated in labour rights protests and appeared in videos posted on Twitter where he expressed his demands for living wages.¹⁵⁷⁰

731. The Mission also received information that the homes of opponents or perceived opponents have been raided or illegally occupied, as a form of intimidation or punishment. The Mission investigated four incidents between March 2021 and January 2023, where public officials raided or attempted to raid the homes of opponents without a warrant and without them being the subject of a criminal investigation.

732. Journalist Norbey Marín informed the Mission that on 24 March 2021, a joint commission of the CICPC and the Caracas Public Prosecutor's Office searched his residence in the state of Carabobo without a warrant (see Case 31: Norbey Marín, *infra*).¹⁵⁷¹ On 20 January 2023, in the State of Carabobo, SEBIN members attempted to forcibly enter the home of trade unionist Julio García (see Case 27: Julio García, *infra*).¹⁵⁷²

733. On 23 April 2021, people dressed in black, claiming to be state officials, raided the Caracas apartment of Roberto Marrero, former chief of staff of Juan Guaidó. Without presenting a court order, they changed the lock on the door of the apartment and, since then, other people, who have also claimed to be state officials, have entered and removed objects from its interior (see Case 29: Roberto Marrero, *below*).¹⁵⁷³ On 22 October 2022, the home of Leopoldo López, a founding member of the political party Voluntad Popular, and his wife Lilian Tintori, was raided, looted and taken by SEBIN¹⁵⁷⁴ agents. Both denounced the incident on social media¹⁵⁷⁵.

¹⁵⁶⁹ Interview OOIV027.

¹⁵⁷⁰ Tweet from Diario Final Version [@VersionFinal], February 2, 2023. Available at: <https://twitter.com/VersionFinal/status/1621238472588640257?lang=es>; Tweet by Sebastiana Barráz [@SebastianaB], January 27, 2023. Available at: <https://twitter.com/SebastianaB/status/1619002660404998144>.

¹⁵⁷¹ Interview with Norbey Marín, July 6, 2023.

¹⁵⁷² Interview OOIV027; Joint statement by 128 NGOs on the persecution of Julio García, 29 January 2023. Available at: <https://www.uladdhh.org.ve/index.php/2023/01/29/comunicado-alerta-criminalizacion-protesta-persecucion-y-amedrentamiento-profesor-universitario-julio-garcia/>

¹⁵⁷³ Interview with Roberto Marrero, June 5, 2023; Interview PPIV064; Interview PPIV068.

¹⁵⁷⁴ Interview HHIV103; Interview with Lilian Tintori, July 4, 2023.

¹⁵⁷⁵ Diario Las Américas, Leopoldo López denounces the raid on his home in Caracas, October 22, 2022. Available at: <https://www.diariolasamericas.com/america-latina/leopoldo-lopez-denuncia-allanamiento-su-casa-caracas-n4259086>.

734. The Mission received information that two homes, one located in Caracas and the other in the city of Cagua, State of Aragua, and an office in Caracas, properties belonging to the former mayor of Caracas, Antonio Ledezma, currently in exile in Spain, were raided and closed by agents of the DGCIM. The events occurred between the 22nd and 24th of August 2023,¹⁵⁷⁶ after Attorney General Tarek William Saab requested an arrest warrant against Ledezma for the crimes of treason, conspiracy, instigation and association to commit a crime, on 21 August 2023.¹⁵⁷⁷

735. The Mission received information on at least 75 incidents of the homes of members of opposition political parties having messages painted on their facades or vandalized in several states of Venezuela between March 2019 and April 2020.¹⁵⁷⁸ The most recent cases investigated by the Mission are those of Karim Vera and Wilfredo Rodríguez, whose houses were painted with threatening messages in March¹⁵⁷⁹ and April 2020¹⁵⁸⁰, respectively (see Case 2: Wilfredo Rodríguez, *supra*; and Case 26: Karim Vera, *infra*).

¹⁵⁷⁶ Document HHDC111: Antonio Ledezma - Raid Information; NTN24, Antonio Ledezma denounces break-in of his home in Caracas, August 22, 2023. Available at: <https://www.ntn24.com/noticias-judicial/antonio-ledezma-denuncia-allanamiento-de-su-vivienda-en-caracas-439109>; Mundo24, Escalation of repression! Raid on Antonio Ledezma's home and now office, August 23, 2023. Available at: <https://mundo24.net/blog/2023/08/23/escalada-de-represion-allanamiento-de-casa-y-ahora-oficina-de-antonio-ledezma-video/>

¹⁵⁷⁷ Video de YouTube – Luigino Bracci Roa from Venezuela, August 21, 2023. Available at: <https://youtu.be/0o61sRGz6vw?si=xEdSB3RGYA-7DJ8Q>; Infobae, Maduro's regime intensifies the persecution of opponents in the midst of the electoral campaign: ordered the arrest of Antonio Ledezma and will ask Spain to extradite him, August 22, 2023. Available at: <https://www.infobae.com/venezuela/2023/08/22/el-regimen-de-maduro-recrudece-la-persecucion-a-opositores-en-plena-campana-electoral-ordeno-el-arresto-de-antonio-ledezma-y-pedira-a-espana-que-lo-extradite/>.

¹⁵⁷⁸ Interview with Karim Vera, 9 February 2023; Interview PPIV063; Interview PPIV066; Interview with María Beatriz Martínez, February 16, 2023; Interview with Karim Vera, 6 July 2023; Tweet by Karim Vera, March 29, 2020. Available at: <https://twitter.com/KarimVera6/status/1244278381019123714>; Document WWDC001: Video of Wilfredo in front of his residence with graffiti; Document PPDC051: IACHR Resolution; A/HCR/45/CRP.11, para. 223; El Mundo, Hunt for deputies in Venezuela: graffiti on their homes and jail for the vice president of the Parliamento, May 10, 2019. Available at: <https://www.elmundo.es/internacional/2019/05/10/5cd5a9a2fdddf1b558b4662.html>; CNN en Español Threats from *colectivos* and arrest of Edgar Zambran, May 11, 2019, minute 1:41. Available in <https://www.youtube.com/watch?v=DO5MflExdGo>; CEPAZ, Political Persecution in Times of Pandemic, 2020. Available at: <https://cepaz.org/wp-content/uploads/2020/07/INFORME-Persecuci%C3%B3n-Pandemia-2-definitivo.pdf>; Tweet by Jose Guerra [@JoseAGuerra], 3 December 2019. Available at: <https://twitter.com/JoseAGuerra/status/1201881146528870400?s=20>; Insight Crime, Colectivos amenazan a lideres políticos de Venezuela con graffitis, 22 de mayo de 2019. Available at: <https://es.insightcrime.org/noticias/analisis/colectivos-amenazan-politicos-venezuela-grafitis/>; National Assembly, Deputy Karim Vera, More than 120 houses marked on the border of Táchira with Colombia, March 1, 2019. Available at: <https://www.asambleanacionalvenezuela.org/noticias/vera-casas-marcadas>; El Nacional, Cabello warns of Bolivarian fury against those who call for U.S. invasion. U.S., April 2, 2020. Available at: <https://www.elnacional.com/venezuela/cabello-advierte-aplicar-la-furia-bolivariana-en-contra-de-los-que-piden-invasion-de-ee-uu/>; COFAVIC, Venezuela: internal enemies, March 2020. Available at: https://cofavic.org/wp-content/uploads/2020/05/Informe-Venezuela-enemigos-internos_2020.pdf.

¹⁵⁷⁹ Interview SSIV006; Tweet by Karim Vera, March 29, 2020.

<https://twitter.com/KarimVera6/status/1244278381019123714>; Insight Crime, Colectivos amenazan a lideres políticos de Venezuela con graffitis, 22 de mayo de 2019. Available at: <https://es.insightcrime.org/noticias/analisis/colectivos-amenazan-politicos-venezuela-grafitis/>; Asamblea Nacional, Diputada Karim Vera: Mas de 120 casas marcadas en la frontera de Táchira con Colombia, 1 de marzo de 2019. Available at: <https://www.asambleanacionalvenezuela.org/noticias/vera-casas-marcadas>.

¹⁵⁸⁰ Mission Document WWDC001, Video of Wilfredo in front of his residence with graffiti.

5. Harassment of family members of opponents

736. In its 2020 report, the Mission identified the “harassment and threats to family members or persons close to the main victims” of the crimes and violations documented by it.¹⁵⁸¹ According to the Mission’s investigations, such acts have continued to the present day. As a result, many people refrain from making public their criticism of the government or denouncing human rights violations for fear that their families will suffer reprisals.¹⁵⁸²

737. The Mission investigated six cases, which occurred between April 2020 and April 2023, that demonstrate harassment by security forces through surveillance and direct and implied threats – and even one case of physical violence – directed against family members of opponents or perceived as such. Most of these cases occurred in the homes of family members, which increases the vulnerability of these people who do not feel safe even in their own homes. The Mission also documented three other incidents in which DGCIM agents, in the context of operations to capture persons who were later arbitrarily detained, threatened their relatives, even pointing firearms at them.¹⁵⁸³

738. On 12 April 2020, armed CONAS officials wearing balaclavas arrived at the family residence of Wilfredo Rodríguez, a political activist and journalist. One of the CONAS agents knocked down a family member, put his foot in his face, and threatened that they would kill Rodríguez if he was not located quickly (see Case 2: Wilfredo Rodríguez, *supra*)¹⁵⁸⁴.

739. On 11 November 2020, Guillermo Zárraga, leader of the Single Union of Oil and Gas Workers of the State of Falcón, was interrogated at the SEBIN headquarters in Punto Fijo, Falcón State. When the interrogation was over, a SEBIN official threatened Zárraga, his wife, and his son, telling them: “*Be careful who you talk to and who you meet with because the next visit is not going to be so cordial*” (see Case 6: “Gringo Spy,” *supra*)¹⁵⁸⁵.

740. On 24 March 2021, after a warrantless search of the home of relatives of journalist Norbey Marín, two of his relatives were taken to the CICPC headquarters in Las Acacias, Carabobo State. The family members were released that same afternoon with the warning that Marín would no longer publish on his platform (see Case 31: Norbey Marín, *infra*)¹⁵⁸⁶.

¹⁵⁸¹ A/HRC/45/CRP.11, para. 242.

¹⁵⁸² Interview with Carlos Correa, February 17, 2023; Interview with Rafael Uzcategui, March 3, 2023; Interview OOIV031; Interview OOIV040; Interview with Mercedes de Freitas, March 1, 2023; Interview with Luis Carlos Díaz, July 25, 2023; Interview with Marta Tineo, July 25, 2023; Interview with Dinorah Figuera, February 16, 2023; Interview OOIV039; Interview with Carmen María Sivoli, March 2, 2023; Interview Gabriela Buada, March 3, 2023; Interview OOIV043; Interview with Jesús Alberto Medina Ezaine, March 4, 2023; Interview with Victor Ugas, June 5, 2023.

¹⁵⁸³ See *above*. Case 16: Six trade union leaders (Alcides Bracho); Case 6: Matthew John Heath and eight others (Guillermo Zárraga); and Case 1: Operation Constitution (John Jairo Gasparini Ferbans).

¹⁵⁸⁴ Interview with Wilfredo Rodríguez, July 18 and 20, 2023.

¹⁵⁸⁵ Interview with Ana Medina, September 6, 2023; Document HHDC058: Communiqué of the Zárraga case.

¹⁵⁸⁶ Interview with Norbey Marín, June 7, 2023.

741. Between June and July 2021, in the first months of the detention of human rights activists Omar de Dios García and brothers Javier and Rafael Tarazona, their family members were subjected to extensive searches when they visited them and were always accompanied by SEBIN officials. On at least two occasions, family members were forced to undress in order to gain access to the compound.¹⁵⁸⁷ On 10 July 2021, SEBIN officials raided the home of Javier and Rafael Tarazona's mother, without presenting a warrant, and recorded videos of the mother that they later showed to Javier Tarazona in order to pressure him to give them the information they were looking for (see Case 11: Javier Tarazona et al., *supra*)¹⁵⁸⁸.

742. ECV05 is the partner of a person who was arrested and charged with terrorism for organising trade union demonstrations. Between 2020 and 2022, a period in which ECV05 made public calls for the release of his partner, he observed men dressed in black standing and watching under the balcony of his home in Caracas. ECV05 knew that these men were DGCIM agents because he had seen them in prison when he visited his partner¹⁵⁸⁹. When her partner had a court hearing scheduled, there were almost always officers on motorbikes in front of her house, and when ECV05 was on her way to the hearings, the officers would leave on their motorbikes and she would see them again when she arrived at the courthouse.¹⁵⁹⁰ On several occasions, when ECV05 made public calls for her partner's release, representatives of government-aligned unions contacted ECV05 to tell her that if she continued to protest, her partner would not be released from prison. They also warned him that if he continued to protest, he would be putting the rest of his family at risk.¹⁵⁹¹

743. Franklin Alfredo Caldera Cordero, general coordinator of the Victims' Committee "S.O.S. Libertad Family", denounced that, between 2021 and 2023, he and his family have been watched and persecuted by unknown people who watch his house and follow his relatives by car when they leave their home. On 15 April 2023, a high-ranking military officer advised Caldera Cordero not to make any further public allegations in order to avoid possible further reprisals against him and his family (see Case 28: Franklin Alfredo Caldera Cordero, *below*).

6. Illustrative cases

Case 20: ECV04

Background

744. ECV04 is a member of the political party Voluntad Popular and holds public office in a municipality in Caracas. In November 2019, unknown individuals painted the walls of the façade of his house with a crossed-out letter "F" (known as a "fascist" mark) and threw leaflets out the window. One of the leaflets was on fire, but someone who was in the house at the time managed to put out the fire before the other leaflets ignited. The pamphlets read "Bolívar Chávez anti-fascist front" and threatened to "neutralize" those who generate "political intolerance."¹⁵⁹² That same night, the walls of the homes of two other members of opposition political parties, located in the same area of Caracas, were also painted with intimidating messages.¹⁵⁹³ The Mission received information on at least 70 similar incidents against members of opposition political parties in several states in Venezuela between 2019 and 2020.¹⁵⁹⁴

¹⁵⁸⁷ Interview with Rafael Tarazona, January 6, 2023

¹⁵⁸⁸ *Ibid.*

¹⁵⁸⁹ Interview PPIV053.

¹⁵⁹⁰ *Ibid.*

¹⁵⁹¹ Interview PPIV053.

¹⁵⁹² Interview PPIV063; Interview PPIV066; Document PPDC051.

¹⁵⁹³ *Ibid.*

¹⁵⁹⁴ Interview HHIV075; A/HRC/45/CRP.11, para. 223; El Mundo, Hunt for deputies in Venezuela: graffiti on their homes and jail for the vice-president of the Parliament, 10 May 2019. Available at: <https://www.elmundo.es/internacional/2019/05/10/5cd5a9a2fdddf1b558b4662.html>; YouTube video - CNN en Español, Collective threats and arrest of Edgar Zambrano, May 11, 2019. Available at: <https://www.youtube.com/watch?v=DO5MflExdGo> [min. 1:41]; CEPAZ, Political Persecution in Times of Pandemic: First Quarter of Lockdown 2020. Available at: <https://cepaz.org/wp-content/uploads/2020/07/INFORME-Persecuci%C3%B3n-Pandemia-2-definitivo.pdf>; Tweet by Jose Guerra [@JoseAGuerra], December 3, 2019. Available at: <https://twitter.com/JoseAGuerra/status/1201881146528870400?s=20>.

745. The residents of ECV04 and the other painted buildings identified the perpetrators as “hooded motorcyclists,” but did not want to give more information, fearing reprisals from the collectives, the communal councils, or the Hugo Chávez Battle Units.¹⁵⁹⁵ One of the victims of the attacks indicated that these groups are present in the neighbourhoods and know the people and their families, and can harm them with impunity.¹⁵⁹⁶ After this episode of harassment, ECV04 continued to carry out political activities in the area, but with a low profile and did not suffer another incident until 2023.¹⁵⁹⁷

Harassment

746. In early 2023, ECV04 along with a group from Voluntad Popular, organized a walk in Caracas. At the beginning of the activity, agents of the Caracas municipal police and the PNB approached ECV04 and asked for his information, which was then communicated to the PNB superiors by radio. Police officials let the group continue their activity, but stayed nearby, keeping an eye on them. Half an hour later, the Voluntad Popular group was approached by three members of a collective on motorcycles, two men and a woman¹⁵⁹⁸.

747. The three members of the collective began yelling at ECV04 and their colleagues that they had to leave the area. The members of the collective told them that they did not have permission from the collective to be there and that they had the order to “neutralize” them, without indicating from whom the order came¹⁵⁹⁹. One of the men on a motorcycle, carrying a firearm, threatened that if they did not leave the neighbourhood, he would take them to the “23 de Enero”¹⁶⁰⁰. Being threatened in this way, ECV04 and his companions withdrew. These threats took place in front of four police officers who had been accompanying the Popular Will group during the activity. Witnesses indicate that the municipal police officers and the PNB did not say or do anything during the incident with the members of the collective¹⁶⁰².

748. A month later, ECV04 suffered another incident of harassment in the same area. Voluntad Popular had organized a rally in a Caracas neighbourhood to promote voting in the October 2023 primary elections. Upon arriving at the event, ECV04 was confronted by a group of approximately 100 people, men, and women, sympathetic to the government. There were also six motorized members of a¹⁶⁰³ collective. The group surrounded ECV04 and other people wearing Voluntad Popular group shirts, and started yelling at them, pushing them, filming them and throwing eggs and stones at them. ECV04 managed to retreat and took refuge in a neighbourhood church¹⁶⁰⁴.

¹⁵⁹⁵ A/HRC/45/CRP.11, Para. 624.

¹⁵⁹⁶ Interview PPIV066.

¹⁵⁹⁷ *Ibid.*; Interview PPIV063.

¹⁵⁹⁸ *Ibid.*; Document PPDC049; Document PPDC051.

¹⁵⁹⁹ Interview PPIV063; Interview PPIV066; Document PPDC049.

¹⁶⁰⁰ The '23rd of January' is an area controlled by collectives aligned with the Government, known for being a dangerous area with a lot of crime and impunity.

¹⁶⁰¹ Interview PPIV063; Interview PPIV066; Document PPDC049; Document PPDC051.

¹⁶⁰² Interview PPIV063; Interview PPIV066; Document PPDC051.

¹⁶⁰³ *Ibid.*; Document PPDC0

¹⁶⁰⁴ Interview PPIV063; Document PPDC048; Document PPDC051.

749. Several people from the pro-government group and the six members of the collective followed ECV04 to the church. Some of the members of the collective lifted their shirts to show that they were armed. The group outside the church began shouting insults at ECV04 and threatened to burn down the church if ECV04 did not come out¹⁶⁰⁵.

750. Soon after, between 10 and 20 people entered the church and threatened the priest, reiterating that they would burn down the church if he did not hand over ECV04. A colleague of ECV04 who was in the church at the time, called the PNB Commander of the area to ask for help. Shortly after, four PNB officials arrived with long guns and evacuated ECV04 and another member of Voluntad Popular through the back door of the church, put them on two PNB motorcycles and left the place. Two members of the collective chased them on a motorbike to the edge of the parish¹⁶⁰⁶. The PNB agents left ECV04 and his colleague in Plaza Venezuela, apologized for the incident, but did not take any statements from them¹⁶⁰⁷.

751. Two days later, ECV04 encountered one of the members of the collective who was at the church incident on the street. The individual recognized ECV04 and pointed his index finger at him in a threatening manner¹⁶⁰⁸. That same day, ECV04 went to the Ombudsman's Office and the Office of Victim Assistance in Human Rights Protection of the Public Prosecutor's Office in Caracas to report the incidents. The Ombudsman's Office received his complaint¹⁶⁰⁹, but the Public Prosecutor's Office forced him to visit different offices and he had to insist several times until an official agreed to receive his statement¹⁶¹⁰, however, the official refused to write down details of the incidents¹⁶¹¹. As of the publication of this report, ECV04 has not received any follow-up communication on its case from the Ombudsman's Office, nor from the Public Prosecutor's Office¹⁶¹². Although ECV04 continues to carry out its political work, it indicates that it has reduced its participation in public activities for fear of further attacks and reprisals, particularly as its home is very close to the area controlled by the groups¹⁶¹³.

Conclusions

752. The Mission has reasonable grounds to believe that ECV04 has been the victim of harassment and threats against his personal integrity due to his political activity on at least three occasions between 2019 and 2023. The Mission has reasonable grounds to believe that these acts were perpetrated by civilians (*colectivos*) acting with the acquiescence of the State, since the attacks were carried out in front of municipal and national police officers, who in the first incident did not intervene to prevent or stop the attacks, and in the second incident only evacuated two of the victims from the place where the attacks were taking place. But they did not act to arrest or investigate the people who committed the attacks. Despite the fact that complaints have been filed by the victim, the Ombudsman's Office and the Public Prosecutor's Office have also failed to act diligently to prevent and investigate these episodes.

¹⁶⁰⁵ Interview PPIV063; Interview PPIV066; Document PPDC051.

¹⁶⁰⁶ Interview PPIV063; Interview PPIV066; Document PPDC048; Document PPDC051.

¹⁶⁰⁷ Interview PPIV063; Interview PPIV066; Document PPDC051

¹⁶⁰⁸ *Ibid.*

¹⁶⁰⁹ Document PPDC048; Document PPDC049; Document PPDC051.

¹⁶¹⁰ Interview PPIV063; Interview PPIV066; Document PPDC047; Document PPDC051.

¹⁶¹¹ Interview PPIV063; Document PPDC047; Document PPDC050.

¹⁶¹² Interview PPIV063.

¹⁶¹³ *Ibid.*; Interview PPIV066; Document PPDC051.

Case 21: Delsa Solórzano Bernal

Background

753. Delsa Solórzano is a Venezuelan politician and lawyer. She was a deputy of the National Assembly in the period 2016-2021 for the State of Miranda. She is currently a candidate for the 2023 Unitary Platform primary elections for the political party Encuentro Ciudadano.¹⁶¹⁴

754. In December 2019, the IACHR issued precautionary measures of protection in favour of Solórzano, after considering that the acts of harassment and threats against her, since 2017, placed her in a situation of seriousness, urgency, and irreparable risk to her rights. For example, in January 2017, unknown persons broke into her home and placed a funeral stamp with the message “in memoriam” on her vehicle, accompanied by a knife.¹⁶¹⁵

Harassment

755. In her capacity as an opposition politician, Solórzano continued to be a victim of harassment between 2022 and 2023, through acts that have ranged from monitoring and surveillance by different state security forces in different parts of the country, in the context of her national tour as a candidate for the primaries, to direct threats from State officials.¹⁶¹⁶

756. The Mission has documented at least five acts of harassment in 2022 and six in 2023.¹⁶¹⁷ The most frequent situations of harassment occur when Solórzano travels by land or air to the localities where she carries out his political activities. Solórzano told the Mission that, when she travels by plane, people belonging to collectives wait for her when she arrives at airports, and even inside planes, sitting very close to her seat and the seats of her team. According to Solórzano, these people in civilian clothes constantly take pictures and record videos of her movements and those of her team.¹⁶¹⁸

¹⁶¹⁴ Interview with Delsa Solórzano, February 6, 2023; Cocuyo effect, Delsa Solórzano registers in primaries: rejects extension and candidacy by consensus, June 22, 2023. Available at: <https://efectococuyo.com/politica/delsa-solorzano-primarias-rechaza-prorroga-postulaciones- consenso/>.

¹⁶¹⁵ IACHR, Precautionary Measure No. 967-19: Delsa Jennifer Solórzano Bernal with respect to Venezuela, December 24, 2019. Available at: <https://www.oas.org/es/cidh/decisiones/pdf/2019/66-19MC967-19-VE.pdf>; Interview with Delsa Solórzano, February 6, 2023.

¹⁶¹⁶ Interview with Delsa Solórzano, February 6, 2023; Document HHDC041: Documentation on Acts of Harassment and Harassment; Document HHDC074: Summary of Violent Incident in the State of Vargas; Document HHDC075: Documentation on Acts of Harassment and Bullying 2; Tal Cual, Delsa Solórzano's Command denounces persecution and harassment against her, March 18, 2023. Available at: <https://talcualdigital.com/comando-de-delsa-solorzano- denuncia-persecucion-y-hostigamiento-en-su-contra/>; El Nacional, Delsa Solórzano denounces new persecution of Sebin, April 16, 2023. Available at: <https://www.elnacional.com/venezuela/delsa-solorzano-denuncia-nueva-persecucion-del-sebin/>.

¹⁶¹⁷ Interview with Delsa Solórzano, February 6, 2023; Document HHDC041: Documentation on Acts of Harassment and Harassment; Document HHDC075: Documentation on Acts of Harassment and Bullying 2.

¹⁶¹⁸ *Ibid.*

746. When Solórzano travels by road, she is constantly watched by plainclothes security officers, in vehicles without license plates and with dark windows, who follow her everywhere she goes.¹⁶¹⁹ According to Solórzano, these persons belong to SEBIN and the DGCIM by their modus operandi.¹⁶²⁰ Usually, these vehicles are parked at the entrance of the hotels where Solórzano is staying. On some occasions, the vehicles are identified and bear the SEBIN label. Other times, state security agents enter hotel facilities and even stay there.¹⁶²¹

747. On 11 August 2022, Solórzano and her entourage travelled by road to Barquisimeto, Lara State, as part of their political activities.¹⁶²² A few meters away from the hotel where they were going to stay, a GNB checkpoint had been posted. In the lobby of the hotel, there were officials from the PNB, the Regional Police of the State of Lara, the GNB, the SEBIN, the DGCIM and the DIP of the PNB, who, according to Solórzano, tried to approach their security team and threatened to check their bags and detain them. However, Solórzano and her team managed to make their way to their respective rooms. At that moment, they realized that, although Solórzano and her team had booked joint rooms, they had been separated on different floors of the hotel.¹⁶²³

748. Solórzano tried to book rooms at other hotels in the area. When she called on the phone, they confirmed availability, but when they found out that it was an opposition policy, they refused to book. When they found a hotel that allowed them to stay, they noticed that state security officials had booked rooms in the same hotel.¹⁶²⁴

749. A similar situation occurred on 1 June 2023, in the State of Monagas, where Solórzano moved to carry out activities as part of her political campaign.¹⁶²⁵ On this occasion, when they arrived at the hotel where they were going to stay, a police operation was inside with the intention of finding out who were the people who would be staying at the hotel. Solórzano and her team decided to move to another hotel where they spent the first night. The next day, the hotel contacted the operational coordinator of Solórzano's team and informed her that they could not stay another night at their facilities, despite having a reservation for the following nights. Solórzano's team made several calls to other hotels, but according to the source, they refused to admit them, using different excuses. According to the source interviewed by the Mission, one hotel accepted reservations, but in this hotel, plainclothes staff had booked joint rooms and were continuously monitoring the team members. One of these alleged officials even followed Solórzano through the corridors of the hotel while videotaping her.¹⁶²⁶

¹⁶¹⁹ *Ibid.*; Tweet by Encuentro Ciudadano [@EnCiudadanoVzla], March 18, 2023. Available at: <https://twitter.com/EnCiudadanoVzla/status/1637180074372874243?s=20>; El Tequeño, Delsa Solórzano's campaign command denounces persecution and harassment against its candidate, March 19, 2023. Available at: <https://xn--eltequeo-j3a.com/comando-de-campana-de-delsa-solorzano-denuncia-persecucion-y-hostigamiento-contrasu-candidata/>; Tweet by Delsa Solórzano [@delsasolorzano], April 15, 2023. Available at: <https://twitter.com/delsasolorzano/status/1647362447987167234?s=20>.

¹⁶²⁰ Interview with Delsa Solórzano, February 6, 2023.

¹⁶²¹ *Ibid.*; Document HHDC041: Documentation on Acts of Harassment and Harassment; Document HHDC075: Documentation on Acts of Harassment and Bullying 2.

¹⁶²² Interview with Delsa Solórzano, February 6, 2023; Document HHDC041: Documentation on Acts of Harassment and Harassment; Tweet by Encuentro Ciudadano [@EnCiudadanoVzla], 11 de agosto de 2022. Available at: <https://twitter.com/EnCiudadanoVzla/status/1557933337452363779?s=20>.

¹⁶²³ Interview with Delsa Solórzano, February 6, 2023; Document HHDC041: Documentation on Acts of Harassment and Harassment; El Informador, Delsa Solórzano: if my party wants it, I will be a candidate in the 2023 primaries, August 11, 2022. Available at: <https://www.elinformadorve.com/11/08/2022/venezuela/delsa-solorzano-si-mi-partido-asi-lo-quiessere-candidata-en-las-primarias-de-2023/>.

¹⁶²⁴ Interview with Delsa Solórzano, February 6, 2023; Document HHDC041: Documentation on Acts of Harassment and Harassment.

¹⁶²⁵ Document HHDC075: Documentation of Acts of Harassment and Bullying 2; Tweet by Encuentro Ciudadano [@EnCiudadanoVzla], June 2, 2023. Available at: <https://twitter.com/EnCiudadanoVzla/status/1664783496731152385?s=20>; La Patilla, Delsa Solórzano: We come to tell the people of Monagua that it is possible to direct the destiny of the country honestly, June 3, 2023. Available at: <https://www.lapatilla.com/2023/06/03/delsa-solorzano-venimos-a-decirle-a-los-monaguenses-que-si-es-posible-dirigir-los-destinos-del-pais-honestamente/>.

¹⁶²⁶ Document HHDC075: Documentation on Acts of Harassment and Bullying 2.

750. In other situations, the harassment of Solórzano led to violence. On 1 April 2023, at approximately noon, in the La Lucha sector, in Catia La Mar, State of Vargas, Delsa Solórzano was traveling with her entourage through the streets of the town, as part of activities related to her candidacy for the primaries. A vehicle with an “official use” sign blocked one of the streets, preventing Solórzano, his team, and supporters from passing. The people who were in this vehicle tried to block their way, slapping their hands, shouting, and verbally threatening them in a very aggressive way.¹⁶²⁷

751. Solórzano and her team managed to advance a few blocks until they ran into the same people who again blocked their way, this time they were accompanied by motorcyclists. On this second occasion, the people were even more violent and aggressive, directly attacking the militants of Encuentro Ciudadano with pushes, blows, shouts, insults, and death threats.¹⁶²⁸ Several members of Solórzano's team suffered blows and wounds to their faces and bodies. She was also injured with scratches and bruises on different parts of her body, such as arms, legs, and abdomen.¹⁶²⁹

752. According to the source interviewed by the Mission, despite these violent acts, the police officers who were in the vicinity did not intervene at any time to calm the people, on the contrary, some of these three policemen intimidated Solórzano's sympathizers, taking photographs of some people.¹⁶³⁰ The same source recognized the perpetrators of these violent acts as officials of the Municipal Council of Vargas.¹⁶³¹

Censorship

753. Solórzano has also been the victim of censorship and vetoes in different media outlets¹⁶³². On 12 May 2023, in the State of Barinas, while being interviewed on the program “Mesa de Análisis”, hosted by journalist Leonaldi Meza, of the radio station “Furia 89.9 FM”, the host of the program received a call in which he was given orders to remove Solórzano from the air. According to information received by the Mission, the programme was cancelled as a result of interviewed Solórzano and had denounced, days earlier, the theft of 32,000 gas cylinders (see section F.3.d. *infra*)¹⁶³³.

¹⁶²⁷ Document HHDC074: Summary of Violent Incident State of Vargas; Document HHDC076: Videos of violent incident in the State of Vargas; El Nacional, Chavistas tried to prevent Delsa Solórzano's tour in Catia La Mar, April 1, 2023.

Available at: <https://www.elnacional.com/venezuela/chavistas-trataron-de-impedir-recorrido-de-delsa-solorzano-en-catia-la-mar/>; Tweet by Daniel Murolo [@dmurolo], April 1, 2023. Available at: <https://twitter.com/dmurolo/status/1642209976373465089?s=20>.

¹⁶²⁸ Document HHDC074: Summary of Violent Incident in the State of Vargas; Document HHDC076: Videos of violent incident in the State of Vargas; Tweet by Daniel Murolo [@dmurolo], April 1, 2023. Available at: <https://twitter.com/dmurolo/status/1642209976373465089?s=20>.

¹⁶²⁹ Document HHDC074: Summary of Violent Incident in the State of Vargas; El Nacional, Chavistas tried to prevent Delsa Solórzano's route in Catia La Mar, April 1, 2023. Available at: <https://www.elnacional.com/venezuela/chavistas-trataron-de-impedir-recorrido-de-delsa-solorzano-en-catia-la-mar/>.

¹⁶³⁰ Document HHDC074: Summary of Violent Incident in the State of Vargas.

¹⁶³¹ *Ibid.*; Tweet by Yvan Piquel [@YvanPiquel], April 1, 2023. Available at: <https://twitter.com/YvanPiquel/status/1642232192725049344?s=20>.

¹⁶³² Interview with Delsa Solórzano, February 6, 2023.

¹⁶³³ Document HHDC075: Documentation on Acts of Harassment and Bullying 2; Tweet by Delsa Solórzano [@delsasolorzano], May 12, 2023. Available at: <https://twitter.com/delsasolorzano/status/1657072646926761991?s=20>; Espacio Público, Leonaldi Meza's program goes off the air due to political pressure in Barinas, May 12, 2023. Available at: <https://espaciopublico.org/programa-de-leonaldi-meza-sale-del-aire-por-presiones-politicas-en-barinas/>; El Nacional, They took a radio program off the air after interviewing Delsa Solórzano, May 12, 2023. Available at: <https://www.elnacional.com/venezuela/sacaron-del-aire-un-programa-de-radio-tras-entrevistar-a-delsa-solorzano/>.

Death threats

754. On 12 August 2023, Solórzano denounced through her social networks death threats received on her Facebook account by a person who told her “Fernando Villavicencio has already fallen, now it is Delsa Solórzano's turn, so that socialism is clear to them, and the Bolivarian revolution of Chávez, Maduro and Diosdado will win forever”. Solórzano announced that she was going to denounce the events to international organizations.¹⁶³⁴ The following day, Attorney General Tarek William Saab announced the appointment of the 94th National Human Rights Prosecutor to investigate these events.¹⁶³⁵ On August 14, 2023, President Maduro publicly spoke out about these events, claiming to agree with the Prosecutor's decision to open an investigation. In addition, he said he had asked the Minister of the Interior and Justice to conduct an investigation and offer Solórzano “all the protection of the security services.” He added that it was “a set-up by malicious people who did it in the name of Maduro, Diosdado and the Bolivarian Revolution.” He ended by saying: “my respects to all the leaders of the opposition, whatever differences we have and whether we remain at peace, I call on you to peace and tranquility.”¹⁶³⁶

Conclusions

755. Based on the foregoing, the Mission has reasonable grounds to believe that Delsa Solórzano, during 2022 and 2023, continued to be subjected to acts of harassment similar to those that occurred in previous years and on repeated occasions, by agents of the State, for being an opposition political figure and a candidate for the 2023 primary elections

756. The Mission also has reasonable grounds to believe that SEBIN and DGCIM officials, as well as civilian members of the collectives, participated in the monitoring and surveillance acts. Civilian members of the collectives also engaged in acts of physical aggression.

Case 22: Juan Guaidó Márquez

Background

757. Juan Guaidó is a Venezuelan politician, former deputy of the National Assembly during the period 2016-2021 for the State of Vargas and founding member of the political party Voluntad Popular. On 23 January 2019, he was proclaimed interim president of the Bolivarian Republic of Venezuela by the National Assembly made up of a opposition majority¹⁶³⁷, which did not recognize Nicolás Maduro's victory in the 2018 elections.

¹⁶³⁴ Tweet by Delsa Solorzano [@delsasolorzano], August 12, 2023. Available at: <https://twitter.com/delsasolorzano/status/1690492976747642880?s=20>.

¹⁶³⁵ Tweet by Tarek William Saab [@TarekWilliamSaab], August 13, 2023. Available at: <https://twitter.com/TarekWilliamSaab/status/1690896433833230336?s=20>.

¹⁶³⁶ YouTube Video – Luigino Bracci Roa, Maduro on death threats against Delsa Solórzano and investigation initiated by the Prosecutor's Office, August 14, 2023. Available at: <https://youtu.be/F94w-IUqQ6w>.

¹⁶³⁷ BBC News World, Guaidó proclaims himself president of Venezuela: how to explain the revival of opposition to Maduro (and what's different this time), January 23, 2019. Available at: <https://www.bbc.com/mundo/noticias-america-latina-46982249>.

758. Since 25 April 2023, Guaidó has been in exile in the United States after making a trip to Colombia by land from Venezuela with the intention of attending an international summit convened by Colombian President Gustavo Petro. The Government of Colombia declared that his entry into that country had been irregular and caused him to leave for the United States.¹⁶³⁸ Through a video recorded inside the commercial plane that transported him, Guaidó announced that he was heading to the United States because of the threats received by his family.¹⁶³⁹

Harassment

759. In his capacity as political leader and interim president of the Bolivarian Republic of Venezuela appointed by the opposition from 23 January 2019 to 5 January 2023, Guaidó has been the victim of various acts of harassment, including physical and verbal attacks by security forces and groups sympathetic to the Government; persecution and surveillance by various State security forces; threats and accusations by State officials of having participated in criminal acts. The Mission has documented these facts, including the following.

Aggressions

760. On 11 February 2020, upon returning from his second international tour, Guaidó was attacked by people dressed in PSUV shirts who, since his arrival at the Maiquetía airport, physically and verbally assaulted him, pushing him, hitting him, throwing objects at him and insulting him, calling him a “murderer”, “traitor” and “seller of the homeland”. As he left the airport, these same people threw rocks and other objects at the van that was transporting him.¹⁶⁴⁰

761. On 29 February 2020, groups of people belonging to collectives fired firearms at the vehicle carrying Guaidó and his entourage to a political event he had organized in Barquisimeto, Lara State. At least five people from Guaidó’s team and supporters were injured.¹⁶⁴¹

¹⁶³⁸ Interview with Juan Guaidó, July 24, 2023; Tweet by Juan Guaidó [@jguaido], April 24, 2023. Available at: <https://twitter.com/jguaido/status/1650446990134714369?s=20>; Tweet de Juan Guaidó [@jguaido], April 24, 2023. Available at: <https://twitter.com/jguaido/status/1650720175715504130?s=20>; La Nación, Juan Guaidó made a surprise trip to Colombia for an international conference on Venezuela, April 24, 2023. Available at: <https://www.lanacion.com.ar/el-mundo/juan-guaido-cruzo-a-pie-a-colombia-para-una-conferencia-internacional-sobre-venezuela-nid24042023/>; La Nación, Persecuted by Nicolás Maduro's regime, Juan Guaidó fled Venezuela into exile, April 24, 2023.

Available at: <https://www.lanacion.com.ar/el-mundo/perseguido-por-el-regimen-de-nicolas-maduro-juan-guaido-huyo-de-venezuela-al-exilio-nid24042023/>; RFI, Venezuela's Juan Guaidó goes into exile in the U.S. after being expelled from Colombia, April 25, 2023. Available at: <https://www.rfi.fr/es/am%C3%A9ricas/20230425-el-venezolano-juan-guaid%C3%B3-sale-al-exilio-en-eeuu-tras-ser-expulsado-de-colombia>.

¹⁶³⁹ Tweet by Juan Guaidó [@jguaido], April 24, 2023. Available at: <https://twitter.com/jguaido/status/1650720175715504130?s=20>.

¹⁶⁴⁰ Document HHDC079; El Estímulo, Guaidó arrived in Maiquetía amid aggression by Chavistas, February 11, 2020. Available at: <https://elestimulo.com/venezuela/2020-02-11/guaido-llego-a-maiquetia-entre-agresiones-de-chavistas/>; El Independiente, Juan Guaidó assaulted upon his return to Caracas: Never was the dictatorship so alone, February 11, 2020. Available at: <https://www.elindependiente.com/politica/venezuela/2020/02/11/juan-guaido-agredido-a-su-regreso-a-caracas-nunca-la-dictadura-estuvo-tan-sola/>.

¹⁶⁴¹ Interview with Juan Guaidó, July 24, 2023; Document HHDC079; Tweet by Juan Guaidó [@jguaido], February 29, 2020. Available at: <https://twitter.com/jguaido/status/1233895536476016642?s=20>; Tweet by Voluntad Popular [@VoluntadPopular], February 29, 2020. Available at: <https://twitter.com/VoluntadPopular/status/1233880311999729665?s=20>; Tweet by Alfonso Marquina [@DipMarquina], February 29, 2020. Available at: <https://twitter.com/DipMarquina/status/1233879384345530369?s=20>; Infobae, Chavista collectives attacked a rally called by Juan Guaidó in Barquisimeto, February 29, 2020. Available at: <https://www.infobae.com/america/venezuela/2020/02/29/colectivos-chavistas-atacaron-una-concentracion-convocada-por-juan-guaido-en-barquisimeto/>; El Mundo, A demonstration led by Juan Guaidó is shot at in Venezuela, injuring at least five, February 29, 2020. Available at: <https://www.elmundo.es/internacional/2020/02/29/5e5aabf921efa0712d8b4636.html>.

746. On 12 July 2021, Guaidó reported that officials from the Strategic Intelligence Directorate (DIE) of the Bolivarian National Police tried to detain him in the basement of the building where he lived. These officers intercepted his vehicle, pointed long guns at him, forced open the doors of his car, and detonated an explosive. According to the source interviewed by the Mission, at no time did the officials present any judicial order to proceed with his arrest.¹⁶⁴² The events occurred minutes after the arrest of Voluntad Popular deputy Freddy Guevara.¹⁶⁴³

747. On 11 June 2022, after a political rally in the town of San Carlos, Cojedes state, a group of pro-government people physically and verbally attacked Guaidó while he was meeting in a restaurant with supporters of Voluntad Popular. These people beat him, threw objects at him, and tore Guaidó's clothes.¹⁶⁴⁴

Surveillance and search

748. Juan Guaidó was also the target of a raid on his office and surveillance of his home. According to Guaidó, on 21 January 2020, some 40 officials from SEBIN, the FAES, and other units of the PNB, who identified themselves as an "anti-corruption commission," raided their offices located in the Zurich Towers in El Rosal, Caracas, while Guaidó was out of the country.¹⁶⁴⁵ According to Voluntad Popular, the raid was interpreted as an act of intimidation and in retaliation for the report of the disappearance, that same day, of Voluntad Popular deputy Ismael León.¹⁶⁴⁶ On the morning of 5 March 2020, Guaidó denounced the presence of a FAES patrol outside his home in Caracas. When Guaidó wanted to approach them, the officials fled without explanation.¹⁶⁴ On 5 January 2021, the day the new legislature of the National Assembly was installed, SEBIN officials surrounded Guaidó's home.¹⁶⁴⁸

¹⁶⁴² Interview with Juan Guaidó, July 24, 2023; Document HHDC079; Tweet by Juan Guaidó [@jguaido], July 12, 2021. Available at: <https://twitter.com/jguaido/status/1414657131823964166?s=20>; Tweet by Juan Guaidó [@jguaido], July 12, 2021. Available at: <https://twitter.com/jguaido/status/1414654670610567171?s=20>; CNN, Guaidó denounces siege at his home and attempted arrest by security forces, July 12, 2021. Available at: <https://cnnespanol.cnn.com/2021/07/12/juan-guaido-denuncia-asedio-intento-arresto-orix/>.

¹⁶⁴³ Interview with Freddy Guevara, July 3, 2023; El Mundo, Former opposition deputy Freddy Guevara arrested and Guaidó denounces having been 'momentarily kidnapped', July 12, 2021. Available at: <https://www.elmundo.es/internacional/2021/07/12/60ec811921efa0c1618b458c.html>.

¹⁶⁴⁴ Document HHDC079; Tweet by Reporte Ya [@ReporteYa], June 11, 2022. Available at: <https://twitter.com/ReporteYa/status/1535735700636766214?s=20>; Tweet by Dante Fontana [@DanteFontana], June 11, 2022. Available at: <https://twitter.com/DanteFontana3/status/1535692507551567873?s=20>; Tal Cual, Officialistas savagely attacked Juan Guaidó during a visit to Cojedes, June 11, 2022. Available at: <https://talcualdigital.com/oficialistas-agredieron-de-forma-salvaje-a-juan-guaido-durante-visita-en-cojedes/>; Voice of America, Maduro supporters attack opposition leader Juan Guaidó after political rally, U.S. and other countries express rejection, June 12, 2022. Available at: <https://www.vozdeamerica.com/a/simpatizantes-de-maduro-agreden-a-lider-opositor-juan-guaido-tras-un-acto-politico-en-la-periferia-de-caracas/6614166.html>.

¹⁶⁴⁵ Interview with Juan Guaidó, July 24, 2023; Document HHDC079; Voice of America, SEBIN raids Guaidó's offices in Caracas, January 21, 2020. Available at: <https://www.vozdeamerica.com/a/toman-oficinas-de-guaid%C3%B3-en-caracas/5254649.html>; Tweet by Juan Pablo Guanipa [@JuanPGuanipa], January 21, 2020. Available at: <https://twitter.com/JuanPGuanipa/status/1219711607254720515?s=20>; Tweet by Fabiana Rosales [@FabiiRosales], January 21, 2020. Available at: <https://twitter.com/FabiiRosales/status/1219722653138870273?s=20>.

¹⁶⁴⁶ Voluntad Popular, Voluntad Popular denounces forced disappearance of Deputy Ismael León, January 21, 2020. Available at: <https://voluntadpopular.com/voluntad-popular-denuncia-desaparicion-forzada-del-diputado-ismael-leon/>.

¹⁶⁴⁷ Document HHDC079; Tweet by Juan Guaidó [@jguaido], March 5, 2020. Available at: <https://twitter.com/jguaido/status/1235642861447569418?s=20>; Tweet by Juan Guaidó [@jguaido], March 5, 2020. Available at: <https://twitter.com/jguaido/status/1235643445072576514?s=20>; NTN24, Guaidó denounced the presence of regime police outside his home, March 5, 2020. Available at: <https://www.ntn24.com/noticias-actualidad/guaido-denuncio-presencia-de-policia-del-regimen-a-las-afueras-de-su-casa-116783>.

¹⁶⁴⁸ Document HHDC079; ABC International, Chavista intelligence service surrounds Guaidó's house, January 5, 2021. Available at: https://www.abc.es/internacional/abci-servicio-inteligencia-chavista-registra-casa-guaido-202101051350_noticia_amp.html#amp_tf=De%20%251%24s&aoh=16641524385660&referrer=https%3A%2F%2Fwww.google.com-de-su-hogar-y-reitero-su-llamado-a-marchar-contra-el-regimen/.

Threats and accusations

749. Among the threats and accusations to which Juan Guaidó was subjected, the Mission has documented that on 23 January 2020, during a public event, President Maduro threatened Guaidó with arresting him upon his return from his international tour, calling on the Venezuelan justice system to “*make the decision that has to be made.*” He referred to him as a “*clown*”, “*jester*”, “*imbecile*”, “*boy for a fool*”, “*traitor*” and “*seller of his homecountry*”¹⁶⁴⁹. On the same day, in a public statement, Jorge Rodríguez, then Sectorial Vice President of Communication, Culture and Tourism, accused Guaidó of being a thief, corrupt, of “*quickly getting hold of money that belongs to Venezuela*” and of embezzling funds from humanitarian aid.¹⁶⁵⁰ Two months later, on February 15, 2020, at a press conference, Rodríguez again accused Guaidó of starring in “*the most gigantic case of corruption,*” according to him, the theft of national assets amounting to \$116 billion¹⁶⁵¹.

750. On 16 February 2020, the Executive Vice President of the Bolivarian Republic of Venezuela, Delcy Rodríguez, in an interview with the program “José Vicente Hoy” on Televen, accused Guaidó of having links to paramilitarism and Colombian drug trafficking. Delcy Rodríguez claimed to have evidence of Guaidó’s links to drug trafficking and to have taken it to the UN General Assembly, although he did not present it.¹⁶⁵²

751. On 5 March 2020, the governor of Táchira, Freddy Bernal, accused Guaidó of stealing more than \$30 billion through Venezuelan companies abroad. In addition, Bernal referred to Guaidó as a “*clown,*” “*inept,*” and “*traitor to the homeland,*” adding that “[Guaidó] would like to be imprisoned” and that “*someone would attack him to take on the importance he has not been able to raise.*”¹⁶⁵³ The following year, on 26 January 2021, she accused him of having led Operation Red October, which aimed to “*create terrorist actions and destabilize the country.*”¹⁶⁵⁴

¹⁶⁴⁹ Document HHDC079; Infobae, Maduro threatened to detain Guaidó upon return from his tour: 'Let the decision be made that has to be made to do justice', January 23, 2020.

Available at: <https://www.infobae.com/america/venezuela/2020/01/23/maduro-amenazo-con-detener-a-guaido-al-regreso-de-su-gira-que-se-tome-una-decision-para-hacer-justicia/?outputType=amp-type>.

¹⁶⁵⁰ YouTube Video - Luigino Bracci Roa, Jorge Rodríguez recounts one year of Juan Guaidó's self-proclamation, January 23, 2020. Available at: <https://youtu.be/RNcMPcX-zY>; El Cooperante, Rodríguez says that Alejandro Betancourt gave money to Guaidó's father, January 23, 2020. Available at: <https://elcooperante.com/rodriguez-dice-que-el-bolichico-alejandro-betancourt-entrego-dinero-al-padre-de-guaido/>.

¹⁶⁵¹ YouTube video - Luigino Bracci Roa, Jorge Rodríguez, press conference on Juan Guaidó's corruption, February 15, 2020. Available at: https://www.youtube.com/watch?v=9EKU6sn7_U&ab_channel=LuiginoBracciRoadesdeVenezuela; VTV, Sector Vice President Jorge Rodríguez: theft of national assets linked to Guaidó amounts to \$116 million, February 15, 2020. Available at: <https://www.vtv.gob.ve/trama-corrupcion-jorge-rodriguez-guaido/>.

¹⁶⁵² Document HHDC079; YouTube Video – Televen Tv, José Vicente Hoy – Delcy Rodríguez Gómez – Sunday, February 16, 2020, February 16, 2020. Available at: <https://youtu.be/07KA8Yjw7-k>.

¹⁶⁵³ Document HHDC079; Tal Cual, Freddy Bernal: We will not put Guaidó in jail for now, March 5, 2020. Available at: <https://talcualdigital.com/freddy-bernal-no-meteremos-presos-a-guaido-por-ahora/>; YouTube Video – ETVV Miami, Freddy Bernal 'We will not put Guaidó in jail for now' – ETVV News 03/05/20, March 5, 2020. Available at: <https://youtu.be/RIRgxuob4Q>.

¹⁶⁵⁴ Document HHDC079; ContraPunto.Com, Freddy Bernal accused Guaidó of leading Operation Red October, January 26, 2021. Available at: <https://contrapunto.com/nacional/gobierno/freddy-bernal-acuso-a-guaido-de-liderar-la-operacion-ocubre-rojo/>.

778. On 4 May 2020, Attorney General Tarek William Saab accused Guaidó of having hired mercenaries with the country's funds blocked by U.S. sanctions to carry out a coup d'état and assassination attempt, known as Operation Gideon¹⁶⁵⁵. On 15 May 2020, Cilia Flores, wife of President Maduro, accused Guaidó of being at the head of Operation *Gedeón* and threatened him, pointing out that “*he is not saved from it*” and that “*it is fully proven that he was the one in charge and he was going to be put as commander in chief and president if all the objectives were met.*”¹⁶⁵⁶ Jorge Rodríguez also accused him of the same thing, on 31 January 2021, at a press conference in the National Assembly. On that occasion, Rodríguez said that Guaidó and Leopoldo López directed Operation *Gedeón* and the training deserters and paramilitaries whose goal was to assassinate President Maduro and high-ranking public officials.¹⁶⁵⁷

779. On 23 January 2021, Jorge Rodríguez, president of the National Assembly, in a press conference from the Federal Legislative Palace, accused Guaidó and the 2015 National Assembly of having stolen Venezuela's assets to include them in their personal wealth and prevent the purchase of COVID-19 vaccines. In addition, he denounced Guaidó for having agreed with Paraguay to illegally reduce that country's debt to PDVSA.¹⁶⁵⁸

780. On 13 July 2021, Jorge Rodríguez accused Guaidó and other members of Voluntad Popular at a press conference. He showed WhatsApp screenshots that he claimed were evidence that Guaidó was part of a plot in which criminal gangs would be in charge of generating violence and assassinating President Maduro.¹⁶⁵⁹

¹⁶⁵⁵ Document HHDC079; YouTube video – Luigino Bracci Roa, Tarek William Saab - Attorney General of Venezuela – on paramilitary incursion in La Guaira, May 4, 2020.

Available at: <https://youtu.be/DWUIXQmcrIM>; DW, Caracas: Fiscalía acusa a Guaidó por invasión de mercenarios, 4 de mayo de 2020. Available at: <https://www.dw.com/es/venezuela-fiscal%C3%ADa-acusa-a-guaid%C3%B3-por-invasi%C3%B3n-de-mercenarios/a-53330850>. *Supra* Cap III.

¹⁶⁵⁶ Document HHDC079; Tal Cual, Cilia Flores assured that Juan Guaidó 'is not saved from this', May 15, 2020. Available at: <https://talcualdigital.com/cilia-flores-aseguro-que-juan-guaido-no-se-salva-de-esta/>.

¹⁶⁵⁷ Document HHDC079; YouTube Video – Luigino Bracci Roa, Jorge Rodríguez, evidence against Guaidó and López after the capture of Juan Gutiérrez Aranguren 31/01/2021, January 31, 2021. Available at: <https://youtu.be/pkHZrLdqhkg>; El Impulso.com, Rodríguez: Leopoldo López and Juan Guaidó are involved in operations against Maduro #31 Jan, January 31, 2021. Available at: <https://www.elimpulso.com/2021/01/31/rodriguez-leopoldo-lopez-y-juan-guaido-est-an-involucrados-en-operaciones-en-contra-maduro-31ene/>.

¹⁶⁵⁸ Document HHDC079; YouTube video – Luigino Bracci Roa, Guaidó agreed with Paraguay to illegally reduce that country's large debt to PDVSA: Jorge Rodríguez, January 23, 2021. Available at: https://youtu.be/TKW_Dxly6z4; Tal Cual, Jorge Rodríguez presents 'evidence' of Guaidó's involvement in Petropar case, January 23, 2020. Available at: <https://talcualdigital.com/jorge-rodriguez-presenta-pruebas-de-implicacion-de-guaido-en-caso-de-petropar/>.

¹⁶⁵⁹ Document HHDC079; YouTube video – Luigino Bracci Roa, Jorge Rodríguez, full press conference: Cota 905, Freddy Guevara and new attack against Maduro, July 13, 2021. Available at: https://youtu.be/YwmdZNzW-_A.

Criminal proceedings and notice of proceedings

781. Juan Guaidó has also been the subject of criminal investigations for allegedly participating in a coup d'état and corruption. On 26 March 2020, the Attorney General, Tarek William Saab, announced the initiation of an investigation against Juan Guaidó and General Cliver Alcalá for “the convicted and confessed crimes of attempted coup d'état against Nicolás Maduro.”¹⁶⁶⁰ The announcement came hours after the U.S. Department of Justice's Rewards Program offered \$15 million for any information leading to the arrest of Nicolas Maduro, and \$10 million for Diosdado Cabello, Tareck El Aissami, Hugo Carvajal and Cliver Alcalá, on narcoterrorism charges¹⁶⁶¹. That same day, Jorge Rodríguez pointed out that, according to Cliver Alcalá's confession, Guaidó together with U.S. advisors signed a contract for the purchase of weapons with which, from Colombia, they planned to organize a coup d'état in Venezuela and also had the objective of assassinating high officials of the Venezuelan government, including President Maduro.¹⁶⁶²

¹⁶⁶⁰ Tweet by Tarek William Saab [@TarekWilliamSaab], March 26, 2020. Available at: <https://twitter.com/TarekWilliamSaab/status/1243241372972453890?s=20>; Ministry of People's Power for Foreign Affairs, MP appoints two prosecutors to investigate confessed crime of attempted coup d'état against President Maduro, March 26, 2020. Available at: <https://mppre.gob.ve/2020/03/26/mp-designa-fiscales-investigat-confeso-delito-intento-golpe-estado-presidente-maduro/>; YouTube Video – Luigino Bracci Roa, Venezuelan Prosecutor Tarek William Saab requests Colombia's extradition of Cliver Alcalá, March 27, 2020. Available at: https://youtu.be/_QaT4RWMXk; Document HHDC079; YouTube video – Luigino Bracci Roa, Attorney General Tarek William Saab summons Juan Guaidó for his participation in the coup plot in Alcalá, March 31, 2020. Available at: <https://youtu.be/osEsL8rrbkA>.

¹⁶⁶¹ U.S. Department of State, Narcotics Rewards Program: Nicolás Maduro Moros – New Target, March 26, 2020. Available at: <https://www.state.gov/nicolas-maduro-moros-new-target/>; Tareck Zaidan El Aissami Maddah – New Target, March 26, 2020. Available at: <https://www.state.gov/tareck-zaidan-el-aissami-maddah-new-target/>; Hugo Armando Carvajal Barrios – New Target, March 26, 2020. Available at: <https://www.state.gov/hugo-armando-carvajal-barrios-new-target/>; Cliver Antonio Alcalá Cordones — New Target, March 26, 2020. Available at: <https://www.state.gov/cliver-antonio-alcala-cordones-new-target/>; Diosdado Cabello Rondón, New Target, March 26, 2020. Available at: <https://www.state.gov/diosdado-cabello-rondon-new-target/>; DW, EE.UU. ofrece 15 millones de recompensa por Nicolás Maduro, 26 de marzo de 2020. Available at: <https://www.dw.com/es/estados-unidos-ofrece-15-millones-de-recompensa-por-nicol%C3%A1s-maduro/a-52927989>.

¹⁶⁶² Ministry of People's Power for Foreign Affairs, Vice President Jorge Rodríguez: Evidence of terrorist plan involves Juan Guaidó, March 26, 2020. Available at: <https://mppre.gob.ve/2020/03/26/vicepresidente-jorge-rodriguez-evidencias-de-plan-terrorista-involucran-a-juan-guaido/>; YouTube video – Luigino Bracci Roa, Jorge Rodríguez on statements by Cliver Alcalá acknowledging preparation for coup against Maduro, March 26, 2020. Available at: https://youtu.be/_SbGYv7PSXs.

782. On 24 March 2021, at a press conference, Delcy Rodríguez referred to Guaidó as a “*white-collar criminal*” and as the “*leader of a criminal gang*,” for which she asked the Public Prosecutor’s Office to investigate and determine his responsibility in preventing the purchase of vaccines against COVID-19.¹⁶⁶³ The next day, the Attorney General opened a criminal investigation against Guaidó and his collaborators for seizing state resources abroad in the amount of \$7 billion.¹⁶⁶⁴

783. On 14 September 2021, the Public Prosecutor’s Office opened another investigation against Guaidó for usurpation of functions, treason, conspiracy, aggravated theft of assets, and criminal association, in relation to the “Monómeros” case.¹⁶⁶⁵ Regarding this process, on 21 July 2022, the comptroller commission of the National Assembly elected in 2015, which the opposition recognizes as legitimate, exonerated Guaidó on the grounds that, due to political factors, “*his hands were tied*” to take action against the Monómeros company.¹⁶⁶⁶ On 22 September 2022, Tareck El Aissami announced that he would investigate and present new evidence against him for the theft of assets from the company Monómeros.¹⁶⁶⁷

¹⁶⁶³ Document HHDC079; YouTube Video – Luigino Bracci Roa, Guaidó blocked Venezuela’s resources for vaccine purchases: Delcy Rodríguez requests investigation into him, March 24, 2021. Available at: <https://youtu.be/pdJlqRYeEtc>; Ministry of People’s Power for Foreign Affairs, Vice President Delcy Rodríguez: We don’t need handouts - Venezuela has its patrimony, March 24, 2021. Available at: <https://mppre.gob.ve/2021/03/24/vicepresidenta-nosotros-no-necesitamos-limosnas-venezuela- tiene-patrimonio/>.

¹⁶⁶⁴ Document HHDC079; YouTube Video – Luigino Bracci Roa, Attorney General opens investigation into Guaidó for asset seizure; Jesús Silva, March 25, 2021. Available at: <https://youtu.be/mgr2BojEA-4>; AP News, Venezuela Prosecutor’s Office opens new trial of opposition leader Juan Guaidó, March 25, 2021. Available at: <https://apnews.com/article/noticias-201b0fd7a24b7ff70b23688485ed9c59>.

¹⁶⁶⁵ Tweet by Tarek William Saab [@TarekWilliamSaab], September 14, 2021. Available at: <https://twitter.com/TarekWilliamSaab/status/1437932920593866754?s=20>; Voz de América, What is the new investigation against Juan Guaidó about?, September 15, 2021. Available at: <https://www.vozdeamerica.com/a/nueva-acusacion-contrajuan-guaido-/6229898.html>; Document HHDC079.

¹⁶⁶⁶ Voz de América, Opposition Commission Exculpates Juan Guaidó of Alleged Corruption in Monómeros, July 21, 2022. Available at: <https://www.vozdeamerica.com/a/comision- exculpa-guaido-/6668785.html>.

¹⁶⁶⁷ Document HHDC079; France 24, Maduro government denounces ‘destruction’ of Venezuelan company in Colombia controlled by Guaidó, September 22, 2022. Available at: <https://www.france24.com/es/minuto-a-minuto/20220922-gobierno-de-maduro-denuncia- destrucci%C3%B3n-de-empresa-venezolana-en-colombia-que-controlaba-guaid%C3%B3>.

Harassment of family members

784. The acts of harassment were not only directed against Juan Guaidó, but also against his family members. On 11 February 2020, Guaidó's uncle, Juan José Márquez, was arrested at the Maiquetía airport for alleged possession of explosives.¹⁶⁶⁸ Márquez was detained at the DGCIM in Boleíta until 2 June 2020.¹⁶⁶⁹ Juan Planchart Márquez, also Guaidó's uncle, was arrested on 23 March 2019 by SEBIN and FAES officials for allegedly being part of a money laundering network and being the main financier of destabilizing plans against the country.¹⁶⁷⁰

785. On 6 June 2021, Guaidó denounced through his social networks the persecution of his wife, Fabiana Rosales, by a DGCIM patrol, while she was on her way to an obstetric consultation and to pick up their youngest daughter from school.¹⁶⁷¹ On 5 April 2023, Guaidó's wife denounced harassment by plainclothes PNB officials while waiting, in the company of their two daughters aged five and one, for their flight to El Vigía. At one point she was called over the airport loudspeaker to approach the counter. There they told her that a man was looking for her. According to Rosales, when she realized it was a government official, he fled.¹⁶⁷²

Political disqualification

786. On 28 March 2019, the Comptroller General of the Republic, Elvis Amoroso, announced at a press conference the disqualification of Juan Guaidó from holding public office for 15 years.¹⁶⁷³ The disqualification was based on the fact that Guaidó had concealed and falsified the data of his affidavit of assets, had received money from foreign governments, usurped public functions and committed actions with foreign governments that would have harmed the Venezuelan people. The Comptroller General of the Republic determined that Guaidó's income received as a deputy was “*exaggerated and excessive in his way of life that does not correspond to that which can be financed by a deputy (...) has stayed in comfortable luxury hotels in Venezuela and abroad without justification of the income with which he has covered his expenses*” by making more than 90 trips outside Venezuelan territory.¹⁶⁷⁴

¹⁶⁶⁸ Interview with Juan Guaidó, July 24, 2023; Document HHDC079; France 24, Uncle of opposition leader Juan Guaidó arrested in Venezuela for 'carrying explosives', 13 February 2020. Available at: <https://www.france24.com/es/20200213-detienen-en-venezuela-al-t%C3%ADo-del-l%C3%ADder-opositor-juan-guaid%C3%B3-por-portar-explosivos>; Youtube video - Luigino Bracci Roa, Diosdado Cabello: Juan José Márquez (Guaidó's uncle) transports prohibited substances on the plane, February 12, 2020. Available at: <https://youtu.be/IHMSi0puaXg>.

¹⁶⁶⁹ AlbertoNews, Maduro dictatorship grants house arrest to Juan José Márquez, uncle of President Guaidó, June 2, 2020. Available at: <https://albertonews.com/nacionales/ultima-hora-dictadura-de-maduro-excarcela-a-juan-jose-marquez-tio-del-presidente-e-guaido-2jun/>.

¹⁶⁷⁰ Runrun.es, Dictan medida de arresto domiciliario al abogado Juan Planchar, 8 de diciembre de 2020. Available at: <https://runrun.es/noticias/430755/dictan-medida-de-arresto-domiciliario-al-abogado-juan-planchar/>.

¹⁶⁷¹ Interview with Juan Guaidó, July 24, 2023; Document HHDC079; Tweet by Juan Guaidó [@jguaido], June 6, 2021. Available at: <https://twitter.com/jguaido/status/1401717417756217353?s=20>; El Nacional, They denounce that the DGCIM chased Fabiana Rosales to a medical consultation for pregnancy, June 6, 2021. Available at: <https://www.elnacional.com/venezuela/denuncian-que-la-dgcim-persiguió-a-fabiana-rosales-hasta-una-consulta-medica-de-embarazo/>.

¹⁶⁷² Tweet by Fabiana Rosales [@FabiiRosales], April 5, 2023 [thread]. Available at: <https://twitter.com/FabiiRosales/status/1643780406247047168?s=20>; El Tequeño, Fabiana Rosales denounced persecution by regime lackeys against her and her daughters, April 6, 2023. Available at: <https://xn--eltequeo-j3a.com/fabiana-rosales-denuncio-persecucion-de-lacayos-del-regimen-contra-ella-y-sus-hijas/>.

¹⁶⁷³ Interview with Juan Guaidó, July 24, 2023; YouTube Video – Luigino Bracci Roa, Juan Guaidó is disqualified: Comptroller Elvis Amoros explains why, March 28, 2019. Available at: <https://youtu.be/Y39OvoBuHWU>.

¹⁶⁷⁴ YouTube Video – Luigino Bracci Roa, Juan Guaidó is disqualified: Comptroller Elvis Amoros explains why, March 28, 2019. Available at: <https://youtu.be/Y39OvoBuHWU>; France24, Contraloría de Venezuela inhabilita por 15 años a Juan Guaidó, 28 de marzo de 2019. Available at: <https://www.france24.com/es/20190328-contraloria-venezuela-inhabilitacion-juan-guaido>.

787. Two years after the first disqualification, on 23 February 2021, the Comptroller General of the Republic disqualified Guaidó, along with 27 other opposition parliamentarians, including Julio Borges, Freddy Guevara, and Juan Pablo Guanipa, from holding public office for up to 15 years for allegedly refusing to submit their sworn declarations of assets. The Comptroller General of the Republic, Elvis Amoroso, accused Guaidó and the 27 opposition parliamentarians of being linked to acts of corruption¹⁶⁷⁵.

Conclusions

788. Based on the above, the Mission has reasonable grounds to believe that between 2020 and 2023 Juan Guaidó was subjected to a series of acts of harassment, including assaults. The Mission notes with concern that, in one of the incidents reported to it, agents of the State and persons acting with the tolerance or acquiescence of the Government fired firearms at the vehicle carrying Guaidó, injuring at least five members of his working group and supporters.

789. The Mission also has reasonable grounds to believe that SEBIN staff members were involved in the monitoring and surveillance acts, in particular in the incident in which persons were injured. In addition, agents of the DIE of the PNB participated in an attempt to arrest Guaidó, allegedly without legal basis, using their weapons and explosives.

790. The Mission has reasonable grounds to believe that civilian members of the collectives or those affiliated with the government participated in the physical and verbal attacks of which Juan Guaidó was a victim in different parts of the country, during the same period, and that the security forces did not act against these attacks.

791. In addition, the Mission has reasonable grounds to believe that the process initiated by the Comptroller's Office, which resulted in Guaidó's disqualification from holding public office for 15 years, was motivated by his activities as an opposition leader. The Mission recalls that, according to the Inter-American Court of Human Rights, administrative authorities, such as the Office of the Comptroller, do not have the power to impose sanctions that involve a restriction on the political rights of a democratically elected public official, a task that belongs only to judges.¹⁶⁷⁶

¹⁶⁷⁵ YouTube Video – Luigino Bracci Roa, Comptroller disqualifies outgoing AN deputies for failing to file Affidavit of Assets, February 24, 2021. Available at: <https://youtu.be/dLv9UspDb0M>.

The deputies disqualified by the CGR include Marco Quiñones, Armando Armas, Julio Montoya, Ismael García, Mariela Magallanes, Antonio Geara, Américo De Grazia, Carlos Berrizbeitia, Juan Miguel Matheus, Richard Blanco Cabrera, Rafael Veloz, Tomás Guanipa, Luis Florido, Germán Ferrer, Jesús Alexis Paporoni Durán, Carlos Paporoni, Freddy Guevara Cortez, Juan Andrés Mejía, Julio Borges, Franco Casella, Gaby Arellano, Renzo Prieto, Sergio Vergara, Carlos Valero, Winston Flores Gómez, Juan Guaidó Márquez, Juan Pablo Guanipa Villalobos and José Manuel Olivares. Interview with Juan Guaidó, July 24, 2023; Interview with Renzo Prieto, July 25, 2023; Reuters, Venezuela's Comptroller's Office disqualifies Guaidó and 27 other opponents from holding public office, February 23, 2021. Available at: <https://www.reuters.com/article/venezuela-politica-inhabilitacion-idLTAKBN2A005I>; TeleSURtv.net, Venezuelan comptroller's office disqualifies Guaidó and 27 other former deputies, February 24, 2021. Available at: <https://www.telesurtv.net/news/venezuela-contraloria-general-inhabilita-exdiputados-20210224-0003.html>.

¹⁶⁷⁶ Corte Interamericana de Derechos Humanos, Caso Gustavo Petro vs. Colombia, Sentencia de 8 de julio de 2020; Caso López Mendoza vs. Venezuela, Sentencia de 1 de septiembre de 2011.

Case 23: National Trade Union Coalition of Workers (CSNT)

Background

792. Carlos Salazar, Elsa Castillo, Anneliese Toledo and José Patines, trade union leaders and members of the CSNT, have been subjected since 2022 to a series of acts of harassment and threats by state officials for their claims against the ONAPRE instruction and the social demands demanded.

Harassment

793. In June 2022, Carlos Eduardo Salazar Ojeda, coordinator of the National Trade Union Coalition of Workers (CSNT), was harassed by SEBIN as he was on a bus to his residence. The officers of this security force stopped the bus, disembarked all its occupants, and pointed out Salazar as suspected of being a criminal, claiming that his physical description matched that of an alleged kidnapper they were looking for Salazar¹⁶⁷⁷ told the passengers on the bus that he was a union leader of the CSNT, so they defended him and prevented him from being arrested by SEBIN agents.¹⁶⁷⁸

794. On 23 June 2022, during a rally at the headquarters of the Confederation of Venezuelan Workers (CTV), PNB officials showed up at the scene and loaded Salazar into a PNB van, taking him on a tour of the vicinity of the SEBIN headquarters known as “La Tumba,” in Plaza Venezuela. During the trip, Salazar was threatened by the officials, they told him that he had to keep quiet, that he should face the situation as a man or they would take him away whenever they wanted. After the threats, the officials got Salazar out of the van and let him continue on his way.¹⁶⁷⁹

795. On 10 August 2022, in the Bellas Artes sector of Caracas, a protest was held in which Anneliese Toledo, Carlos Salazar, Elsa Castillo, and José Patines participated. When they left the CVT headquarters in a vehicle for personal use, two PNB vehicles blocked their way and forced them to take another route. Two PNB officers on motorcycles crossed the road, pointed firearms at them, and forced them to stop¹⁶⁸⁰. Immediately, another vehicle arrived with a DAET sign from which several plainclothes officers got out and forced all the occupants to get out and identify themselves¹⁶⁸¹. Salazar and Patines were taken to the DAET van and one of the officials told them that they should have kept quiet and that from that moment on they should do so. Patines was told that he already had a warning, and Salazar, two, and that with the first student who threw a rock they were going to go to jail. “Remember that you have family and that it is dangerous for you and your children to continue to call for protests,” the officials added and let them leave.¹⁶⁸²

¹⁶⁷⁷ Entrevista OOIV081.

¹⁶⁷⁸ *Ibid.*; Comisión Interamericana de Derechos humanos, resolución 15/2023, Medidas Cautelares N°66-23, 1 de abril de 2023. Available at: https://www.oas.org/es/cidh/decisiones/mc/2023/res_15-23_mc_66-23%20_ve_es.pdf.

¹⁶⁷⁹ Entrevista OOIV064; Entrevista OOIV075; Entrevista OOIV081.

¹⁶⁸⁰ *Ibid.*

¹⁶⁸¹ Entrevista OOIV081.

¹⁶⁸² *Ibid.*

797. On 23 August 2022, Anneliese Toledo, Elsa Castillo, Carlos Salazar and José Patines detected that, while moving from the site of where the protests against the “ONAPRE instructive” back to their homes, they were followed by a grey vehicle belonging to the Strategic Patrol Division of the SEBIN.¹⁶⁸³ On 24 August 2022, protests continued against the instructions and also against the arrest of the six trade union leaders arrested in July 2022. At the end of the day, as they boarded the vehicle in which they were travelling, which they had left parked in a parking lot, the trade unionists noticed that two of their tires had been punctured.¹⁶⁸⁴

798. In November 2022, two individuals dressed in civilian clothes contacted Elsa Castillo's ex-husband and identified themselves as members of the PNB. The officials threatened him by showing him a photograph of Elsa Castillo and her daughters and told him that if Castillo continued to give statements, “*we are going to fuck her up.*”¹⁶⁸⁵

799. On 12 January 2023, Elsa Castillo was traveling on a bus from Táchira to Caracas, when, in an alcabala, GNB officials ordered the driver to drive at low speed, as they knew that Elsa Castillo was traveling on that bus. Realizing this situation and fearing that she would be arrested, Castillo coordinated with some friends to pick her up before the bus arrived at its final destination.¹⁶⁸⁶

800. On 17 January 2023, Elsa Castillo and her daughter were monitored and photographed by two people aboard a gray vehicle, which was parked outside their residence. Realizing they were being photographed, Castillo went to ask people why they were being watched. They did not respond to him and withdrew from the place, continuing to watch half a block from his home for several days.¹⁶⁸⁷ Also on 17 January, Anneliese Toledo was followed and monitored by SEBIN officials. Over the next few days, officials parked a pickup truck outside her home and constantly followed her wherever she went.¹⁶⁸⁸

801. On 23 February 2023, during a demonstration by the teachers' union in the municipality of José Felix Rivas, State of Guárico, Elsa Castillo and Carlos Salazar were followed by two vans of the SEBIN Strategic Patrol Directorate with four officials on board.¹⁶⁸⁹ Subsequently, they were guarded by two vehicles without license plates at the place where they were staying.¹⁶⁹⁰

802. On 25 February 2023, in the municipality of Ortiz, Guárico State, Elsa Castillo and Carlos Salazar again detected a follow-up by two vans of the SEBIN Strategic Patrol Directorate. These vans hid in a hamlet and kept an eye on Castillo and Salazar's every move.¹⁶⁹¹

803. On 3 March 2023, after participating in a press conference of the Transport Federation (FEDETRANSPORTE), Elsa Castillo was again subjected to harassment. She spotted two SEBIN officials on motorcycles guarding her residence a block away.¹⁶⁹²

¹⁶⁸³ Interview OOIV075; Interview OOIV064; Inter-American Commission on Human Rights, Resolution 15/2023, Precautionary Measures No. 66-23, April 1, 2023. Available at: https://www.oas.org/es/cidh/decisiones/mc/2023/res_15-23_mc_66-23%20_ve_es.pdf.

¹⁶⁸⁴ *Ibid.*

¹⁶⁸⁵ Interview OOIV075; Inter-American Commission on Human Rights, Resolution 15/2023, Precautionary Measures No. 66-23, April 1, 2023. Available at: https://www.oas.org/es/cidh/decisiones/mc/2023/res_15-23_mc_66-23%20_ve_es.pdf

¹⁶⁸⁶ *Ibid.*

¹⁶⁸⁷ *Ibid.*

¹⁶⁸⁸ Interview OOIV075.

¹⁶⁸⁹ Interview OOIV064.

¹⁶⁹⁰ Interview OOIV075; Interview OOIV081.

¹⁶⁹¹ *Ibid.*

¹⁶⁹² *Ibid.*

¹⁶⁹² Interview OOIV075.

Conclusions

804. The Mission, on the basis of the above, has reasonable grounds to believe that members of the CSNT Carlos Salazar, Elsa Castillo, Anneliese Toledo y José Patines have been subjected to harassment and threats by State agents. Officials from SEBIN and PNB, including DAET, participated in follow ups, harassment and threats against these individuals.

Caso 24: Katherine Martínez García and Prepara Familia

Antecedentes

805. Katherine Martínez García is director of Prepara Familia, an NGO that since 2008 has been providing assistance to hospitalized children and their families, and that advocates for social and health rights.

806. As a result of their complaints about failures in public health services, particularly at the Dr. José María de los Ríos Children's Hospital,¹⁶⁹³ Martínez and the organization Prepara Familia were subjected to intimidation and harassment by the hospital's management and security personnel.¹⁶⁹⁴ The harassment began in 2017, after Martínez reported an infectious outbreak at the hospital. This led to a series of acts of surveillance and intimidation during their visits to the hospital and, subsequently, the prohibition of entering the hospital.¹⁶⁹⁵ Hospital staff and patients' families denounced acts of pressure from the hospital management not to cooperate with Martínez and Prepara Familia. These acts increased in 2018 and 2019, when Prepara Familia and its director requested precautionary measures from the Inter-American Commission on Human Rights in favour of the hospital's child patients who did not receive adequate treatment.¹⁶⁹⁶ On May 28, 2019, the pro-government news platform Misión Verdad accused Martínez and Prepara Familia of “whitewashing the crimes of the United States through sanctions,” and “poisoning figures.”¹⁶⁹⁷

Harassment and trespassing

807. On 12 January 2020, Martínez was alerted by neighbours that unknown people had entered without permission the collection centre and the offices of Prepara Familia in Caracas.¹⁶⁹⁸ Martínez showed up at the scene and called the PNB, who arrived shortly after the strangers had left. The PNB agents refused to receive Martínez's complaint, stating that he had to report to the police headquarters, although it was closed because it was a Sunday night.¹⁶⁹⁹

¹⁶⁹³ Located in Caracas, Hospital JM de los Ríos is the most important pediatric hospital in Venezuela.

¹⁶⁹⁴ IACHR, Resolution 42/2020 of August 6, 2020. Available at: <https://www.oas.org/es/cidh/decisiones/pdf/2020/42-20mc1039-17-ve-ampliacion.pdf>

¹⁶⁹⁵ From 2017 onwards, according to a source interviewed and information recorded by the IACHR, when Martínez showed up at the J.M. de los Ríos Hospital, the hospital's security personnel, allegedly following orders from management, pursued Martínez with the intention of evicting her from the premises. On several occasions he was barred from entering the hospital. Interview with Katherine Martínez, June 6, 2023; IACHR, Resolution 42/2020 of August 6, 2020. Available at: <https://www.oas.org/es/cidh/decisiones/pdf/2020/42-20mc1039-17-ve-ampliacion.pdf>; Frontline Defenders, Series of attacks against NGO Prepara Familia, 23 January 2020. Available at: <https://www.frontlinedefenders.org/es/case/targeting-humanitarian-ngo-prepara-familia>; Cocuyo Effect, NGO Director Banned from Entering the J.M. de los Ríos for Denouncing the Hospital Crisis, February 22, 2019. Available at: <https://efectococuyo.com/la-humanidad/prohiben-entrada-de-directora-de-ong-al-j-m-de-los-rios-por-denunciar-la-crisis-hospitalaria/>.

¹⁶⁹⁶ Interview with Katherine Martínez, June 6, 2023; IACHR, Resolution 8/2018 of February 21, 2018. Available in <https://www.oas.org/es/cidh/decisiones/pdf/2018/8-18MC1039-17-VE.pdf>; IACHR, Resolution 43/2019 of August 21, 2019. Available at <https://www.oas.org/es/cidh/decisiones/pdf/2019/43-19MC1039-17-VE-Ampliacion.pdf>.

¹⁶⁹⁷ IACHR, Resolution 42/2020 of August 6, 2020. Available at <https://www.oas.org/es/cidh/decisiones/pdf/2020/42-20mc1039-17-ve-ampliacion.pdf>.

¹⁶⁹⁸ IACHR, Resolution 42/2020 of August 6, 2020. Available at: <https://www.oas.org/es/cidh/decisiones/pdf/2020/42-20mc1039-17-ve-ampliacion.pdf>; Interviews Katherine Martínez, June 6 and 15, 2023; Document PPDC052: complaint to the Public Prosecutor's Office; Prepara Familia Instagram post, January 13, 2020. Available at: https://www.instagram.com/p/B7RhWLPnjme/?img_index=1.

¹⁶⁹⁹ Interviews Katherine Martínez, June 6 and 15, 2023; Official information PPDC052; IACHR, Resolution 42/2020 of August 6, 2020. Available at: <https://www.oas.org/es/cidh/decisiones/pdf/2020/42-20mc1039-17-ve-ampliacion.pdf>.

808. On the afternoon of 14 January at least one of the same people who had illegally entered the Prepara Familia collection centre two days earlier, returned to the site accompanied by PNB officials. Police carried out a warrantless search,¹⁷⁰⁰ of which Martínez was alerted by neighbours. Upon arriving at the centre, Martínez entered and was confronted by more than 10 PNB officials who were taking boxes of donations of items for the patients' families, which were loaded into police vehicles.¹⁷⁰¹ A PNB agent, who identified himself as the group's "commander," told Martínez that they had received a complaint that the donations at the collection centre were "humanitarian aid from Guaidó" and that this was "illegal,"¹⁷⁰² so Martínez had to accompany them to the PNB headquarters to continue the investigation into the origin of the donations.¹⁷⁰³

809. According to Martínez, after approximately two hours of discussion with the agents, trying to prove with documentation that the donations came from individual donors, two other officials who identified themselves as members of the DGCIM arrived at the scene. These officials did not present their IDs or explain the reason for their presence. According to the director of Prepara Familia, the agents spoke privately with the PNB "commander" in charge of the operation who, minutes later, told Martínez that he had received orders to stop the raid, but that Martínez and Prepara Familia should also "stop their activities." The PNB officials returned the donation boxes and left. According to several testimonies, the suspension of the raid was due to pressure from the media and NGOs, which had come to the collection centre to monitor and provide support.¹⁷⁰⁵

810. On 16 January 2020, Martínez filed a complaint with the Superior Prosecutor's Office of the Caracas Metropolitan Area for the raid and harassment suffered two days earlier.¹⁷⁰⁶ Between 2020 and 2022, the director of Prepara Familia says she had done the

¹⁷⁰⁰ IACHR, Resolution 42/2020 of August 6, 2020. Available at: <https://www.oas.org/es/cidh/decisiones/pdf/2020/42-20mc1039-17-ve-ampliacion.pdf>; Interview Katherine Martínez, June 15, 2023; Document PPDC052: complaint to the Public Prosecutor's Office; Frontline Defenders, Series of attacks against NGO Prepara Familia, January 23, 2020. Available at: <https://www.frontlinedefenders.org/es/case/targeting-humanitarian-ngo-prepara-familia>.

¹⁷⁰¹ Interview Katherine Martínez, June 15, 2023; Interview with Katherine Martínez, June 6, 2023; Document PPDC052: complaint to the Public Prosecutor's Office; Tweet by VPItv [@VPITV], January 14, 2020. Available at: <https://twitter.com/VPITV/status/1217193634430443521>

¹⁷⁰² Interviews Katherine Martínez, June 6 & 15, 2023

¹⁷⁰³ IACHR, Resolution 42/2020, August 6, 2020. Available at: <https://www.oas.org/es/cidh/decisiones/pdf/2020/42-20mc1039-17-ve-ampliacion.pdf>.

¹⁷⁰⁴ Interview with Katherine Martínez, June 15, 2023

¹⁷⁰⁵ Interview with Katherine Martínez, June 6, 2023; Tweet by PROVEA [@Provea], January 14, 2020. Available at: https://twitter.com/_Provea/status/1217208774731161607; IACHR, Resolution 42/2020 of August 6, 2020, Available at <https://www.oas.org/es/cidh/decisiones/pdf/2020/42-20mc1039-17-ve-ampliacion.pdf>

¹⁷⁰⁶ Document PPDC052: complaint to the Public Prosecutor's Office.

the follow up on her complaint to the Public Prosecutor's Office on more than five occasions, but to date she has not received any response¹⁷⁰⁷.

811. On 6 August 2020, the Inter-American Commission on Human Rights granted precautionary measures in favour of Katherine Martínez García, considering the seriousness of the “climate of persecution, harassment, and harassment against health professionals, as well as people protesting the lack of equipment and supplies” in the country¹⁷⁰⁸. The Commission also considered the vulnerability and lack of protection to which Martínez was exposed, given the inaction on the part of the police and the prosecutor's office in protecting her rights, and that the situation “is likely to continue and exacerbate over time.”¹⁷⁰⁹ Finally, the IACHR decided to grant measures to prevent violations of the beneficiary's rights to life and personal integrity¹⁷¹⁰.

812. After the raid on 14 January 2020, several volunteers who worked with Prepara Familia left the NGO, according to Martínez, for fear of further harassment. In March 2020, Prepara Familia had to abandon its collection centre and move to new facilities because the owner of the building that was raided feared more problems with the authorities¹⁷¹¹. From 2020 to 2023, Martínez and Prepara Familia have modified and limited their work, trying to avoid further harassment and harassment. The location of their new offices is kept secret and much of the information they document about failures in health services is not published inside Venezuela, so as not to generate further reprisals against the NGO, its staff and the families of the patients it works with. Katherine Martinez explains: “Sometimes we do *report*, but we do it *strategically*. We don't speak freely. You have to measure everything.”¹⁷¹².

Conclusions

813. The Mission has reasonable grounds to believe that Katherine Martínez García and Prepara Familia have been victims of harassment, including the search of the organization's headquarters without a warrant on 14 January 2020, the attempt to seize donations received by the NGO, and the warning to stop its activities, all events in which PNB officials participated. The Mission also has reasonable grounds to believe that these actions were carried out in response to the work carried out by Martínez García and the organization Prepara Familia in the area of the right of access to health, including criticism and public denunciations related to the poor functioning of the public health service. Likewise, the Mission has reasonable grounds to believe that the Attorney General's Office has not acted with due diligence in the investigation of the arbitrary raid and acts of harassment in January 2020, denounced by Martínez on 16 January of that year.

Case 25: Sexual and reproductive rights defenders

Background

814. Venus Faddoul is a women's rights defender who in 2019 founded, along with others, the regional NGO 100% Estrogen in the State of Mérida that works to make visible and defend women's sexual and reproductive rights.

¹⁷⁰⁷ Katherine Martinez interview, June 15, 2023

¹⁷⁰⁸ IACHR, Resolution 42/2020 of August 6, 2020, para. 28. Available at <https://www.oas.org/es/cidh/decisiones/pdf/2020/42-20mc1039-17-ve-ampliacion.pdf>.

¹⁷⁰⁹ IACHR, Resolution 42/2020 of August 6, 2020, para. 38. Available at <https://www.oas.org/es/cidh/decisiones/pdf/2020/42-20mc1039-17-ve-ampliacion.pdf>.

¹⁷¹⁰ IACHR, Resolution 42/2020 of August 6, 2020. Available at <https://www.oas.org/es/cidh/decisiones/pdf/2020/42-20mc1039-17-ve-ampliacion.pdf>.

¹⁷¹¹ Interview with Katherine Martinez, June 6, 2023.

¹⁷¹² *Ibid.*

Faddoul and two of her collaborators in the organisation, the lawyer Engels Puertas¹⁷¹³ and the photographer Franklin Gavidia, currently all in exile, have been the objects of harassment since they defended the activists for their sexual and reproductive rights. Vannesa Rosales, detained and processed penally for giving information about the voluntary interruption of a pregnancy of a teenager with a high risk pregnancy, product of rape. This last event was documented by the Mission in their 2021 report¹⁷¹⁴. In Venezuela, abortion is prohibited, unless in specific cases of danger to the life of the woman, which is interpreted in a very restrictive manner¹⁷¹⁵.

Harassment and threats against Venus Faddoul and Engels Puertas

815. In May 2021, a man in civilian clothes carrying a rifle approached the vehicle where Faddoul and his 100% Oestrogen equipment were located. After observing the occupants and taking the license plate number, the individual signalled to another vehicle parked behind and drove off.¹⁷¹⁶ From this first episode, Faddoul and his team realized that they were regularly monitored from vehicles without license plates¹⁷¹⁷. Subsequently, Faddoul and lawyer Puertas had their mobile and landline phones tapped, as was found by Front Line Defenders in a security analysis¹⁷¹⁸. According to Faddoul's testimony to the Mission, he received frequent "suspicious" messages and calls from women asking him for support in having an abortion or buying misoprostol.¹⁷¹⁹ Faddoul considered that these calls were intended to induce him to take a "false step" that would lead to his arrest¹⁷²⁰. According to Faddoul, also for defending Vannesa Rosales, she was harassed with damage to her vehicle and the theft, on three occasions, of her battery¹⁷²¹. In September 2021, when the case of Vannesa Rosales was cited in the reports and communications of the United Nations High Commissioner for Human Rights¹⁷²², of this Mission, and of the Special Rapporteur

¹⁷¹³ Criminal lawyer with extensive experience in criminal defense in human rights organizations, such as the Equal Justice Initiative, the Coalition for Human Rights and Democracy, and Promedehum. He has been threatened and harassed because of his legal work and the complaints he has filed against judges, prosecutors or police officials. Between 2011 and 2016, Puertas was the victim of arbitrary detention by the Intelligence Division of the Mérida State Police and SEBIN, in the context of peaceful student protests. During that period, he was not only subjected to six arbitrary arrests, but also to physical and psychological torture, isolation, threats and harassment. International Observatory of Lawyers, Engels Puerta Alert, September 22, 2022. <https://protect-lawyers.org/es/item/engels-wladimir-puertas-ochoa-3/>
¹⁷¹⁴ A/HRC/48/CRP.5, paras. 221-225.

¹⁷¹⁵ Several NGOs operating in the Bolivarian Republic of Venezuela have lamented that there is no regulation regarding the cause of danger to the life of women, which has resulted in the fact that, "in practice, the context in Venezuela actually operates as one of the most restrictive in Latin America and the Caribbean." WLW, AVESA, Purple Comadres, 100% Estrogen, Shadow Report to the Working Group prior to the 84th Session (CEDAW Committee), p. 14.

¹⁷¹⁶ Interview with Franklin Gavidia, July 12, 2023.

¹⁷¹⁷ *Ibid.*

¹⁷¹⁸ Interview with Venus Faddoul, April 25, 2023; interview with Venus Faddoul and Engels Puertas, July 6, 2023.

¹⁷¹⁹ A drug that safely allows the practice of voluntary terminations of pregnancy.

¹⁷²⁰ Since, for acts similar to these, the activist Vannesa Rosales had been arrested and prosecuted.

¹⁷²¹ International Observatory of Advocacy, Venus Faddoul Alert, October 31, 2022.

¹⁷²² A/HRC/48/19, para. 50.

on the situation of human rights defenders,¹⁷²³ as well as by the international press,¹⁷²⁴ the harassment of Faddoul and Puertas increased¹⁷²⁵.

816. At the end of the same month, Faddoul and Puertas learned unofficially that their personal data, as well as those of 100% Oestrogen, had been included in a confidential list of SEBIN related to people who were to be investigated in the State of Mérida, along with the names of 18 other human rights organizations. The Mission has learned about this list¹⁷²⁶, dated 17 September 2021 and signed by the Chief Commissioner of the National Counterintelligence Division of SEBIN, Yolander Parra Iztriago. It orders “to follow up on the ordinary and extraordinary activities” of the NGO, as well as to “gather information with the personnel working in each organization, including information related to national or international sources of funding.” After learning of the existence of the list, Faddoul and Puertas left Venezuela to preserve their personal integrity and security¹⁷²⁷.

Harassment and threats against Franklin Gavidia

817. The photographer of 100% Oestrogen, Franklin Gavidia, was also harassed. On July 23, 2021, in downtown Mérida, Gavidia was forced into a white Toyota pickup truck by armed individuals. Assuming the individuals were police officers, Gavidia got into the van, where he was told he was involved in vehicle theft. They then took him to an isolated place, called La Hechicera, and questioned him about his participation in the 2017 anti-government protests. Although Gavidia did not reveal that he worked for 100% Oestrogen, the individuals, with Caracas accents, made implicit reference to his work in the case of Vannesa Rosales, telling her that he liked to take photos “of the prisoners” and that this had led him to this situation. An hour and a half later he was released near the athletics track of the University of Los Andes, with the warning that if he did not quit his job and oppose the government, he would end up in prison. Like Faddoul and Puertas, Gavidia and his partner decided to leave the country¹⁷²⁸.

Conclusions

818. The Mission has reasonable grounds to believe that three members of the NGO 100% Oestrogen, Venus Faddoul, Engels Puertas and Franklin Gavidia, have been subjected to harassment and threats for their work in providing legal advice and advocacy with sexual and reproductive rights defender Vannesa Rosales.

819. The Mission has reasonable grounds to believe that Venus Faddoul and Engels Puertas were the subject of intelligence investigations by SEBIN-Mérida, while their names are mentioned in a SEBIN-Mérida document. Further investigations are needed to prove a direct link between the SEBIN list and the acts of harassment and threats suffered by these two individuals, and consequently to determine their authorship. Additional investigations are also required to determine whether the acts of harassment and threats against Franklin Gavidia were perpetrated by SEBIN agents or another security force.

¹⁷²³ AL VEN 1/2021, February 11, 2021; A/HRC/52/29, para. 94

¹⁷²⁴ New York Times, The Only Women Arrested After Rape of a Girl, the Women Who Helped Her, April 13, 2021. Available at: <https://www.nytimes.com/es/2021/04/13/espanol/aborto- venezuela.html>.

¹⁷²⁵ Interview with Venus Faddoul, 25 April 2023, interview with Engels Puertas, 29 May 2023, interview with Venus Faddoul and Engels Puertas, 6 July 2023.

¹⁷²⁶ Document IIDC007: Sebin List.

¹⁷²⁷ Document IIDC007: Sebin List. Interview with Venus Faddoul, April 25, 2023.

¹⁷²⁸ Interview with Franklin Gavidia, July 12, 2023.

Case 26: Karim Vera

Background

820. Karim Vera is a Venezuelan politician who serves as the national coordinator of the Primero Justicia party. Since 2018 she has represented the State of Táchira as a deputy in the National Assembly. Previously, she held the position of alternate deputy for Juan Requesens, a former deputy arrested in 2018 by a SEBIN operative whose case has been documented by the Mission in its 2020 report¹⁷²⁹.

Harassment

821. On 4 January 2020, the night before the election of the Delegate Commission of the National Assembly of Venezuela¹⁷³⁰, several deputies stayed at the “Paseo Las Mercedes” hotel, located in the municipality of Baruta, Miranda State. In the early morning hours of 5 January PNB and SEBIN officials arrived at the hotel claiming that they had received a tip about an explosive device, so they took over the premises and ordered guests to leave their rooms and remain in the lobby. The intervention lasted approximately three hours¹⁷³¹. Vera and others present during the incident denounced that it was an act of intimidation against opposition politicians hours before the session in the National Assembly¹⁷³². As a result of this episode, the “Paseo Las Mercedes” hotel was subject to an initial five-day closure order, and, according to the deputy and other open sources, the hotel remained closed until at least June 2022¹⁷³³.

¹⁷²⁹ See A/HRC/45/CRP.11, Case 9

¹⁷³⁰ CNN, Juan Guaidó is re-elected as president of the National Assembly during a session outside the hemicycle, January 5, 2020. Available at: <https://cnnespanol.cnn.com/2020/01/05/alerta-venezuela-juan-guaido-es-reelecto-como-presidente-de-la-asamblea-nacional-durante-una-sesion-fuera-del-hemiciclo/>

¹⁷³¹ Interview with Karim Vera, 9 February 2023; Interview with Carmen María Sivoli, March 2, 2023; Infobae. Nicolás Maduro's regime harassed deputies of the National Assembly to prevent their votes in favour of Guaidó, January 5, 2020. Available at: <https://www.infobae.com/america/venezuela/2020/01/05/el-regimen-de-nicolas-maduro-hostigo-en-la-madrigada-del-domingo-a-diputados-de-la-asamblea-nacional-para-evitar-sus-votos-a-favour-de-guaido/>; Tweet by El Diario [@eldiario], January 6, 2020. Available at: <https://twitter.com/eldiario/status/1214323195941179397?s=20>.

¹⁷³² Interview with Karim Vera, 6 July 2023; Tweet from María Beatriz Martínez [@MBMartinezR], January 5, 2020. Available at: <https://twitter.com/MBMartinezR/status/1213695545295941637?s=20>; Tweet by María Beatriz Martínez [@MBMartinezR], January 6, 2020. Available at: <https://twitter.com/MBMartinezR/status/1214376197792116736?s=20>.

¹⁷³³ Interview with Karim Vera, 6 July 2023; El Nacional, Regime closes Hotel Paseo Las Mercedes for hosting deputies, January 6, 2020. Available at: <https://www.elnacional.com/venezuela/regimen-clausura-hotel-paseo-las-mercedes-por-hospedar-a-diputados/>; Tweet by Karim Vera [@KarimVera6], January 6, 2020. Available at: https://twitter.com/KarimVera6/status/1214368015011196929?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1214368015011196929%7Ctwgr%5Eef39652423b2394c4c7231e7d62b39eb8c9a3e81%7Ctwcon%5Es1_&ref_url=https%3A%2F%2Ftalcualdigital.com%2Fflas-faes-toman-el-hotel-paseo-las-mercedes-donde-se-reunen-los-diputados-de-oposicion%2F; Tal Cual, Seniat closes Paseo Las Mercedes hotel where opposition deputies were staying, January 6, 2020. Available at: <https://talcualdigital.com/las-faes-toman-el-hotel-paseo-las-mercedes-donde-se-reunen-los-diputados-de-oposicion/>; El Nacional, Regime closure of Hotel Paseo Las Mercedes for hosting deputies, January 6, 2020. Available at: <https://www.elnacional.com/venezuela/regimen-clausura-hotel-paseo-las-mercedes-por-hospedar-a-diputados/>; La tercera Voz, Workers at the Paseo las Mercedes Hotel protested to demand the resumption of their activities, June 6, 2022. Available at: <https://3eravoz.com/distrito-capital/trabajadores-del-hotel-paseo-las-mercedes-protestaron-para-exigir-la-reanudacion-de-sus-actividades/>; 800Noticias, Workers at the Paseo Las Mercedes Hotel protested, June 16, 2022. Available at: <https://800noticias.com/trabajadores-del-hotel-paseo-las-mercedes-protestaron>.

822. On the 5 and 6 of January 2020, MPs were blocked by state security forces and prevented from entering the National Assembly palace. During Juan Guaidó's attempt to enter the Assembly by climbing through a fence, Karim Vera, who was nearby, suffered several bruises due to the crowding between security forces and demonstrators.¹⁷³⁴ Because they were not allowed access to the National Assembly building, opposition assembly members continued to hold meetings in different places, such as parks, theatres, and schools, generating unrest in the government.¹⁷³⁵

823. On 29 March 2020, several deputies of the National Assembly reported being vandalized in their homes. During those incidents, they found threatening writings on the walls of their homes, with messages such as “*we are coming for you*”, “*traitor*” or “*you are dead*”, signed “*FB*” - which corresponds to the expression “*Furia Bolivariana*” (“*Bolivarian Fury*”) ¹⁷³⁶ These messages are allegedly linked to a call by President Maduro during a press conference held on 26 March 2020, in which he made statements against the United States and the “*Colombian oligarchy*”: “*if one day you dare to touch our hair, prepare yourselves for the Bolivarian fury, which would sweep you all away.*”¹⁷³⁷ Karim Vera, one of those affected by the messages, used her Twitter account to report that, once again,¹⁷³⁸ the walls of the building where she lived were painted with threats, as had happened in 2019, when they put the message “*we have you located.*”¹⁷³⁹ This time, the walls of the building appeared with the message “*Furia Bolivariana.*”¹⁷⁴⁰

¹⁷³⁴ Interview with Karim Vera, 9 February 2023; Interview with Karim Vera, 6 July 2023; Interview with Rachid Yasbek, 24 August 2023; El Estímulo, Deputies suffer harassment from Maduro's security forces, January 6, 2020. Available at: <https://elestimulo.com/venezuela/2020-01-06/diputados-sufren-acoso-de-los-cuerpos-de-seguridad-de-maduro/>; YouTube video - Cadena SER, Juan Guaidó tries to enter the National Assembly while being prevented from doing so by police, January 5, 2020. Available at: <https://www.youtube.com/watch?v=voim7SfjudI>;

¹⁷³⁵ Interview with Karim Vera, 6 July 2023.

¹⁷³⁶ “*Bolivarian Fury*” is a slogan that brings together and mobilizes civilians to take action in support of the government of President Maduro; Facebook, Nicolás Maduro, Bolivarian and Revolutionary Fury, May 11, 2020. Available at https://www.facebook.com/NicolasMaduro/videos/furia-bolivariana-y-revolucionariacontamos-con-la-gran-fuerza-patri%C3%B3tica-y-el-am/669199353869573/?locale=es_LA; INFOBAE, Maduro's Hidden Plan and Photos of the First Action of “*Bolivarian Fury*”: Threatening Opposition Leaders with Death, 30 March 2020 Available in <https://www.infobae.com/america/venezuela/2020/03/30/el-plan-oculto-de-maduro-y-las-fotos-de-la-primera-accion-de-furia-bolivariana-amenazar-con-la-muerte-a-dirigentes-de-la-oposicion/>

¹⁷³⁷ El Mundo, Nicolás Maduro unleashes the “*Bolivarian fury*” against the opposition, March 30, 2020. Available at: <https://www.elmundo.es/internacional/2020/03/30/5e822567fdddffd3468b45c5.html>; La Verdad, “*Graffiti with threats painted in the homes of deputies of the National Assembly*”, March 29, 2020. Available at: <http://www.laverdad.com/politica/165873-pintan-grafitis-con-amenazas-en-casas-de-diputados-opositores-de-la-an.html>; Facebook Post, Video Maduro to the U.S. Maduro's U.S. and Colombia, Prepare for “*Bolivarian Fury*,” March 28, 2020. Available at: <https://www.facebook.com/AnnurTV/videos/maduro-a-eeuu-y-colombia-prepárense-para-la-furia-bolivariana/171237257206930/>

¹⁷³⁸ Interview with Karim Vera, 6 July 2023; Insight Crime, “*Colectivos threaten Venezuela's political leaders with graffiti*,” available at <https://es.insightcrime.org/noticias/analisis/colectivos-amenazan-politicos-venezuela-grafitis/>; <https://www.asambleanacionalvenezuela.org/noticias/vera-casas-marcadas>

¹⁷³⁹ Interview with Karim Vera, 6 July 2023; National Assembly, Deputy Karim Vera: “*More than 120 houses marked on the border of Táchira with Colombia*”, August 28, 2019. Available at: <https://www.asambleanacionalvenezuela.org/noticias/vera-casas-marcadas>

¹⁷⁴⁰ Interview with Karim Vera, 6 July 2023; Karim Vera's Twitter [@KarimVere6], March 29, 2020. Available at: <https://twitter.com/KarimVere6/status/1244278381019123714>.

824. On 11 February 2021, around noon, Karim Vera was traveling by bus with two other deputies from the Primero Justicia party, from the state of Aragua to Caracas, when a SEBIN commission stopped the vehicle and forced all the passengers to get off, without providing them with any explanation or clear reason for the detention. After about an hour, SEBIN officials informed the passengers that they would be transferred to the Montalbán command of the PNB. There, they were forced to stay until six o'clock in the evening. During all that time, they were not given a reasonable explanation of the reason for the temporary detention, so Karim Vera presumes that it was an act to intimidate and intimidate the deputies.¹⁷⁴¹

825. During another trip to Caracas in 2021, Karim Vera encountered a similar situation at one of the GNB checkpoints. In this case, the officers asked for her identity card and, upon realizing her identity, detained her without offering any explanation for approximately one hour.¹⁷⁴²

826. At the end of 2022, during a trip to the states of Trujillo and Zulia to accompany a citizens' assembly, Karim Vera was followed by several officers dressed in civilian clothes, with a military attitude and posture, who according to her were from SEBIN. From her arrival at the hotel, where the event was taking place, she experienced constant surveillance and monitoring by a vehicle and a motorcycle, which she presumes were from SEBIN. This harassment persisted until the next day when she left the state of Trujillo.¹⁷⁴³

827. Karim Vera points out that the only complaint he filed with the Prosecutor's Office occurred after his home was painted for the first time in 2019. With respect to the other incidents of harassment and surveillance, Vera decided not to file complaints, as she suspects that the State itself might be involved in these acts, which created uncertainty about the viability of the complaints and their effectiveness.¹⁷⁴⁴

Conclusions

828. Based on the above-mentioned facts, the Mission has reasonable grounds to believe that Deputy Karim Vera has been subjected to acts of harassment for her political activity, including the graffiti "*Furia Bolivariana*" that appeared on the façade of her home on 29 March 2020, as had already happened in 2019, when another had appeared with the message "*we have located you*"; as well as unjustified detentions by security forces when he made two overland trips in 2021. The Mission does not have sufficient evidence to make any determination with respect to other alleged acts, nor to determine whether agents of the State or persons related to it participated in them. This would require further research.

¹⁷⁴¹ Interview with Karim Vera, 9 February 2023; Interview with Rachid Yasbek, August 24, 2023.

¹⁷⁴² Interview with Karim Vera, 9 February 2023; Interview with Karim Vera, 6 July 2023.

¹⁷⁴³ Interview with Karim Vera, 9 February 2023;

¹⁷⁴⁴ Interview with Karim Vera, 6 July 2023.

Case 27: Julio García

Background

829. Julio García is a trade unionist, nurse and president of the College of Nurses of the State of Carabobo. In August 2017, García was arrested and detained at the National Centre for Military Defendants in Ramo Verde¹⁷⁴⁵, presented to the Third of Control of Caracas despite being a civilian, and accused of treason, aggression against the sentinel, military rebellion and theft of weapons¹⁷⁴⁶. On 13 August 2017, Gustavo González López, then director general of SEBIN, publicly accused Julio García of being a “terrorist” and of being involved in the assault on the military fort of Paramacay¹⁷⁴⁷. Union representatives denounced that Julio García’s arrest was linked to his denunciations of failures in the health system. At the end of September 2017, after more than a month of detention, Julio García was released under alternative measures. The measures included appearing before the court every eight days¹⁷⁴⁹ two hours from his home,¹⁷⁵⁰ as well as prohibiting him from meeting with trade union organizations, from testifying about his situation before the media, and from leaving the country.¹⁷⁵¹ These precautionary measures were maintained until December 2018, when his case was dismissed by the Third Military Control Court of Caracas due to lack of evidence against him¹⁷⁵².

Harassment

830. After his release, Julio García resumed his trade union and denunciation activities. In 2021, he publicly denounced the Venezuelan government’s failures with the COVID-19 vaccination program.¹⁷⁵³ On 27 December 2022, he presented to the media a report on the failures of Carabobo’s health service.¹⁷⁵⁴

¹⁷⁴⁵ Interview OOIV027; Joint statement by 128 NGOs on the persecution of Julio García, 29 January 2023. Available at: <https://www.uladdhh.org.ve/index.php/2023/01/29/comunicado-alerta-criminalizacion-protesta-persecucion-y-amedrentamiento-profesor-universitario-julio-garcia/>; Civilis Human Rights, “Professor Julio García Released Under Precautionary Measure”, 02 October 2017, Available at: <https://www.civilisac.org/democracia-estado-de-derecho-y-ddhh/liberan-medida-cautelar-al-profesor-julio-garcia/>;

¹⁷⁴⁶ Interview OOIV027; ILO, “Report of the Commission of Inquiry established under article 26 of the Constitution of the International Labour Organization to examine compliance by the Government of the Bolivarian Republic of Venezuela”, 17 September 2019, disponible en https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_722037.pdf; Civilis Derechos Humanos, “Professor Julio García is released under precautionary measure”, October 3, 2017, available at <https://www.civilisac.org/democracia-estado-de-derecho-y-ddhh/liberan-medida-cautelar-al-profesor-julio-garcia/>.

¹⁷⁴⁷ YouTube, Video by Gustavo González López, August 13, 2017, available at https://www.youtube.com/watch?v=Xu74a_jTCOU.

¹⁷⁴⁸ Espacio Público, arrested after denouncing hospital crisis, August 14, 2017, Available at: <https://espaciopublico.org/detenido-tras-denunciar-tesis-hospitalaria/>; CodeVida, Health unions reject arbitrary detention of Julio García in Carabobo, August 17, 2017, Available at: <https://www.codevida.org/sociedad-civil/gremios-de-la-salud-rechazan-detencion-arbitraria-de-julio-garcia-en-carabobo>; <https://diarioenfermero.es/la-enfermeria-internacional-condena-la-persecucion-enfermeros-venezuela-pide-la-inmediata-liberacion-julio-garcia/>

¹⁷⁴⁹ El Carabobeño, “Military Tribunal Granted Freedom with Precautionary Measure to Julio García,” September 28, 2017, Available at: <https://www.el-caraboben.com/tribunal-militar-otorgo-libertad-medida-cautelar-julio-garcia/>; Entrevista OOIV027.

¹⁷⁵⁰ Interview PPIV067.

¹⁷⁵¹ Interview OOIV027; Interview PPIV067.

¹⁷⁵² Interview OOIV027; Interview PPIV067; ILO, “Report of the Commission of Inquiry established under article 26 of the Constitution of the International Labour Organization to examine the observance by the Government of the Bolivarian Republic of Venezuela”, 17 September 2019, available at https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_722037.pdf;

¹⁷⁵³ Transparencia Venezuela, Carabobo authorities omit information on progress in anti-COVID-19 vaccination since June, July 21, 2021, Available at: <https://transparenciave.org/saludcritica/2021/07/21/autoridades-de-carabobo-omitir-informacion-sobre-avance-en-la-vacunacion-anti-covid-19-desde-junio/>.

¹⁷⁵⁴ Carabobo is news, “Not at all encouraging data reveals the Report of the College of Nurses of Carabobo with the crisis that the sector is experiencing”, December 27, 2022. Available at: <https://caraboboesnoticia.com/datos-nada-alentadores-revelan-el-informe-del-colegio-de-enfermeros-de-carabobo-con-la-crisis-que-vive-el-sector/>;

831. Between January and May 2023, on at least 17 occasions, uniformed or plainclothes intelligence agents showed up at various union activities in García, including, but not limited to, demonstrations and meetings; in addition, they showed up at his house, watching over him and his family.¹⁷⁵⁵ A witness reported seeing a vehicle with the SEBIN sign with SEBIN officers dressed in black parked in front of Julio García's house for several days in the week of 9 January 2023.¹⁷⁵⁶

832. On 20 January at approximately 5:30 p.m., two SEBIN vans, carrying at least six troops, surrounded the home of Julio García.¹⁷⁵⁷ SEBIN agents arrived at the door of the house and requested the presence of García, who was not at home. According to a statement from the board of directors of the College of Nurses of the State of Carabobo, officials tried to enter the house by force, but were stopped by Julio García's wife. The couple's two youngest children were in the house.¹⁷⁵⁸ Witnesses indicated that SEBIN officials stayed in the neighbourhood until approximately 7:30 p.m.¹⁷⁵⁹

¹⁷⁵⁵ Interview OOIV027, Interview PPIV067; Human Rights Observatory Mérida Venezuela, Communiqué: "Alert to the criminalization of the peaceful protest of the unions. Persecution and intimidation of university professor Julio García and his family by Venezuelan State security forces", January 29, 2023, Available at: <https://www.uladdhh.org.ve/index.php/2023/01/29/comunicado-alerta-criminalizacion-protesta-persecucion-y-amedrentamiento-profesor-universitario-julio-garcia/>; El Pitazo, Carabobo, Nurses denounce the presence of SEBIN in the home of union member Julio García, January 20, 2023, Available at: <https://elpitazo.net/centro/sebin-vivienda-gremialista-julio-garcia/>; Runrunes, "Carabobo Nurses Denounced SEBIN's Presence in Trade Union Member's Residence," January 20, 2023, Available at: <https://runrun.es/noticias/493061/enfermeros-de-carabobo-denunciaron-presencia-del-sebin-en-residencia-de-gremialista/>; Punto de Corte, "SEBIN seeks president of the College of Nursing of the State of Carabobo", January 20, 2023, Available at: <https://puntodecorte.net/sebin-busca-a-presidente-del-colegio-de-enfermeria-de-carabobo/>.

¹⁷⁵⁶ Interview OOIV027.

¹⁷⁵⁷ Interview OOIV027; El Pitazo, Carabobo, Nurses denounce the presence of SEBIN in the home of union member Julio García, January 20, 2023, Available at: <https://elpitazo.net/centro/sebin-vivienda-gremialista-julio-garcia/>; <https://runrun.es/noticias/493061/enfermeros-de-carabobo-denunciaron-presencia-del-sebin-en-residencia-de-gremialista/>; Runrunes, "Carabobo nurses denounced SEBIN's presence in union member's residence", January 20, 2023, Available at: <https://runrun.es/noticias/493061/enfermeros-de-carabobo-denunciaron-presencia-del-sebin-en-residencia-de-gremialista/>; Punto de Corte, "SEBIN seeks president of the College of Nursing of the State of Carabobo", January 20, 2023, Available at: <https://puntodecorte.net/sebin-busca-a-presidente-del-colegio-de-enfermeria-de-carabobo/>; Observatorio de Derechos Humanos Mérida Venezuela, Comunicado: "Alert to the criminalization of peaceful protest by trade unions. Persecution and intimidation of university professor Julio García and his family by Venezuelan State security forces", January 29, 2023, Available at: <https://www.uladdhh.org.ve/index.php/2023/01/29/comunicado-alerta-criminalizacion-protesta-persecucion-y-amedrentamiento-profesor-universitario-julio-garcia/>; Facebook, Caraota digital, "Moments captured in which the home of Julio García, president of the College of Nurses in the state of Carabobo, is raided", August 12, 2017, Available at: https://m.facebook.com/CaraotaDigital/videos/1559101510799897/?locale2=ps_AF

¹⁷⁵⁸ Statement from the Board of Directors of the College of Nurses of the State of Carabobo, January 20, 2023, available at <https://sandyaveledo.net/sebin-asedia-vivienda-de-julio-garcia-presidente-del-colegio-de-enfermeros-de-carabobo/>; 90 El Carabobeño, Inter-Guild Bloc rejects persecution against Julio García, January 21, 2023. Available at: <https://www.el-carabobeno.com/bloque-intergremial-rechaza-persecucion-contra-julio-garcia/>

¹⁷⁵⁹ Statement from the Board of Directors of the College of Nurses of the State of Carabobo, January 20, 2023, available at <https://sandyaveledo.net/sebin-asedia-vivienda-de-julio-garcia-presidente-del-colegio-de-enfermeros-de-carabobo/>; El Pitazo, "Carabobo, Nurses denounce the presence of SEBIN in the home of union member Julio García", January 20, 2023, Available at: <https://elpitazo.net/centro/sebin-vivienda-gremialista-julio-garcia/>; Punto de Corte, "SEBIN seeks president of the College of Nursing of the State of Carabobo", January 20, 2023, Available at: <https://puntodecorte.net/sebin-busca-a-presidente-del-colegio-de-enfermeria-de-carabobo/>.

833. This last event occurred in the framework of a national protest planned for 23 January¹⁷⁶⁰ that Julio García had been promoting on his social networks in the days and hours before the SEBIN went to pick him up at his home.¹⁷⁶¹ On 23 January 2023, the day of the demonstration, Julio García posted a tweet indicating that he was being persecuted by the State.¹⁷⁶²

Conclusions

834. Based on the above, the Mission has reasonable grounds to believe that Julio García has been subjected to acts of harassment by State agents for his trade union activity and his criticism of the public health system on repeated occasions during 2023. The Mission also has reasonable grounds to believe that SEBIN officials participated in the acts of harassment.

Case 28: Franklin Alfredo Caldera Cordero

Background

835. Franklin Alfredo Caldera Cordero is the general coordinator of the “S.O.S. Libertad Family” Victims’ Committee, an organization he founded after the arrest of his son, Lieutenant Franklin Caldera Martínez, on Ask for situations in which they have gotten stuck recently, and show of hands from other participants if also happens to them on 11 February 2021, for allegedly participating in an attack on a military base in what was known as Operation Aurora. The detention of Franklin Caldera Martínez was documented by the Mission in its 2021 and 2022 reports.¹⁷⁶³

836. In January 2019, Lieutenant Franklin Caldera Martínez appeared in a video broadcast by the NTN24 television network alongside Army Major General Jesús Alberto Milano Mendoza, who called on the military to “peacefully take to the streets of the country” against President Maduro.¹⁷⁶⁴ The Mission received information that a few days after this material was published, messages were disseminated in WhatsApp groups of military personnel, later shared by other social networks, calling for attacks on the soldiers who appeared in the video, as well as their families.¹⁷⁶⁵ In response to these threats, Franklin Caldera Cordero and his wife took refuge in a clandestine place, but, for health reasons, they had to leave hiding after a few days. At the beginning of February 2019, Caldera Cordero reported having been kidnapped by armed, hooded men in two vans without license plates. Caldera Cordero claims that for five days he was held captive in an unknown location where he was suffocated, beaten, and threatened to reveal information about his son¹⁷⁶⁶.

¹⁷⁶⁰ Cut-off Point, “SEBIN seeks president of the College of Nursing of the State of Carabobo, January 20, 202”, Available at: <https://puntodecorte.net/sebin-busca-a-presidente-del-colegio-de-enfermeria-de-carabobo/>.

¹⁷⁶¹ Tweet by Julio García, January 19, 2023, Available at: <https://twitter.com/julioporlavid/status/1616109606232817665>; Tweet by Julio García, January 20, 2020. Available at: <https://twitter.com/julioporlavid/status/1616459832331993089>.

¹⁷⁶² Tweet by Julio García, January 23, 2023. Available at: https://twitter.com/julioporlavid/status/1617670036407341057?ref_src=twsrc%5Etfw%7Ctwmp%5Etweetembed%7Ctwterm%5E1617670036407341057%7Ctwgr%5E7b846bfa2a53828b0ceaf091cbf67c10e613244%7Ctwcon%5Es1_&ref_url=https%3A%2F%2Fwww.elnacional.com%2Fvenezuela%2Fcondenan-la-persecucion-contra-el-presidente-del-colegio-de-enfermeros-de-carabobo%2F.

¹⁷⁶³ A/HRC/48/CRP.5, table 7, paras. 298 and 299; A/HRC/51/CRP.3, paras. 87 and 221

¹⁷⁶⁴ Therepublica.co, General of the Army in Venezuela calls on the military to speak out in favour of the people, January 23, 2019. Available at: <https://www.larepublica.co/globoeconomia/general-del-ejercito-en-venezuela-llama-a-los-militares-a-pronunciarse-a-favour-del-pueblo-2819254>; Instagram Post, El Nacional Web, January 23, 2019. Available at: https://www.instagram.com/p/Bs_XkAbIZ0e/?igshid=MTc4MmM1YmI2Ng%3D%3D.

¹⁷⁶⁵ Document PPDC053: Recording of Threats 1; Document PPDC054: Recording of Threats 2; YouTube Video - Neil Orlando Figueroa López, Captain of the Bolivarian National Guard threatens patriots and their families, January 26, 2019. Available at: https://www.youtube.com/watch?v=tzrqwzUMRE4&ab_channel=NeilOrlandoFigueroaLopez; Tweet by Nelson E. Rincón [@nrinconc], January 24, 2019. Available at: <https://twitter.com/nrinconc/status/1088636797654106113?t=z9X2equVvmR1-ux4WfCcuA&s=09>.

¹⁷⁶⁶ A/HRC/51/CRP.3, para. 86; Interview AAIV093; Interview with Franklin Caldera Cordero (Father), July 28, 2023; Youtube Video - Franklin Caldera Testimony, March 31, 2023. Available at: <https://www.youtube.com/watch?v=48pbwxn0lhY&t=32s>; Runrunes, Forgotten human rights – Franklin Caldera Martínez was kidnapped by the ELN and handed over to the DGCIM, February 18, 2023. Available at: <https://runrun.es/megafono/495154/ddhh-olvidados-a-franklin-caldera-martinez-lo-secuestro-el-eln-y-se-lo-entrego-a-la-dgcim/>; Armando.info, A nightmare of Nazism revives Venezuela, July 23, 2023. Available at: <https://armando.info/unapesadilla-del-nazismo-revive-en-venezuela/>; Crisis in Venezuela, Franklin Caldera, father of First Lieutenant (Ej) Franklin Caldera Martínez “My son’s crime was to denounce the destruction of the Mining Arc, March 31, 2023. At: <https://crisisenvenezuela.org/2023/03/31/testimonio-de-franklin-caldera-padre-del-teniente-ej-franklin-caldera-martinez/>.

Harassment

837. On 3 March 2021, a month after their son's arrest, Caldera Cordero and his wife filed a complaint with the Public Prosecutor's Office in Caracas regarding the arbitrary detention and ill-treatment of their son.¹⁷⁶⁷ Franklin Caldera Cordero has reported that, since then, he and his family have been victims of harassment and threats for denouncing human rights violations against his son.

838. Between 2021 and 2023, Franklin Alfredo Caldera Cordero and his family have observed unknown people watching them and following them in cars. On several occasions, they saw the same black pickup truck parked outside their residence. When family members leave by vehicle, these cars follow them as they move around town.¹⁷⁶⁸

839. On 17 September 2021, the day after the Mission's second report was published, which referred to the case of Lieutenant Franklin Caldera Martínez, Caldera Cordero reported receiving a call from an unidentified number in which a person with a male voice threatened him that he was “going to be made to disappear and kill” if he continued to denounce to international organizations.¹⁷⁶⁹ Caldera Cordero reported receiving similar threats after the publication of the Mission's third report in September 2022, which also mentions her son's case.¹⁷⁷⁰

840. On 26 January 2023, after having attended a meeting in Caracas with the United Nations High Commissioner for Human Rights, Volker Türk, Caldera Cordero reported receiving several calls from unknown numbers warning him to “stay calm” and to stop reporting human rights violations because, otherwise, it was going to have negative consequences for him and his family.¹⁷⁷¹

841. Caldera Cordero informed the Mission that his son had been ill-treated by DGCIM officials in retaliation for his father's public denunciations.¹⁷⁷² On 26 March 2023, Caldera Cordero spoke publicly before the United Nations Human Rights Council about human rights violations committed by the Venezuelan state¹⁷⁷³. On 15 April, a high-ranking military officer contacted him and advised him to stop making public allegations, to retract his previous allegations, and to ask the press to stop reporting them in order to avoid further reprisals against him, his family and his son¹⁷⁷⁴.

¹⁷⁶⁷ Document PPDC055: photo of complaint to the Public Prosecutor's Office); Interview with Franklin Caldera Cordero (Father), July 28, 2023

¹⁷⁶⁸ Interview AAI024; Interview AAI093; Interview with Franklin Caldera Cordero (Father), July 28, 2023; Document HHDC073: Franklin Caldera Threat Act; Justice, Encounter and Forgiveness, Chronicle – The Storms of a Dissident Military Officer, January 24, 2022. Available at: <https://www.jepvenezuela.com/2022/01/24/cronica-las-tempestades-de-un-militar-disidente/>;

¹⁷⁶⁹ Interview AAI093

¹⁷⁷⁰ Interview with Franklin Caldera, October 20, 2022.

¹⁷⁷¹ Document HHDC073: Franklin Caldera Threat Act; IACHR, Resolution 40/2023 of July 20, 2023. Disponible en https://www.oas.org/es/cidh/decisiones/mc/2023/res_40-23_mc_409-23_ve_es.pdf

¹⁷⁷² Interview with Franklin Caldera Cordero (Father), July 28, 2023; Document HHDC073: Franklin Caldera Threat Act; IACHR, Resolution 40/2023 of July 20, 2023. Available at https://www.oas.org/es/cidh/decisiones/mc/2023/res_40-23_mc_409-23_ve_es.pdf.

¹⁷⁷³ YouTube Video - Defend Venezuela, Franklin Caldera Participation at the UNHRC, 30 March 2023. Available at <https://www.youtube.com/watch?v=m2oZM-omyIs>; Tweet by Defends Venezuela [@DefiendeVe], March 22, 2023. Available at: <https://twitter.com/DefiendeVE/status/1638581856412082180>; Tal Cual, Father of soldier Franklin Caldera denounced physical and psychological torture to the UN, March 30, 2023. Available at: <https://talcualdigital.com/padre-del-militar-franklin-caldera-denuncio-ante-la-onu- torturas-fisicas-y-psicologicas/>.

¹⁷⁷⁴ Interview with Franklin Caldera Cordero (Father), July 28, 2023; IACHR, Resolution 40/2023 of July 20, 2023. Available at: https://www.oas.org/es/cidh/decisiones/mc/2023/res_40-23_mc_409-23_ve_es.pdf

842. As a result of these acts of harassment, Caldera Cordero says that he began to suffer from hypertension, panic attacks and that, finally, he suffered a heart attack.¹⁷⁷⁵ On 20 July 2023, the Inter-American Commission on Human Rights granted precautionary measures in favour of Franklin Alfredo Caldera Cordero. In its resolution, the IACHR highlighted “that human rights defenders in Venezuela continue to face an environment of stigmatization and intense harassment as a result of their work” and that Caldera Cordero’s situation reflects “a continuity of the risk events against him over time, which would be related to his actions in defense of the so-called ‘political prisoners’, in particular his son, Franklin Caldera Martínez.”¹⁷⁷⁶

Complaint to the Public Prosecutor's Office

843. In May 2022, Caldera Cordero was summoned by the 49th Full National Prosecutor's Office of the Public Prosecutor's Office to be interviewed as the victim's father in the investigation MP-110883-2021, initiated based on the complaint filed by Caldera Cordero and his wife in March of the previous year regarding the case of their son.¹⁷⁷⁷ On 26 May and 1 June 2022, he was received by a representative of the Prosecutor's Office to whom he denounced the human rights violations against his son, in addition to the harassment suffered by him and his family.¹⁷⁷⁸

844. After more than a year without a response or follow-up to the investigation, Caldera Cordero managed to get a meeting at the 49th National Prosecutor's Office on 20 July 2023¹⁷⁷⁹. Caldera Cordero reports that the representative of the prosecutor's office made him fill out a form to request a copy of the file, but that they did not present him with any other information about the status of the case. He also reports that they made him sign a certificate of his visit but refused to give him a copy.¹⁷⁸⁰

Conclusions

845. Based on the facts reported, the Mission has reasonable grounds to believe that Franklin Alfredo Caldera Cordero has been the subject of death threats, surveillance, follow-ups and other acts of harassment, in retaliation for having publicly denounced the human rights violations that occurred in Venezuela and, in particular, against his son Lieutenant Franklin Caldera Martínez, to State entities and before international human rights organizations, including United Nations mechanisms. However, the Mission is not in a position to indicate who was responsible for these acts of harassment. A determination of this nature would require further investigation.

¹⁷⁷⁵ Interview with Franklin Caldera Cordero (Father), July 28, 2023; Crisis in Venezuela, Franklin Caldera, father of First Lieutenant (Ex) Franklin Caldera Martínez “My son's crime was to denounce the destruction of the Mining Arc, March 31, 2023. Available at: <https://crisisenvenezuela.org/2023/03/31/testimonio-de-franklin-caldera-padre-del-teniente-ej-franklin-caldera-martinez/>.

¹⁷⁷⁶ IACHR, Resolution 40/2023 of July 20, 2023. Available at: https://www.oas.org/es/cidh/decisiones/mc/2023/res_40-23_mc_409-23_ve_es.pdf

¹⁷⁷⁷ Document PPDC056: MP subpoena; Interview with Franklin Caldera Cordero (Father), July 28, 2023.

¹⁷⁷⁸ *Ibid.*

¹⁷⁷⁹ Interview with Franklin Caldera Cordero (Father), July 28, 2023; Document PPDC057: Messages with the Prosecutor's Office.

¹⁷⁸⁰ Interview with Franklin Caldera Cordero (Father), July 28, 2023.

Case 29: Roberto Marrero

Background

846. Roberto Marrero was chief of staff for Juan Guaidó until his detention in 2019. Both his detention and release, in August 2020, were documented by the Mission in its 2020 report.¹⁷⁸¹ After his release and given that no further precautionary measures nor other legal restrictions were imposed against him, Marrero recovered his passport – confiscated in 2019 when he was detained – with the intention of reuniting with his wife and son who had fled to Miami. Since at the time there were no commercial flights departing from the Bolivarian Republic of Venezuela due to COVID-19 pandemic restrictions, Marrero managed to get a seat on a humanitarian flight to Madrid for 2 October 2020.¹⁷⁸²

Harassment

847. According to his testimony to the Mission, when he arrived at the terminal of Maiquetía International Airport, several airport employees filmed Marrero with their cell phones while he was checking his luggage and waiting at the entrance of the immigration area. As he went through immigration, two people dressed as civilians started to surveil and follow him.¹⁷⁸³ The immigration officers checked his travel documents and Marrero boarded the plane which was also boarded by the two people surveilling him, but they remained standing in the aisle.¹⁷⁸⁴

848. Then, the captain of the plane announced that there would be a delay without providing any reason. Soon afterwards, Marrero received a call from the Ambassador of Spain to Venezuela who told him that he had been informed that the authorities would not allow the airplane to take off because “someone was upset” that he pretended to leave the country, and that if he did not get off the plane, they would not let it take off.¹⁷⁸⁵ Marrero explained to the Ambassador he was afraid that if he got off the plane that he would be detained. Subsequently, the Ambassador sent the Consul of Spain to the airplane door to accompany and safeguard Marrero.¹⁷⁸⁶ When the Consul arrived, Marrero exited the plane, and it finally took off around 8:00 pm with the rest of the passengers.¹⁷⁸⁷

849. According to his own account, as soon as they left the plane, Marrero and the Consul of Spain were received by the chief of security and other security employees of the Maiquetía International Airport who took them to a room and indicated that they should wait there while they brought Marrero’s suitcase. Marrero, uncomfortable due to the presence of security agents, stated that he did not want his suitcase, but just to leave. The chief of security answered: “the instruction I have is that he (pointing at Marrero) cannot leave”, and he held both people in the room for nearly an hour until the suitcase was returned and they were allowed to go.¹⁷⁸⁸ For a week, Roberto Marrero sheltered in an undisclosed place in Caracas for fear of being detained.¹⁷⁸⁹

¹⁷⁸¹ 2020 Report, 263; para 672-690.

¹⁷⁸² Interview with Roberto Marrero, 5 June 2023; Interview PPIV064.

¹⁷⁸³ Interview with Roberto Marrero, 5 June 2023.

¹⁷⁸⁴ *Ibid.*

¹⁷⁸⁵ *Ibid.*

¹⁷⁸⁶ *Ibid.* Interview PPIV064.

¹⁷⁸⁷ Interview with Roberto Marrero, 5 June 2023; YouTube, *El Pitazo*, 3 October 2020. Available at: <https://www.youtube.com/watch?v=fvkG13sJ8NI>, *El Mundo*, El Gobierno chavista impide viajar en vuelo humanitario a España a Marrero, Jefe de Gabinete de Guaidó y ex prisionero político, 3 October 2020. Available at: <https://www.elmundo.es/internacional/2020/10/03/5f77d3d6fc6c83661c8b458b.html>, NTN24, Régimen impidió a Roberto Marrero abordar vuelo humanitario con destino a Madrid, 3 October 2020. Available at: <https://www.nten24.com/noticias-politica/regimen-impidio-a-roberto-marrero-abordar-vuelo-humanitario-con-destino-a-madrid-126520>;

¹⁷⁸⁸ Interview with Roberto Marrero, 5 June 2023.

¹⁷⁸⁹ Interview with Roberto Marrero, 5 June 2023; Interview PPIV064.

850. Five days later, on 7 October 2020, with support from the Government of Mexico, Roberto Marrero got a humanitarian flight to Mexico. He was escorted to the airport by a representative of the Embassy of Mexico to Venezuela, who also accompanied him during the flight to Mexico City.¹⁷⁹⁰ After that, Marrero went to Miami to join his family.¹⁷⁹¹

House Appropriation

851. On 17 April 2021, Juan Guaidó declared on Twitter that he had requested Marrero and Eduardo Sapene to “coordinate efforts” for the “democratization of Telesur.”¹⁷⁹² the interstate television media outlet founded in 2005 with headquarters in Caracas.¹⁷⁹³ The media that reported about Juan Guaidó’s tweet, published that he had instructed Marrero and Sapene to “take control of the signal of the multistate channel Telesur from Nicolas Maduro’s government.”¹⁷⁹⁴

852. On 23 April 2021, six days after Guaidó’s tweet was posted, Marrero – who was out of the country since he left in October 2020 – received a call from a neighbour in Caracas informing him that there were officials from the security armed forces attempting to raid his apartment in Caracas. According to Marrero, the neighbour assumed that the officials were from the Scientific, Criminal and Forensic Investigations Corps due to their black garments, although they never identified themselves.¹⁷⁹⁵ The officials indicated to the neighbours: “this apartment now belongs to the State”, without showing any document of the seizure of the property. That same day, the officials changed the locks to the apartment,¹⁷⁹⁶ and since then other civil servants have arrived at the apartment with their own key, entered and withdrawn objects from inside.¹⁷⁹⁷

¹⁷⁹⁰ Interview with Roberto Marrero, 5 June 2023; Interview PPIV064; *El País*, Roberto Marrero, mano derecha de Guaidó, viaja a México tras frustrarse su intento de ir a España, 7 October 2020. Available at: <https://elpais.com/internacional/2020-10-08/el-jefe-de-despacho-de-guaido-roberto-marrero-viaja-a-mexico-tras-frustrarse-su-intento-de-ir-a-espana.html>.

¹⁷⁹¹ *Ibid.*

¹⁷⁹² Interview with Roberto Marrero, 5 June 2023; Interview PPIV064. Twitter, Juan Guaidó, 17 April 2021. Available at: <https://twitter.com/jguaido/status/1383562195456335880>.

¹⁷⁹³ *Telesur* features the participation of Venezuela, Cuba and Nicaragua, among other countries in the region, and it is operated by the Bolivarian Communication and Information System, a conglomerate of State media affiliated to the Ministry of Communications of Venezuela; Swissinfo, Oposición venezolana lanza medio alternativo al no lograr control de Telesur, 24 May 2021. Available at: https://www.swissinfo.ch/spa/venezuela-crisis_oposici%C3%B3n-venezolana-lanza-medio-alternativo-al-no-lograr-control-de-telesur/46645554; *Sumarium*, La Fiscalía dicta órdenes de captura contra Roberto Marrero y Eduardo Sapene por Telesur, 28 April 2021. Available at: <https://sumarium.info/2021/04/27/la-fiscalia-dicta-ordenes-de-captura-contra-roberto-marrero-y-eduardo-sapene-por-telesur/>; *Revista Chasqui*, December 2005. Available at: <https://www.revistachasqui.org/index.php/chasqui/article/view/1573/1596>). Since at least 2013, the Venezuelan opposition and international analysts have accused *Telesur* of being a political party platform used as a tool by the Venezuelan government. See for example: DW, Trump examina con cuidado situación de Telesur, 20 February 2020. Available at: <https://www.dw.com/es/trump-examina-con-cuidado-situaci%C3%B3n-de-telesur/a-52438287>; DW, Telesur : “Un canal instrumentalizado”, 31 March 2016. Available at: <https://www.dw.com/es/telesur-un-canal-instrumentalizado/a-19155782>; Twitter, Juan Guaidó, 17 April 2021. Available at: <https://twitter.com/jguaido/status/1383561864932577283>.

¹⁷⁹⁴ DW, Guaidó sustituye cargos de comisión para control de Telesur, 18 April 2021. Available at: <https://www.dw.com/es/venezuela-juan-guaid%C3%B3-sustituye-a-cargos-de-comisi%C3%B3n-para-tomar-control-de-telesur/a-57242956>.

¹⁷⁹⁵ Interview with Roberto Marrero, 5 June 2023; Tweet by Roberto Marrero, 23 April 2021. Available at: <https://twitter.com/ROBERTOMARRERO/status/1385678378133557249>

¹⁷⁹⁶ Interview with Roberto Marrero, 5 June 2023; Interview PPIV064; Interview PPIV068; *La Patilla*, Roberto Marrero tras allanamiento: Se ve que la dictadura le pegó lo de Telesur Libre, 24 April 2021. Available at: <https://www.lapatilla.com/2021/04/24/roberto-marrero-allanamiento-telesur/>.

¹⁷⁹⁷ Interview with Roberto Marrero, 5 June 2023; Interview PPIV064; Interview PPIV068.

853. On 27 April 2021, VTV, a state television channel from Venezuela, informed that “the Venezuelan Public Prosecutor’s Office had issued an arrest warrant, an account freezing order and asset seizure” for “impersonation of a public officer” against Marrero, Sapene and three other people.¹⁷⁹⁸ On 28 April, international media published the information about the alleged legal action against Marrero,¹⁷⁹⁹ who never received an official notification. Marrero has not tried to access his accounts in Venezuela, nor has he been back to the country for fear of being detained, consequently he does not know if the legal action against him is real or if it is just a threat.¹⁸⁰⁰

854. Having been unable to gain enough support from other countries participating in Telesur to take control of the interstate channel, Guaidó and Marrero announced on 24 May 2021, the launch of the alternative digital platform TeleSur Libre.¹⁸⁰¹ Less than a day after its launch, the access to TeleSur Libre’s website was blocked in Venezuela.¹⁸⁰²

855. Since the beginning of 2023, witnesses describe that every 15 days people dressed as civilians kept on entering Marrero’s apartment in Caracas and withdrawing items inside black bags.¹⁸⁰³ In April 2023, a woman, and a man, both dressed as civilians, contacted the janitor of the building where the apartment is located. The man indicated to the janitor that the apartment was now the State’s property as a consequence of Guaidó’s initiative of getting the support of other States to take control of Telesur.¹⁸⁰⁴ The man did not show any documents confirming his identity, nor the State’s ownership of the apartment.¹⁸⁰⁵

856. Roberto Marrero and his family have not reported these facts to the National Human Rights Institution, nor to the Public Prosecutor’s Office. They explained to the mission that they do not believe that filing complaints before State authorities would be effective due to the lack of independence of the justice system.¹⁸⁰⁶

Conclusions

857. The Mission has reasonable grounds to believe that Roberto Marrero has been a victim of harassment by State employees who arbitrarily prevented him from freely leaving the country in 2020, depriving him of flying to Madrid, violating his freedom of movement. The Mission also has reasonable grounds to believe that Marrero’s house in Caracas was taken by third parties. However, the Mission was not able to determine if the seizure or confiscation of Marrero’s apartment was performed by State agents, and if it was conducted outside or within the limits of a criminal process *in absentia* against him. A determination of this sort would require further investigation. Finally, the Mission

¹⁷⁹⁸ Leopoldo Castillo, Carlos Méndez and Larissa Patiño; Interview with Roberto Marrero, 5 June 2023; DW, Venezuela investiga opositores que buscan controlar Telesur, 28 April 2021. Available at: <https://www.dw.com/es/fiscal%e3%adA-de-venezuela-investiga-a-opositores-que-buscan-controlar-telesur/a-57357136>; *Sumarium*, La Fiscalía dicta órdenes de captura contra Roberto Marrero y Eduardo Sapene por Telesur, 28 April 2021. Available at: <https://sumarium.info/2021/04/27/la-fiscalia-dicta-ordenes-de-captura-contra-roberto-marrero-y-eduardo-sapene-por-telesur/>.

¹⁷⁹⁹ Interview PPIV064; *Sumarium*, La Fiscalía dicta órdenes de captura contra Roberto Marrero y Eduardo Sapene por Telesur, 28 April 2021. Available at: <https://sumarium.info/2021/04/27/la-fiscalia-dicta-ordenes-de-captura-contra-roberto-marrero-y-eduardo-sapene-por-telesur/>; DW, Venezuela investiga opositores que buscan controlar Telesur, 28 April 2021. Available at: <https://www.dw.com/es/fiscal%e3%ADa-de-venezuela-investiga-a-opositores-que-buscan-controlar-telesur/a-57357136>.

¹⁸⁰⁰ Interview with Roberto Marrero, 5 June 2023; Interview PPIV064.

¹⁸⁰¹ Interview with Roberto Marrero, 5 June 2023; Swissinfo, Oposición venezolana lanza medio alternativo al no lograr control de Telesur, 24 May 2021. Available at: https://www.swissinfo.ch/spa/venezuela-crisis_oposic%e3%B3n-venezolana-lanza-medio-alternativo-al-no-lograr-control-de-telesur/46645554; Tweet by Roberto Marrero [@ROBERTOMARRERO], 24 May 2021. Available at: <https://twitter.com/ROBERTOMARRERO/status/1396885106313342977>;

¹⁸⁰² *Tal Cual*, Régimen de Maduro bloquea plataforma alternativa TeleSur Libre, 25 May 2021. Available at: <https://talcualdigital.com/regimen-de-maduro-bloquea-plataforma-alternativa-telesur-libre/>

¹⁸⁰³ Interview PPIV064; Interview PPIV068

¹⁸⁰⁴ *Ibid.*

¹⁸⁰⁵ *Ibid.*

¹⁸⁰⁶ Interview with Roberto Marrero, 5 June 2023; Interview PPIV064.

has reasonable grounds to believe that the website of *TeleSur Libre* e was blocked, although there is no certainty that the block was effected by officials of the Venezuelan State.

Case 30: Ángel Omar Vivas Perdomo and family members

Background

858. Ángel Omar Vivas Perdomo is a retired General of the Bolivarian Army of Venezuela who, along with his family, has been a victim of threats and other acts of harassment. In 2008, while he was still in active service, General Vivas Perdomo filed a public interest claim before the Constitutional Chamber of the Supreme Tribunal of Justice to question the decision, of the then President Hugo Chávez, for the Armed Forces to use the slogan “Homeland, socialism or death, we shall overcome.”¹⁸⁰⁷

859. During the 2014 protests, General Vivas Perdomo publicly recommended that civilians participating in the protests defend themselves against attacks from violent armed groups, allegedly linked to the Government¹⁸⁰⁸. As a result of this, President Maduro declared on radio and television that he should be detained: “*look for him and bring him to me.*”¹⁸⁰⁹ To avoid being detained, General Vivas Perdomo took shelter in his house in Caracas with a weapon until 2017. On 7 April 2017, he was detained in a Bolivarian National Intelligence Service operation outside his house and he was imprisoned at El Helicoide¹⁸¹⁰ accused of being involved in a plan to assassinate President Maduro, Vice-president Tareck El Aissami and deputy Diosdado Cabello.¹⁸¹¹

860. On 27 October 2017, the Inter-American Commission of Human Rights granted him precautionary measures to guarantee access to medical attention due to a broken vertebra caused by blows received during his detention, and other pathologies requiring urgent treatment.¹⁸¹² On 1 June 2018, General Vivas Perdomo was released with alternative measures to preventive detention, among others the prohibition of issuing statements to national and international media outlets.¹⁸¹³

¹⁸⁰⁷ IACHR, Resolution 45/2017, 27 October 2017, p. 2. Available at:

<https://www.oas.org/es/cidh/decisiones/pdf/2017/45-17MC600-15-VE.pdf>

¹⁸⁰⁸ During protests in Venezuela in 2014, General Ángel Omar Vivas Perdomo had recommended disarmed civilians to defend themselves through improvised methods using wires and nylon against violent motorized groups allegedly formed illegally by the government. IACHR, Resolution 45/2017, 27 October 2017, p. 2. Available at:

<https://www.oas.org/es/cidh/decisiones/pdf/2017/45-17MC600-15-VE.pdf>; *BBC News Mundo*, Venezuela: El general que se atrincheró contra una orden de detención de Maduro, 24 February 2014. Available at:

https://www.bbc.com/mundo/video_fotos/2014/02/140224_video_general_vivas_venezuela_ch.

¹⁸⁰⁹ *Reportero24*, Maduro ordena detención del General Ángel Vivas, 22 February 2014. Available at: <https://reportero24.com/2014/02/22/politica-maduro-ordena-detencion-del-gral-angel-vivas/>; *El Mundo*, Un ex general se atrincheró armado en su casa después de que Maduro ordenara su detención, 23 February 2014. Available at:

<https://www.elmundo.es/internacional/2014/02/23/530a7cb622601d9d1b8b4571.html>.

¹⁸¹⁰ Interview with Ángel Vivas Perdomo, 26 June 2023; IACHR, Resolution 94/2021, 27 November 2021. Available at: https://www.oas.org/es/cidh/decisiones/MC/2021/Res_94-21_MC_600-15_ES.PDF; *Armando.info*, El general Vivas Perdomo contra el olvido, 28 May 2017. Available at: <https://armando.info/el-general-vivas-contra-el-olvido/>; *Comunicas*, Fusil en mano el General Vivas resistió detención en su casa, 23 February 2014. Available at:

<https://pradosdeleste.comunicas.org/2014/02/23/metralleta-en-mano-el-general-vivas-resiste-detencion-en-su-casa-de-prados/>.

¹⁸¹¹ IACHR, Resolution 45/2017, 27 October 2017, p. 2. Available at:

<https://www.oas.org/es/cidh/decisiones/pdf/2017/45-17MC600-15-VE.pdf>

¹⁸¹² *Ibid.*; OHCHR, Human Rights Violations in the Bolivarian Republic of Venezuela: a downward spiral with no end in sight, June 2018. Available at:

https://www.ohchr.org/sites/default/files/Documents/Countries/VE/VenezuelaReport2018_EN.pdf.

¹⁸¹³ IACHR, Resolution 94/2021, 27 November 2021. Available at:

https://www.oas.org/es/cidh/decisiones/MC/2021/Res_94-21_MC_600-15_ES.PDF; CNN, Esposa del General retirado Ángel Vivas, recién excarcelado, relata los tratos que dieron a su

Harassment

861. After his release, General Vivas Perdomo and his family have suffered a series of attacks and harassment from unknown individuals whom the family presumes are linked to the State. On 6 May 2021, the family was attacked in their home by a group of 10 to 15 armed individuals.¹⁸¹⁴ Due to physical trauma suffered during the attack, the General and his wife had to be hospitalized. His wife was treated for a broken ankle, and General Vivas Perdomo suffered severe blows to a kidney that resulted in blood in his urine.¹⁸¹⁵ Given the language used by the assailants, as well as the fact that nothing was stolen during the incident, the family believes that the assailants were officers of a security corps.¹⁸¹⁶

862. A month after the attack, other incidents were registered. On 7 June 2021, the power supply at their home was interrupted, while noises could be heard in the forest behind the house.¹⁸¹⁷ Between 13 and 15 June 2021, according to what General Vivas Perdomo said, he received several messages via WhatsApp with confusing content and from unknown numbers. On one occasion, the profile picture from the WhatsApp account corresponded to an image that could have only been taken from inside the house, which, according to him, would demonstrate that someone had illegally entered his house¹⁸¹⁸.

863. On 18 June 2021, while General Vivas Perdomo was driving in his car through the city of Caracas, he was followed by one motorcycle and two vehicles. The individual on the motorcycle followed the General for the entire journey until he returned home. When he stopped, the person on the motorcycle approached the General and called him “my General”, in the same way State officials used to address him¹⁸¹⁹.

864. The above-mentioned facts motivated the Inter-American Commission of Human Rights, on 27 November 2021, to extend the precautionary measures granted to General Vivas Perdomo in 2017, to include his wife Estrella Vitora de Vivas and his daughter Natalia Vivas Vitora, the latter a student at the Central University of Venezuela and human rights activist of the Student Centre from the Faculty of Medicine and from the NGO Defiende Venezuela.¹⁸²⁰ During an interview with the Mission, General Vivas Perdomo mentioned that until that date, his house had been constantly monitored by five drones that fly over the surroundings at night, which had heightened his concern.¹⁸²¹

marido en prisión, 2 June 2018. Available at:

<https://edition.cnn.com/videos/spanish/2018/06/02/excarcelacion-general-angel-vivas-venezuela-intvw-estrella-vitora-conclusiones.cnn>.

¹⁸¹⁴ IACHR, Resolution 94/202, 27 November 2021. Available at:

https://www.oas.org/es/cidh/decisiones/MC/2021/Res_94-21_MC_600-15_ES.PDF; Twitter of Ángel Omar Vivas Perdomo, 6 May 2021. Available at:

https://twitter.com/Gral_Vivas_P/status/1390407747271790593; Interview with Ángel Vivas Perdomo, 26 June 2023.

¹⁸¹⁵ IACHR, Resolution 94/202, 27 November 2021. Available at:

https://www.oas.org/es/cidh/decisiones/MC/2021/Res_94-21_MC_600-15_ES.PDF

¹⁸¹⁶ *Ibid.*; Interview with Ángel Vivas Perdomo, 26 June 2023.

¹⁸¹⁷ IACHR, Resolution 94/2021, 27 November 2021. Available at:

https://www.oas.org/es/cidh/decisiones/MC/2021/Res_94-21_MC_600-15_ES.PDF; Interview with Ángel Vivas Perdomo, 26 June 2023.

¹⁸¹⁸ IACHR, Resolution 94/2021, 27 November 2021. Available at:

https://www.oas.org/es/cidh/decisiones/MC/2021/Res_94-21_MC_600-15_ES.PDF; Interview with Ángel Vivas Perdomo, 26 June 2023.

¹⁸¹⁹ *Ibid.*

¹⁸²⁰ IACHR, Resolution 94/2021, 27 November 2021. Available at:

https://www.oas.org/es/cidh/decisiones/MC/2021/Res_94-21_MC_600-15_ES.PDF; Profile of Ángel Vivas Perdomo’s daughter. Available at: <https://incubadoravzla.org/natalia-d-vivas-vitora-b-s/>.

¹⁸²¹ IACHR, Resolution 94/2021, 27 November 2021. Available at

https://www.oas.org/es/cidh/decisiones/MC/2021/Res_94-21_MC_600-15_ES.PDF; Interview with Ángel Vivas Perdomo, 26 June 2023.

Judicial sentence

865. On 10 May 2022, a Military Tribunal¹⁸²² absolved General Vivas Perdomo of charges of treason and military rebellion, and he was sentenced to 7 years and 6 months for instigation to rebel. Given that the General has already served more than half of his sentence, he has approximately two years of his sentence left to complete. During this period, as alternative measures to imprisonment, he will continue to be subject to a requirement to report to the court every 30 days to fulfil the terms of his conviction.¹⁸²³

866. On 2 February 2023, General Vivas Perdomo was called by the Public Prosecutor's Office to give a statement as part of an open investigation about alleged violations of human rights that happened in Venezuela, among which his detention case is documented. During his interrogation, the Public Prosecutor's Office decided not to include in the statement his declarations regarding State senior officials who he linked to his detention, including President Maduro due to the public statement made in 2014 in which he openly requested his detention.¹⁸²⁴

Conclusions

867. Based on the aforementioned facts and on the background described, the Mission has reasonable grounds to believe that General Vivas Perdomo and his immediate family have been victims of attacks and harassment in the period after his release, which happened in 2021. However, the Mission is not able to indicate who were responsible for these attacks and acts of harassment. To determine this, further investigation would be required.

Case 31: Norbey Marín*Background*

868. Norbey Marín is a Venezuelan journalist, psychologist, and “*youtuber*” owner of the YouTube channel “*Hasta que caiga la tiranía*” (Until tyranny falls), which has more than 1,023,000 subscribers¹⁸²⁵. In 2017, Norbey Marín decided to leave the country and go initially to Ecuador, to later settle in the United States¹⁸²⁶. When he arrived in Ecuador, Norbey Marín created a channel called “*Canal de los Inmigrantes*” (“Immigrant Channel”) aiming to provide Venezuelans with psychological support to overcome the difficulties of leaving their country¹⁸²⁷. In 2018, Norbey Marín changed the name of his channel to “*Hasta que caiga la tiranía*” (Until tyranny falls), and since then its focus has been on denouncing the everyday reality of Venezuelan people. In his content, Marín addresses both the basic problems affecting citizens, and the most critical topics of the country, such as corruption, crimes against humanity, human rights, the fight for democracy, and the presence of irregular armed forces in the country¹⁸²⁸.

¹⁸²² 1st Military Tribunal of Caracas.

¹⁸²³ Twitter of *Coalición por los Derechos Humanos y la Democracia* [@Coalicion_ddhh], 12 May 2022. Available at: https://twitter.com/Coalicion_ddhh/status/1524736146542104577; *Diario el Vistazo*, General Retirado Ángel Vivas recibió condena de siete años y seis meses por instigación a la rebelión, 11 May 2022. Available at: <https://diarioelvistazo.com/general-retirado-angel-vivas-recibio-condena-de-siete-anos-y-seis-meses-por-instigacion-a-la-rebelion/>; Interview with Ángel Vivas Perdomo, 26 June 2023.

¹⁸²⁴ Interview with Ángel Vivas Perdomo, 26 June 2023.

¹⁸²⁵ Interview with Norbey Marín, 7 June 2023; Document SSDC009: Situation of Norbey Antonio Marín Gil – Venezuelan Observatory of Prisons – 10 August 2023.

¹⁸²⁶ Interview with Norbey Marín, 7 June 2023; YouTube Video – Napoleon Bravo, Norbey Antonio Marín Gil se confiesa “Hasta que caiga la tiranía”, 13 April 2023. Available at: <https://www.youtube.com/watch?v=jGCgfSwW8rY>; Document SSDC009: Situation of Norbey Antonio Marín Gil – Venezuelan Observatory of Prisons – 10 August 2023.

¹⁸²⁷ Interview with Norbey Marín, 7 June 2023; Document SSDC009: Situation of Norbey Antonio Marín Gil – Venezuelan Observatory of Prisons - 10 August 2023.

¹⁸²⁸ Interview with Norbey Marín, 7 June 2023; YouTube Video, Norbey Marín, [@NorbeyMarin], *Hasta que caiga la tiranía*. Available at: <https://www.youtube.com/@NorbeyMarin>.

Harassment

869. On 22 March 2021, Norbey Marín posted a video regarding the COVID-19 pandemic in which he showed the Attorney General, Tarek William Saab, at a party, without the necessary precautions to protect himself from coronavirus.¹⁸²⁹ In the video, Marín demanded that the Attorney General should set a good example in relation to health measures, stressing the importance of responsibility and compliance with the guidelines for all.¹⁸³⁰

870. Two days later, on 24 March 2021, according to Norbey Marín's testimony, a delegation of the Scientific, Criminal and Forensic Investigations Corps, accompanied by the Public Prosecutor's Office of Caracas, arrived in Valencia, State of Carabobo, at the address where he was registered to vote, and where some of his family members lived. The officials conducted an exhaustive inspection of the house, without a warrant. According to Marín, two of his family members were taken to the headquarters of the Scientific, Criminal and Forensic Investigations Corps in Las Acacias, in the State of Carabobo, and they were released that same afternoon with a warning that Norbey Marín should stop posting on his platform. Therefore, Norbey Marín temporarily suspended his programming, and only posted again after his family members who were involved in this incident, left Venezuela.¹⁸³¹

871. On 26 March 2021, a defamatory campaign started against Norbey Marín on the pro-government portal *Lechuguinos*, alleging that he had been detained for inciting hate and extortion.¹⁸³² Additionally, according to an analysis conducted by *Cazadores de Fake News* (Fake News Hunters), an NGO that monitors disinformation spread on social media and instant messaging, on 8 and 9 November 2021, Norbey Marín was a victim of a coordinated defamation campaign through a network of bots created by artificial intelligence, making these accusations become a trend.¹⁸³³ *Cazadores de Fake News* proved that the defamatory messages were sent through 142 different accounts, accumulating a total of 2521 interactions.¹⁸³⁴

872. On 27 October 2021, Norbey Marín's wife received a threatening text message on her private Messenger account. The message said: "*You and Norbey will have to leave Quito because we are coming for him. We have sent him some candy so he can keep talking about the government. We are in North Quito getting started and we'll catch him at any moment. That traitor of the homeland*". In an interview with the Mission, Norbey Marín expressed concern because the senders appeared to have knowledge of his whereabouts and the messages were threatening, as in Venezuela "send candy" means "we are going to kill you."¹⁸³⁵

¹⁸²⁹ Interview with Norbey Marín, 7 June 2023.

¹⁸³⁰ *Ibid.* Document SSDC009: Situation of Norbey Antonio Marín Gil – Venezuelan Observatory of Prisons – 10 August 2023.

¹⁸³¹ Interview with Norbey Marín, 7 June 2023.

¹⁸³² *Lechuguinos*, ¡LE PUSIERON LOS GANCHOS! Detenido Norbey Antonio Marín Gil por incitación al odio y extorsión, 26 March 2021. Available at: <https://www.lechuguinos.com/detenido-norbey-marin-odio-extorsion/>; Document SSDC002 : Official Document with evidence of Norbey Marín; Document SSDC009: Situation of Norbey Antonio Marín Gil – Venezuelan Observatory of Prisons – 10 August 2023.

¹⁸³³ Twitter of Cazadores de Fake News, [@cazamosfakenews], 9 November 2021. Available at: <https://twitter.com/cazamosfakenews/status/1458212263177990146>; Document SSDC002: Official Document with evidence of Norbey Marín; SSDC008 (Situation of Norbey Antonio Marín Gil – Venezuelan Observatory of Prisons – 10 August 2023)

¹⁸³⁴ Twitter of Cazadores de Fake News, [@cazamosfakenews], 9 November 2021. Available at: <https://twitter.com/cazamosfakenews/status/1458212263177990146>; Document SSDC002: Official Document with evidence of Norbey Marín.

¹⁸³⁵ Document SSDC002: Official Document with evidence of Norbey Marín; SSDC009 Situation of Norbey Antonio Marín Gil – Venezuelan Observatory of Prisons – 10 August 2023.

873. On 23 November 2021, Norbey Marín received another threatening message on his phone containing the following: “*Traitor, this is the last time we’ll tell you, be careful what you say, we know you’re in Cuenca, remember the candy we offered you. There will be no more warnings!*.”¹⁸³⁶ Given the threats received, Norbey Marín decided to leave Ecuador and relocate in the United States.¹⁸³⁷ On 28 January 2022, the platform “*Hasta que caiga la tiranía*” (“Until tyranny falls”) suffered a cyberattack that caused the website to crash.¹⁸³⁸

874. During May and June 2023, in different public places in Caracas and the State of Aragua, next to the highways, billboards with Norbey Marín’s photo were put up with messages indicating that he was an extortioner and a traitor to his country.¹⁸³⁹

Conclusions

875. Based on these facts, the Mission has reasonable grounds to believe that Norbey Marín has been a victim of threats, including death threats, due to his journalism. He has also been a victim of a public harassment and stigmatization campaign along with his family members in Venezuela, apparently in retaliation for the criticisms he made. The Mission does not have sufficient information to determine if the acts were conducted by State agents or people linked to it. To determine this will require further investigation.

Case 32: Yasnaia Villalobos Montiel

Background

876. Yasnaia Villalobos Montiel is a criminal lawyer who specializes in military law and a human rights defender. On her professional career, Villalobos has worked as defense lawyer on several high-profile cases, both in military and ordinary jurisdiction. She has been out of the country since 2022.¹⁸⁴⁰

Harassment

877. Yasnaia Villalobos told the Mission that between 2020 and 2021, just as in previous years, every time that she went to the National Centre for Military Prisoners of *Ramo Verde* to visit one of her defendants, she was victim of maltreatment and threats by officials. The officials would tell her that they had received orders to undress her and conduct an invasive body search¹⁸⁴¹, in accordance with the pattern of invasive body searches and forced nudity identified in chapter III of this report. According to her testimony, Villalobos always refused to be subject to those orders – she perceived them as an attack to her dignity - which made it difficult to perform her work as a lawyer.¹⁸⁴²

¹⁸³⁶ Interview with Norbey Marín, 7 June 2023; YouTube Video – Napoleón Bravo, Norbey Marín Se confiesa, “Hasta que caiga la tiranía”, 13 April 2023. Available at: <https://www.youtube.com/watch?v=jGCgfSwW8rY>; SSDC009 Situation of Norbey Antonio Marín Gil – Venezuelan Observatory of Prisons – 10 August 2023.

¹⁸³⁷ Interview with Norbey Marín, 7 June 2023; SSDC002: Official document with evidence of Norbey Marín; SSDC009: Situation of Norbey Antonio Marín Gil – Venezuelan Observatory of Prisons – 10 August 2023.

¹⁸³⁸ Interview with Norbey Marín, 7 June 2023; *El Pitazo*, Psicólogo Norbey Marín denunció que su canal de YouTube fue hackeado. 22 January 2022. Available at: <https://elpitazo.net/politica/norbey-marin-denuncio-que-su-canal-de-youtube-fue-hackeado/amp/>; Document SSDC002 : Official document with evidence of Norbey Marín.

¹⁸³⁹ Interview with Norbey Marín, 7 June 2023; Document SSDC002: Official document with evidence of Norbey Marín; SSDC009: Situation of Norbey Antonio Marín Gil – Venezuelan Observatory of Prisons – 10 August 2023. Twitter of *Cazadores de Fake News* [@cazamosfakenews], 10 June 2023. Available at: <https://twitter.com/cazamosfakenews/status/1667608889536262144>; Twitter of Plomo Parejo [@plomoparejo], 23 June 2023. Available at: <https://twitter.com/plomoparejo/status/1672339951776571392>; *Vente Venezuela*, Vente DDHH rechaza estigmatización del periodista Norbey Marín, 9 June 2023. Available at: <https://www.ventevenezuela.org/2023/06/09/venteddh-rechaza-estigmatizacion-del-periodista-norbey-marin/>

¹⁸⁴⁰ Interview with Yasnaia Villalobos Montiel, 27 June 2023.

¹⁸⁴¹ *Ibid.*

¹⁸⁴² *Ibid.*

878. Villalobos also expressed that in 2020 and 2021, she suffered repeated episodes of persecution and harassment from judges in charge of the important military public cases related to *Operation “Vuelvan Caras”* (“Operation turn faces”) and *Operation Gedeón* (Gideon).¹⁸⁴³ In August 2020, in the Caracas court building, Villalobos was verbally threatened by Judge José Macsimino Márquez who told her that her house would be raided by the SEBIN.¹⁸⁴⁴ The lawyer maintained that the threat was directly related to her insistence on being admitted as legal representative of an accused. This incident, combined with the previous complaint she had made to the media, on 7 August 2020, about the alleged violation to an adequate defense of the accused in question, were, in her opinion, the triggering elements of the threat she suffered¹⁸⁴⁵.

879. Although the judge’s threat never materialized, Yasnaia Villalobos affirmed to the Mission that the episodes of surveillance and monitoring by unknown individuals, that had started in 2017, increased during that time.¹⁸⁴⁶ Between April and May 2021, there were two consecutive episodes while she was driving in her car in Caracas. On both occasions her car was rammed by other vehicles driven by unknown people who intentionally maneuvered and hit the back part of her car before escaping the scene.¹⁸⁴⁷ On 10 May 2021, her daughter was also a victim of a similar act while driving with her father in Caracas, when her vehicle was also intentionally hit on the back part, which made them lose control of the vehicle. The driver responsible fled the scene.¹⁸⁴⁸

880. On 1 June 2021, the day she was supposed to start the defense of Josnars Adolfo Baduel, in the context of *Operation Gedeón*, Yasnaia Villalobos reported having received a call from her daughter informing her that an unknown person, with a helmet on, aimed at her face with a firearm while she was parked in her vehicle on a central avenue in Caracas. The person kept the arm pointed at her face for a few seconds and then left without stealing anything.¹⁸⁴⁹

881. On 14 January 2022, the Special Rapporteur on the situation of human rights defenders and other chiefs of UN Special Procedures mandates sent a communication to the Government of Venezuela regarding the threats, harassment, surveillance and other forms of intimidation against human rights defenders, that included Yasnaia Villalobos as one of the people affected by these actions between 2016 and 2021.¹⁸⁵⁰ According to the testimony, because of the concern for security and wellbeing, and given the lack of answer to the complaints filed against these acts before the Public Prosecutor’s Office¹⁸⁵¹ and before the National Human Rights Institution,¹⁸⁵² Villalobos and her daughter left the country in 2021 and at the beginning of 2022, respectively.¹⁸⁵³

¹⁸⁴³ Interview with Yasnaia Villalobos Montiel, 27 June 2023; Interview with Yasnaia Villalobos Montiel, 12 June 2023; Document SSDC003; Letter of Allegation of the United Nations Special Procedures, AL VEN 9/202, 14 January 2022. Available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=26930>.

¹⁸⁴⁴ Interview with Yasnaia Villalobos Montiel, 27 June 2023; Interview with Yasnaia Villalobos Montiel, 12 July 2023; Document SSDC003.

¹⁸⁴⁵ *Ibid.*

¹⁸⁴⁶ Interview with Yasnaia Villalobos Montiel, 27 June 2023; interview with Yasnaia Villalobos Montiel, 12 June 2023; Document SSDC003.

¹⁸⁴⁷ *Ibid.* Document SSDC004: CCBE, Concerns regarding the situation of lawyers in Venezuela, 7 April 2022. Available at: https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/HUMAN_RIGHTS_LETTERS/Venezuela_-_Venezuela/2022/EN_HRL_20220407_Venezuela_Situation-of-lawyers-in-Venezuela.pdf.

¹⁸⁴⁸ Interview with Yasnaia Villalobos Montiel, 27 June 2023; Interview AAIV041; Document SSDC010.

¹⁸⁴⁹ Interview with Yasnaia Villalobos Montiel, 27 June 2023; Interview with Yasnaia Villalobos Montiel, 12 July 2023; Document SSDC003.

¹⁸⁵⁰ Venezuela: Amenazas, hostigamientos, vigilancia e intimidación de numerosas personas defensoras de derechos humanos, 23 March 2022. Available at: <https://srdefenders.org/venezuela-amenazas-hostigamientos-vigilancia-e-intimidacion-de-numerosas-personas-defensoras-de-derechos-humanos-comunicacion-conjunta/>.

¹⁸⁵¹ Document SSDC005.

¹⁸⁵² Interview with Yasnaia Villalobos Montiel, 27 June 2023; Document SSDC004.

¹⁸⁵³ Interview with Yasnaia Villalobos Montiel, 27 June 2023

Conclusions

882. Based on the above facts, the Mission has reasonable grounds to believe that Yasnaia Villalobos has been subject to harassment by State officials, including in the detention centres where she went to visit her defendants, where repeated attempts were made to subject her to invasive searches and forced nudity, as well as by Judge José Macsimino Márquez. Furthermore, the Mission has reasonable grounds to believe that Villalobos and her daughter have been the victims of threats and acts of harassment because of Villalobos' work as a lawyer in high profile political cases. The Mission does not have sufficient evidence to determine whether these acts were carried out by State agents or persons related to the State.

A. Defamation and discrediting statements

1. Introduction

883. Since at least 2014, several international organizations, including the Mission¹⁸⁵⁴, have reported that Venezuelan State officials have made public accusations, including on official State platforms, to defame and discredit real or perceived opponents, as a tool to repress dissidence in the country. Between 2015 and 2019, the Inter-American Commission on Human Rights issued at least six resolutions¹⁸⁵⁵ referring specifically to the stigmatizing statements made by State authorities against human rights defenders, journalists, and political opponents, emphasizing the fact that these statements “contribute to an exacerbation of a climate of hostility in different areas of the population, which may affect victims’ personal life and integrity.”¹⁸⁵⁶

884. On 5 April 2019, the Inter-American Commission on Human Rights reported “an increase in the pattern of harassment due to stigmatizing statements made by State authorities” in Venezuela,¹⁸⁵⁷ and as mentioned previously, it indicated that these stigmatizing statements contributed to a climate of hostility and intolerance and increased the victims’ vulnerability.¹⁸⁵⁸

885. According to the consulted sources and the cases documented by the Mission, this pattern has existed since that date. In February 2021, the IACHR reported once more the increase of stigmatizing speeches against human rights defenders and journalists from senior State authorities and on social media.¹⁸⁵⁹ That same year, the NGO Centro para los defensores y la justicia (Center for Advocates and Justice) sustained that the stigmatization against human rights advocates in Venezuela is “systemic”, highlighting that stigmatizing messages were the main form of aggression documented by the organization during that period.¹⁸⁶⁰ In 2020, Gerald Staberock, Secretary-General of the World

¹⁸⁵⁴ A/HRC/45/CRP.11, para.242.

¹⁸⁵⁵ IACHR, Resolution 8/15, 17 March 2015. Available at: <https://www.oas.org/es/cidh/decisiones/pdf/2015/mc143-13-es.pdf>; IACHR, Resolution 43/15, 9 November 2015. Available at: <https://www.oas.org/es/cidh/decisiones/pdf/2015/mc43-2015-es.pdf>; IACHR, Resolution 12/17, 7 April 2017. Available at: <https://www.oas.org/es/cidh/decisiones/pdf/2017/12-17mc616-16-ve.pdf>; IACHR, Resolution 24/17, 28 July 2017. Available at: <https://www.oas.org/es/cidh/decisiones/pdf/2017/24-17/mc403-17-ve.pdf>; IACHR, Resolution 63/19, 24 December 2019. Available at: <https://www.oas.org/es/cidh/decisiones/pdf/2019/63-19mc438-15-ve-ampliacion.pdf>; IACHR, Resolution 64/19, 24 December 2019. Available at: <https://www.oas.org/es/cidh/decisiones/pdf/2019/64-19mc143-13-ve-ampliacion.pdf>

¹⁸⁵⁶ IACHR, Resolution 63/19, 24 December 2019. Available at: <https://www.oas.org/es/cidh/decisiones/pdf/2019/63-19mc438-15-ve-ampliacion.pdf>.

¹⁸⁵⁷ IACHR, CIDH observa persistencia en afectación a los derechos humanos en Venezuela, 5 April 2019. Available at: <https://www.oas.org/es/cidh/prensa/comunicados/2019/091.asp>.

¹⁸⁵⁸ IACHR, Resolution 63/19, 24 December 2019. Available at: <https://www.oas.org/es/cidh/decisiones/pdf/2019/63-19mc438-15-ve-ampliacion.pdf>.

¹⁸⁵⁹ IACHR, La CIDH y su RELE condenan ataques contra personas defensoras de derechos humanos y periodistas, y advierten sobre cierre de los espacios democráticos en Venezuela, no. 025/21, 5 February 2021. Available at: <https://www.oas.org/pt/CIDH/jsForm/?File=/es/cidh/prensa/comunicados/2021/025.asp>

¹⁸⁶⁰ CDJ, Situación de las personas defensoras de derechos humanos en Venezuela, 2021. Available at: <https://centrodefensores.org.ve/wp-content/uploads/2021/07/InformeCDJ-PrimerSemestre2021.pdf>.

Organization Against Torture, reported that stigmatization and discredit against civil society actors had become a “State policy” in Venezuela.¹⁸⁶¹

886. The cases investigated by the Mission show that between 2020 and 2023 the publication of defamatory accusations against real or perceived opponents is still common, even from high-ranking State officials, particularly from deputy Diosdado Cabello. Several of the accusations and statements made by the officials might, in a different context and circumstance, be considered as use of freedom of expression. However, in the Venezuelan context, where links between stigmatization and criminalization¹⁸⁶² and the lack of independence of the justice system¹⁸⁶³ have been documented, accusations and defamatory statements from senior representatives of the State may be taken as a basis to initiate legal actions or criminal proceedings in which the people accused are in evident procedural disadvantage.

887. Additionally, the diffusion of these statements and accusations from representatives of the highest levels of the State through State platforms where they can reach thousands of people and influence them, and even encourage hostilities, may have a very serious impact on the enjoyment of human rights (see chapter VI). This risk is exacerbated through censorship and media restrictions, considering that the people affected do not have access to the same public spaces to contradict these defamatory narratives (see section F, *infra*).

888. A Venezuelan expert in disinformation and defamation explained to the Mission that State officials focus on discrediting messages, instead of making direct threats, because this prevents the target from being perceived as a victim. According to the source, the purpose of the public narrative is to transform the target into a criminal and public enemy, and not to be perceived as a victim that deserves pity or support.¹⁸⁶⁴

2. Defamatory accusations by government officials

889. The Mission received information about numerous incidents of public officials accusing members of civil society of committing crimes, without substantiating their accusations, and based on the simple fact that these groups and people had publicly criticized the government. Among the 12 incidents documented by the Mission, which happened between December 2020 and May 2023, the most common baseless accusations were theft, embezzlement, and terrorism.

890. Deputy Diosdado Cabello is one of the officials that has regularly accused members of civil society of corruption and theft, especially on his TV show *Con el Mazo Dando*. For example, on his show on 19 December 2020, Cabello indicated that a list of NGOs had stolen money from Venezuela and had accounts under shell companies to launder money.¹⁸⁶⁵ On his show on 19 January 2022, he again pointed out several members of civil society, journalists, and communicators, that had criticized the government and had posted information on human rights, by showing banners with their photos and the words “wanted” and “thief”¹⁸⁶⁶.

891. A second type of defamatory accusation that State officials regularly make against real or perceived opponents are allegations that they are terrorists or that they are part of a plan to perform a coup, just because they criticized the government. This type of accusation is particularly serious within the Venezuelan context due to the severe sentences that these crimes incur, and to the social stigma of being associated with a coup.

¹⁸⁶¹ FIDH, Venezuela: Alerta por hostigamiento y criminalización a ONG tras el informe de la ONU, 29 September 2020. Available at: <https://www.fidh.org/es/temas/defensores-de-derechos-humanos/venezuela-alerta-por-hostigamiento-y-criminalizacion-a-ong-tras-el>.

¹⁸⁶² See A/HRC/45/CRP.11, para 470 and following; Amnesty International, *Centro para los Defensores y la Justicia, Foro Penal*, Venezuela: Represión Calculada: Correlación entre las estigmatizaciones y as detenciones arbitrarias por motivos políticos, 2022, page 19. Available at: https://foropenal.com/wp-content/uploads/2022/02/Represion-calculada-10Feb2022_compressed.pdf.

¹⁸⁶³ A/HRC/48/CRP.5.

¹⁸⁶⁴ Interview with NGO CAPIR, 24 February 2023.

¹⁸⁶⁵ YouTube Video – Noticia 24, *Con el Mazo Dando* – Show 323, 9 December 2020 (min. 2:17:30). Available at: <https://www.youtube.com/watch?v=eT9Kq9wXh9g?feature=share>.

¹⁸⁶⁶ YouTube Video – Transmisión en vivo, *Con el Mazo Dando*, programa 371, 19 January 2022, minute 1:16:47. Available at: <https://www.youtube.com/watch?v=zH-U72bBotk>.

892. On 27 January 2023, the Governor of Trujillo, Gerardo Márquez, attacked journalist Alexander González and the owner of *Diario de los Andes*, Eladio Muchacho Unda, after the journal published three articles about harassment of public officers, who were forced to participate in pro-government protests that same month. During his radio show *Háblame Gerardo* (“Talk to me Gerardo”), transmitted by eight radio stations through radio *Paisana 92.5 FM*, official radio station of Trujillo’s Governance, Márquez said that the journalist and the owner of the newspaper were part of a “plan to perform a coup”¹⁸⁶⁷.

893. On 12 April 2023, the show *Con el Mazo Dando* issued a compilation of videos of alleged “attacks against Venezuela”. This compilation of videos showed several political leaders of the opposition associated to presumed terrorist acts, according to Cabello¹⁸⁶⁸. Among other contents, there was a part of a video of journalist Luis Carlos Díaz, which was used to open a criminal case against him in 2019, accusing him of being a “fascist influencer” and linking him to a “cybernetic sabotage against the electricity system” (see Case 35: Luis Carlos Díaz Vázquez, *infra*).¹⁸⁶⁹

894. In the Bolivarian Republic of Venezuela there is legislation that protects against defamation, for example the crime of aggravated defamation, classified in article 442 of the Criminal Code, or the crime of “incitement to discrimination, intolerance or violence”, included in article 13 of the Constitutional Law against Hate for Peaceful Coexistence and Tolerance¹⁸⁷⁰. The Mission documented several cases of real or perceived opponents who were accused and processed for defamation or incitement to intolerance for having made publications perceived as criticism of members of the Government¹⁸⁷¹. On the contrary, no evidence was received that officials of the State that published defamatory messages had been processed for these types of crimes.

895. Besides the baseless accusations of crimes made against people just for having criticized the Government, the Mission has also documented dozens of statements made by officials that, even though do not assign crimes to the people offended, discredit them, and may generate a negative impact on their reputation. The most common degrading and defamatory statements documented are the ones that call a person “traitor” simply for criticizing the Government, or the ones that highlight alleged links between these people and an “enemy of Venezuela”, as is the case of the United States.

896. The targets of defamatory statements on the part of State officials are usually people, media and organizations that circulate important information of Government policies or information perceived as negative about the situation in Venezuela. In these cases, State officials resort to defamatory statements to undermine criticism and discredit those who formulate it, such is the case of the human rights NGO PROVEA investigated by the Mission (see Case 33: Members of PROVEA Organization, *infra*). On 4 May 2020, during a speech transmitted on the national broadcasting network, President Maduro accused PROVEA of being “an organisation financed by the Central Intelligence Agency” and of “providing coverage to terrorists”¹⁸⁷² for having posted a Tweet¹⁸⁷³ asking that the human

¹⁸⁶⁷ *Diario de los Andes*, Gobernador Trujillo arremete contra Diario de Los Andes, 29 January 2023. Available at <https://diariodelosandes.com/193865-2/>; *Monitoreamos*, Gobernador chavista de Trujillo arremetió contra el Diario los Andes y los acusó de “plan de golpe de Estado”, 28 January 2023. Available at: <https://monitoreamos.com/venezuela/gobernador-chavista-de-trujillo-arremetio-contra-el-diario-los-andes-y-los-acuso-de-plan-de-golpe-de-estado>; IPYS Venezuela, Alerta IPYSve/Gobernador de Trujillo descalificó a periodistas y un medio de comunicación. Available at: <https://ipysvenezuela.org/alerta/alerta-ipysve-gobernador-de-trujillo-descalifico-a-periodista-y-un-medio-de-comunicacion/>.

¹⁸⁶⁸ YouTube Video – Transmisión en vivo, Con el Mazo Dando, programa número 426, 12 April 2023, minute 3:06:59. Available at: <https://www.youtube.com/watch?v=oXitf5H3dN4>

¹⁸⁶⁹ *Ibid.*

¹⁸⁷⁰ Official Gazette number 41.276, 10 November 2017. Available at: <https://www.ghm.com.ve/wp-content/uploads/2017/11/41276.pdf>

¹⁸⁷¹ See case 2: Wilfredo Rodríguez, *supra*. See *infra*, Case 32: Members of PROVEA organization; and Case 39: Miguel Henrique Otero.

¹⁸⁷² *El Nacional*, Nicolás Maduro acusó a la ONG Provea de ser financiada por la CIA, 5 May 2020. Available at: <https://www.elnacional.com/venezuela/nicolas-maduro-acuso-a-la-ong-provea-de-ser-financiada-por-la-cia/>.

¹⁸⁷³ Tweet from Provea, [@Provea], 4 May 2020. Available at: https://twitter.com/_Provea/status/1257384773942751232.

rights of some people detained a few days earlier were respected¹⁸⁷⁴. On 1 August 2021, chancellor Jorge Arreaza linked PROVEA with the Organization of American States and the Drug Enforcement Administration, two entities considered as “enemies of Venezuela” by the Government, for a Tweet PROVEA made questioning the Government’s sports policy¹⁸⁷⁵.

897. In December 2020, Yohana Marra, journalist of the information web channel *Crónica Uno de Caracas*, and Rocío San Miguel, human rights lawyer, and president of the NGO *Control Ciudadano*, posted several Tweets narrating a shipwreck in the Caribbean Ocean which involved a group of Venezuelan immigrants that were travelling from Güiria, State of Sucre, to Trinidad and Tobago. They reported that children and adults had died in the incident, and that the coast guard had found their bodies.¹⁸⁷⁶ Between 13 and 15 December, both women were object of defamatory statements from Mario Silva, deputy of the National Assembly. Silva accused Marra of publishing lies and of “taking bribes”, meaning that she charged money without caring about the veracity of the news; and Rocío San Miguel of being a “coup plotter”,¹⁸⁷⁷ on his Twitter account and on his TV show *La Hojilla* which is transmitted on the State channel *Venezolana de Televisión*.

898. On 14 December 2020, the Minister of Interior Relations, Justice and Peace, Carmen Meléndez, issued a statement in which she warned that an investigation would be carried out regarding the shipwreck that occurred in Güiria, as well as the Twitter publications mentioned, alleging that these publications were made by “extremists of the Venezuelan opposition, which curiously and strangely preceded the results of the investigation.”¹⁸⁷⁸ In so doing, the minister questioned the fact that both knew the details of the incident before they were investigated by the authorities.

¹⁸⁷⁴ France 24, El Gobierno de Venezuela asegura que evitó una incursión “terrorista” en su territorio, 3 May 2020. Available at: <https://www.france24.com/es/20200503-venezuela-evito-incursion-terrorista-maritima-territorio>. FIDH, Venezuela: Actos de hostigamiento y difamación en contra de Provea, 6 May 2020. Available at: <https://www.fidh.org/es/temas/defensores-de-derechos-humanos/venezuela-actos-de-hostigamiento-y-difamacion-en-contra-de-provea>.

¹⁸⁷⁵ Tweet by Jorge Arreaza M [@jaareaza], 1 August 2021. Available at: <https://twitter.com/jaarreaza/status/1421850473188020224>.

¹⁸⁷⁶ Interview with Yohana Marra, 6 July 2023; Twitter of Johanna Marra [@Yohannamarra], 12 December 2020. Available at: <https://twitter.com/Yohannamarra/status/1337918118790914052>; Twitter of Rocío San Miguel [@rociosanmiguel], 12 December 2020. Available at: <https://twitter.com/rociosanmiguel/status/1337948487300812802>; Tweet from Yohana Marra [@Yohannamarra], 14 December 2020. Available at: <https://twitter.com/Yohannamarra/status/1338469118731751424>; *800 Noticias*, Rocío San Miguel: Siguen apareciendo cuerpos del naufragio en Güiria, 13 December 2020. Available at: <https://800noticias.com/rocio-san-miguel-siguen-apareciendo-cuerpos-de-naufragio-de-guiria>.

¹⁸⁷⁷ *Caiga quien caiga*, Mario Silva hostiga a periodista de Crónica Uno y a la abogada Rocío San Miguel, 17 December 2020. Available at: <https://caigaquiencaiga.net/mario-silva-hostiga-a-periodista-de-cronica-uno-y-a-la-abogada-defensora-de-derechos-humanos-rocio-san-miguel/>; Interview with Yohana Marra, 6 July 2023; Document SSDC006: Audio programación la Hojilla – Mario Silva – 15 December 2020 – 1 Audio; Document SSDC007: Audio la Hojilla – Mario Silva – 15 December 2020 – 2 Audio; *Medianálisis*, Venezuela: hostigamientos, detenciones arbitrarias, censura y dificultades a la cobertura informativa prevalecieron como principales restricciones al derecho a la libertad de expresión durante 2020, February 2021. Available at: <https://www.medianalisis.org/wp-content/uploads/2021/03/LIBERTAD-DE-EXPRESION-EN-VENEZUELA-2020.pdf>.

¹⁸⁷⁸ Interview with Yohana Marra, 6 July 2023; *Efecto Cocuyo*, Gobierno de Maduro investiga a “extremistas de oposición” por información sobre el naufragio, 14 December 2020. Available at: <https://efectococuyo.com/politica/gobierno-de-maduro-asegura-que-investigacion-a-extremistas-de-oposicion-por-informacion-sobre-el-naufragio/>; Twitter of Carmen Meléndez [@gestionperfecta], 14 December 2020. Available at: <https://twitter.com/gestionperfecta/status/1338611542573654017>.

899. Due to the strong media impact of Mario Silva's show and the large number of comments against Marra during the broadcast of *La Hojilla*, the journalist, in addition to publicly rejecting the accusations,¹⁸⁷⁹ followed the advice of her lawyers and chose to adopt a lower journalistic profile due to fears of being persecuted.¹⁸⁸⁰ On 5 February 2021, the Inter-American Commission on Human Rights and its Office of the Special Rapporteur for Freedom of Expression published a statement on attacks against human rights defenders and journalists, in which they highlighted the responses of the Minister of Interior Relations, Justice and Peace in relation to media coverage of the shipwreck. The statement expresses that the type of remarks made by the Minister “have a two-fold restrictive effect: on the one hand, they threaten to criminalize those who publish content that the government finds awkward or uncomfortable and, on the other, they insinuate that the media are in some way responsible for the events in the news merely because they report on them promptly.”¹⁸⁸¹

900. The Governor of Trujillo, Gerardo Márquez, has made several public statements to defame and discredit his critics, particularly through the official radio of the government of Trujillo. On 3 March 2023, Márquez, on his radio show “*Háblame, Gerardo*” discredited a video posted by the College of Teachers in which they demanded labor rights, and he referred to union member Iraly Guerrero as a “student chaser.”¹⁸⁸² On 14 April 2023, Márquez once again defamed his critics, this time journalist Alexander González and Eladio Muchacho Unda, reporter, and owner of *Diario de Los Andes*, respectively. During his radio show, the governor called the owner of the newspaper a “scammer”, and he accused the journalist of “taking bribes”, because they had published a critical analysis of the governor’s work.¹⁸⁸³

901. The Mission identified that other common motives for which organizations and media are attacked with defamatory statements is when they receive, real or alleged, foreign investment. An example of this type of defamatory attacks happened in January 2021 against several NGOs, media outlets, and trade unions, that allegedly received funds from the Government of the United Kingdom for their legitimate activities of informing and defending human rights.¹⁸⁸⁴ The news portal of *Globovision*, which has a pro-government editorial line, accused these organizations of receiving funds from the British Government to overthrow the Government of President Nicolas Maduro.¹⁸⁸⁵ The defamatory contents were used and promoted by several other platforms, including state media such as VTV and *Correo del Orinoco*, which published articles accusing the presumed recipients of the funds of having been hired to “attack the Bolivarian Government”¹⁸⁸⁶. On 19 January 2021, the Twitter account of the Bolivarian Military Aviation (@AmbFanb), which has 17.800 followers, posted a video that pointed out several presumed recipients of British

¹⁸⁷⁹ YouTube Video – RCR750, Yohana Marra periodista de sucesos rechazó las declaraciones de Mario Silva, *Crónica Uno*, 15 December 2020. Available at: <https://www.youtube.com/watch?v=pYPDUU7OnGI>

¹⁸⁸⁰ Interview with Yohana Marra, 6 July 2023.

¹⁸⁸¹ IACHR, Press release, 5 February 2021. Available at: https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media_center/preleases/2021/025.asp

¹⁸⁸² *El Nacional*, Concejal Valera denunció ante el MP al gobernador de Trujillo por amenazarla de muerte, 21 April 2023. Available at: <https://www.elnacional.com/venezuela/concejal-de-valera-denuncio-ante-el-mp-al-gobernador-de-trujillo-por-amenazarla-de-muerte/>.

¹⁸⁸³ *Voces del sur*, Gobernador de Trujillo vuelve a atacar discursivamente a Diario de los Andes, 18 April 2023. Available at: <https://vocesdelsurunidas.org/incidentes/gobernador-de-trujillo-vuelve-a-atacar-discursivamente-a-diario-de-los-andes/>.

¹⁸⁸⁴ The parties affected by this stigmatizing campaign in 2021 included civil society organizations [Centre for Justice and Peace (CEPAZ, by its Spanish acronym), *Exodo*, Foundation for Democracy, PROVITA, Ibero-American Centre for the Development of International Law and Human Rights (CIFODIDH, by its Spanish Acronym), *Transparencia Venezuela*, and Press and Society Institute (IPYS Venezuela)]; media outlets [*Efecto Cocuyo*, *Caraota Digital*, *El Pitazo*, *El Estímulo* and radio institute *Fe y Alegría*]; and trade unions [Press Workers Trade Union].

¹⁸⁸⁵ Tweet from *Globovisión* [@globovision], 8 January 2021. Available at: <https://twitter.com/globovision/status/1347637448373727232>; CEPAZ, Monitoreo de Persecución y Criminalización en Venezuela, January 2023. Available at: https://cepaz.org/wp-content/uploads/2021/03/Informe-de-persecucion_-Enero-5-1.pdf.

¹⁸⁸⁶ VTV, Gobierno británico contrató por un millón de dólares a Efecto Cocuyo como “mercenarios de periodismo”, 7 January 2021. Available at: <https://www.vtv.gob.ve/gobierno-britanico-contrato-millon-de-dolares-efecto-cocuyo-cmercenarios-periodismo/>.

funds, such as media outlet *Fe y Alegría*, the National Union of Journalists, journalist Luz Mely Reyes and, digital media outlet *Efecto Cocuyo* (see Case 34: Luz Mely Reyes and *Efecto Cocuyo, infra*).¹⁸⁸⁷

902. On 24 January 2023, during a televised session of the National Assembly, as part of the presentation of the Draft Law on Control, Regularization, Operations and Financing of Non-Governmental (NGO) and Related Organizations, Diosdado Cabello called the NGOs “enemies of the state” and, he accused them of extortion¹⁸⁸⁸. Cabello referred to a list of 62 civil organizations that allegedly operate with the “main purpose of destabilizing the country”¹⁸⁸⁹.

3. Platforms

903. The Mission identified that the slanderous statements and baseless accusations described above are regularly made by the highest-level authorities of the State, such as President Maduro, the President of the National Assembly Jorge Rodríguez, and deputy and vice-president of the PSUV Diosdado Cabello. Many times, these statements are made during official events such as the President’s press conferences, Government public events, and sessions of the National Assembly.

904. Some digital platforms and, television and radio shows are also used to transmit these types of messages. One of the platforms that most diffuses defamatory statements and accusations against real or perceived opponents is the television show and web portal *Con el Mazo Dando*, broadcasted and produced by the Venezuelan State television channel (VTV). The host of the show is Diosdado Cabello, current member and vice-president of the National Assembly elected in 2020 and vice-president of PSUV¹⁸⁹⁰. Since at least March 2015, the Inter-American Commission on Human Rights has reported the use of the show *Con el Mazo Dando* to discredit and intimidate defenders and people opposed to the Government of President Maduro¹⁸⁹¹. In the report from 2020, the Mission indicated that defamatory and stigmatizing accusations were made on the show *Con el Mazo Dando* against people considered as opponents of the Venezuelan Government. Many of those mentioned in the show were object of harassment and arbitrary detentions¹⁸⁹². According to a study published in 2022 by Amnesty International, the Centre for Defenders and Justice (CDJ, by its acronym in Spanish) and Foro Penal, *Con el Mazo Dando* was the main source of stigmatization out of the more than 300 stigmatization incidents documented between January 2019 and June 2021¹⁸⁹³.

905. The Mission identified that, along with *Con el Mazo Dando*, other state media, such as *Venezolana de Televisión* (VTV) and the newspaper *Correo del Orinoco*, also spread defamatory and stigmatizing messages on their digital portals¹⁸⁹⁴. Additionally, these messages are diffused through the websites and social media accounts of private pro-government media.

¹⁸⁸⁷ Document OODC008: Video of Bolivarian Air Force.

¹⁸⁸⁸ YouTube Video – ANTV Venezuela, Sesión Asamblea Nacional de Venezuela – Tuesday 24 January 2023, 24 January 2023. Available at: https://www.youtube.com/watch?v=HHs_d8GO8&ab_channel=ANTVVenezuela [min 2:01:00].

¹⁸⁸⁹ *Ibid.*; [min 1:53:37]

¹⁸⁹⁰ *Con el Mazo Dando*, Diosdado Cabello acompaña gran marcha por el 15 aniversario de la JPSUV, 12 September 2023. Available at: <https://mazo4f.com>.

¹⁸⁹¹ IACHR, Press release, 20 March 2015. Available at: <https://www.oas.org/es/cidh/prensa/Comunicados/2015/032.asp>.

¹⁸⁹² A/HRC/45/CRP.111, para. 470 and following.

¹⁸⁹³ Amnesty International, Centro para los Defensores y la Justicia, *Foro Penal*, Venezuela: Represión Calculada: Correlación entre las estigmatizaciones y las detenciones arbitrarias por motivos políticos”, (2022), page 19. Available at: https://foropenal.com/wp-content/uploads/2022/02/Represion-calculada-10Feb2022_compressed.pdf.

¹⁸⁹⁴ VTV, www.vtv.gob.ve; *Correo del Orinoco*, www.correodelorinoco.gob.ve.

906. According to the 2022 study of Amnesty International, Centre for Defenders and Justice and Foro Penal, the digital pro-government platform *Mision Verdad* published the largest number of stigmatizing messages second to *Con el Mazo Dando*¹⁸⁹⁵. *Mision Verdad* publishes articles and opinion columns mainly through their website¹⁸⁹⁶ and Twitter account¹⁸⁹⁷. One of the columnists that regularly publishes in *Mision Verdad* is Jorge Arreaza, current Minister of Popular Power for the Communes and Social Movements¹⁸⁹⁸. According to research conducted by NGO Foro Penal, the columns of *Misión Verdad* have been published on the website of state media VTV, as well as in the news section of the Ministry of People's Power for Foreign Affairs' (MPPRE, by its Spanish acronym)¹⁸⁹⁹ website.

4. Illustrative cases

Case 33: Members of PROVEA organization

Background

907. Created in 1988, the Venezuelan Program for Education and Action on Human Rights (PROVEA, by its acronym in Spanish) is an NGO that defends economic, social, and cultural rights in the Bolivarian Republic of Venezuela.

908. On several occasions, the Venezuelan authorities have defamed, harassed, and criminalized PROVEA and its members for their work in the defense of human rights. These attacks date back to at least 2013. In 2015, the Inter-American Commission on Human Rights granted precautionary measures¹⁹⁰⁰ to members of the organization's coordinating team.¹⁹⁰¹

909. On 24 December 2019, the Inter-American Commission on Human Rights observed that, "despite the validity of the precautionary measures since 2015, public and stigmatizing statements made by senior officials of the State of Venezuela against the organization PROVEA and its coordinating members have not ceased", deciding to expand the precautionary measures granted in 2015 in their favour.¹⁹⁰² To base the expansion of the precautionary measures, the Commission cited 11 incidents of harassment and public stigmatization against PROVEA and its members by Government officials and pro-government platforms, all of which occurred between January and September 2019.¹⁹⁰³

Defamation and harassment

910. Between 2020 and 2023, PROVEA and its coordinators were subjected to more defamatory and discrediting statements by Government officials. On 4 May 2020, Diosdado Cabello's show *Con el Mazo Dando*'s website published an article indicating that PROVEA is an "organization financed by United States intelligence organizations", along with a photo of its members Alvarado y Uzcátegui.¹⁹⁰⁴ That same night, during a speech

¹⁸⁹⁵ Amnesty International, Centre for Defenders and Justice, *Foro Penal*, Venezuela: Represión Calculada: Correlación entre las estigmatizaciones y las detenciones arbitrarias por motivos políticos", (2022), p. 19. Available at: https://foropenal.com/wp-content/uploads/2022/02/Represion-calculada-10Feb2022_compressed.pdf.

¹⁸⁹⁶ *Misión Verdad*, <https://misionverdad.com/>.

¹⁸⁹⁷ Twitter of Misión Verdad, @Mision_Verdad

¹⁸⁹⁸ Amnesty International, Centre for Defenders and Justice, *Foro Penal*, Venezuela: Represión Calculada: Correlación entre las estigmatizaciones y las detenciones arbitrarias por motivos políticos", (2022), p. 19. Available at: https://foropenal.com/wp-content/uploads/2022/02/Represion-calculada-10Feb2022_compressed.pdf.

¹⁸⁹⁹ *Ibid.*

¹⁹⁰⁰ IACHR, Resolution 36/2015, 14 October 2015. Available at: <https://www.oas.org/es/cidh/decisiones/pdf/2015/MC438-15-ES.pdf>.

¹⁹⁰¹ Rafael Uzcátegui, Esperanza Hermida, Inti Rodríguez and Marino Alvarado.

¹⁹⁰² The precautionary measures were expanded to include the new member of the coordinating team, Carlos Patiño. IACHR, Resolution 63/2019, 24 December 2019. Available at: <https://www.oas.org/es/cidh/decisiones/pdf/2019/63-19MC438-15-VE-Ampliacion.pdf>.

¹⁹⁰³ IACHR, Resolution 63/2019, 24 December 2019. Available at: <https://www.oas.org/es/cidh/decisiones/pdf/2019/63-19MC438-15-VE-Ampliacion.pdf>.

¹⁹⁰⁴ *Con el Mazo Dando*, ONG tarifada Provea reivindica incursión mercenaria en el país. 4 May 2020. Available at: <https://www.conelmazodando.com.ve/ong-tarifada-provea-reivindica-incursion-mercenaria-en-el-pais>.

broadcasted by the national television network, President Maduro accused PROVEA of being “an organization financed by the Central Intelligence Agency” and of “providing coverage to terrorists,”¹⁹⁰⁵ for having posted a Tweet¹⁹⁰⁶ asking to respect the human rights of the people detained in an alleged uprising operation that happened the previous day.¹⁹⁰⁷

911. On 13 January 2021, two members of PROVEA, Rafael Uzcátegui and Marino Alvarado, were accused by Diosdado Cabello in his program *Con el Mazo Dando* for having reported the defamatory messages regarding that NGOs received resources from the United Kingdom, and for having stated that the PSUV had also received funds from said State. Cabello publicly asked that an investigation be opened against Uzcátegui and that, if he could not prove that the PSUV had received money from the United Kingdom, “he should assume the consequences.”¹⁹⁰⁸

912. On 1 August 2021, chancellor Jorge Arreaza addressed PROVEA in an official Tweet, suggesting that the organization should be called “PRO-DEA” – referencing the Drug Enforcement Agency of the United States – which contains a slanderous connotation in the Venezuelan political context¹⁹⁰⁹. As of 22 June 2023, the tweet had been reposted and promoted more than 2,500 times¹⁹¹⁰.

913. On 25 January 2023, Diosdado Cabello once again singled out PROVEA, accusing it of not being a legitimate NGO, but rather “a political entity,” and said that it would be investigated once the bill on NGOs presented in January 2023¹⁹¹¹ was approved.

914. The Mission has also received information that some members of the organization’s staff have been harassed in their communities and that they have been denied access to CLAP funds or other State resources, for being members of PROVEA.¹⁹¹²

Criminalization

915. On 14 March 2022, the annual report of Lupa Por La Vida, a joint project between PROVEA and Centro Gumilla which monitors extrajudicial executions in Venezuela¹⁹¹³, was presented. During the presentation, the coauthors of the report – Marino Alvarado of PROVEA and the Jesuit priest Alfredo Infante of Centro Gumilla – asked that the police of the State of Carabobo and its Governor, Rafael Lacava, were investigated for presumed responsibility within the chain of command of the extrajudicial executions performed in Carabobo in 2021.¹⁹¹⁴ They also called for an investigation into the police of the State of Zulia and its Governor.¹⁹¹⁵ On 16 May 2022, PROVEA reported that Governor Lacava sued Alvarado and priest Infante for committing the “crime of continued aggravated

¹⁹⁰⁵ *El Nacional*, Nicolás Maduro acusó a la ONG Provea de ser financiada por la CIA. 5 May 2020. Available at: <https://www.elnacional.com/venezuela/nicolas-maduro-acuso-a-la-ong-provea-de-ser-financiada-por-la-cia/>.

¹⁹⁰⁶ Tweet from Provea [@Provea], 4 May 2020, https://twitter.com/_Provea/status/1257384773942751232.

¹⁹⁰⁷ France 24, El gobierno de Venezuela asegura que evitó una incursión “terrorista” en su territorio, 3 May 2020. Available at: <https://www.france24.com/es/20200503-venezuela-evito-incursion-terrorista-maritima-territorio>; FIDH, Venezuela : Actos de hostigamiento y difamación en contra de Provea, 6 May 2020. Available at: <https://www.fidh.org/es/temas/defensores-de-derechos-humanos/venezuela-actos-de-hostigamiento-y-difamacion-en-contra-de-provea>.

¹⁹⁰⁸ YouTube Vídeo – *Con el Mazo Dando, Con el Mazo Dando*, programa 326, 13 January 2021, minute 34:08 – 34:58. Available at: <https://www.youtube.com/watch?v=OTVV3CJqld4>.

¹⁹⁰⁹ Tweet by Jorge Arreaza M [@jaarreaza], 1 August 2021. Available at: <https://twitter.com/jaarreaza/status/1421850473188020224>.

¹⁹¹⁰ *Ibid.*

¹⁹¹¹ Venezuela News, Diosdado Cabello: Provea has the pretense of what an NGO is and it does not comply, 25 January 2023. Available at: <https://venezuela-news.com/diosdado-cabello-provea-tiene-guacho-una-ong-no-cumple/>.

¹⁹¹² Interview with Rafael Uzcátegui, 3 March 2023.

¹⁹¹³ Provea-Centro Gumilla, Lupa por la vida – 2021 report – available at: <https://provea.org/wp-content/uploads/2022/03/lupa2021-1-1.pdf>

¹⁹¹⁴ YouTube Vídeo – Provea ONG, Presentación Informe #LupaPorLaVida, 14 March 2022. Available at: https://www.youtube.com/watch?v=Zvf25KGnpNw&ab_channel=PROVEAONG [min 15:35 – min 16:22].

¹⁹¹⁵ *Ibid.*; [min 16:10 – min 16:22].

defamation” for “exposing him to public contempt or hatred,”¹⁹¹⁶ and that they had been summoned to the 3rd Trial Tribunal of the Criminal Judicial Circuit of Carabobo to face the process.¹⁹¹⁷

916. On 23 June 2022, after a conciliatory process with Governor Lacava known by the 3rd Trial Tribunal of the Criminal Judicial Circuit of the State of Carabobo, Infante and Alvarado made a public statement in a press release, clarifying that they did not have any intention of “pointing at Governor Rafael Lacava as responsible, directly or indirectly, of presumed extrajudicial executions that might have occurred in the State of Carabobo.”¹⁹¹⁸ Human rights organizations reported this incident as an example of the use of judicial power to intimidate defenders that demanded that the chain of command of human rights violations in Venezuela was investigated.¹⁹¹⁹ On 17 November 2022, the Third Trial Tribunal of the Criminal Judicial Circuit of Carabobo declared the dismissal of the case “due to compliance with the conciliation agreement dated 22 June 2022.”¹⁹²⁰

Conclusions

917. The Mission has reasonable grounds to believe that PROVEA, and in particular, its members Rafael Uzcátegui and Marino Alvarado, have been the object of a campaign of stigmatization by senior State authorities for the work they do in the defense of human rights. The Mission also has reasonable grounds to believe that the criminal system was used to criminalize Alvarado's human rights work, even if the case was dismissed as a result of an agreement with the Governor. Given that the agreement was signed in a context of constant threats, attacks and harassment of human rights defenders and progressive closure of civic space in the country, as documented in this report, it could be derived that the agreement in question was not product of free consent.

Case 34: Luz Mely Reyes and Efecto Cocuyo

Background

918. Luz Mely Reyes is a journalist, director, and co-founder of the digital media outlet *Efecto Cocuyo*. Between 2015 and 2019, Reyes and *Efecto Cocuyo* were victims of constant stigmatization from Diosdado Cabello¹⁹²¹ and several progovernment websites such as *Lechuguinos*, *Misión Verdad* and *La Tabla*. They accused Reyes and *Efecto Cocuyo* of publishing false information and of being participants of media manipulations against President Maduro, for publishing information about anti-government protests and allegations of crimes linked to members of the Government¹⁹²².

¹⁹¹⁶ Criminal Code of 2005, Official Gazette no. 5.763 Extraordinary (hereinafter “Criminal Code of 2005”), 16 March 2005, art. 442 first part regarding article 99.

¹⁹¹⁷ Provea, Rafael Lacava demanda por supuesta difamación a Marino Alvarado y Alfredo Infante, defensores de derechos humanos, 16 May 2022. Available at: <https://provea.org/actualidad/derechos-civiles-y-politicos/derecho-a-la-vida/rafael-lacava-demanda-por-supuesta-difamacion-contra-marino-alvarado-y-alfredo-infante-defensores-de-derechos-humanos/>; *El Nacional*, Lacava demandó al padre Alfredo Infante y a Marino Alvarado de Provea por difamación, 16 May 2022. Available at: <https://www.elnacional.com/venezuela/politica/lacava-demando-difamacion-al-padre-infante-y-a-alvarado-de-provea/>; *Acceso a la Justicia*, El Chavismo vuelve a recurrir a la justicia penal para perseguir y silenciar a las voces disidentes, 19 May 2022. Available at: <https://accesoalajusticia.org/chavismo-vuelve-recurrir-justicia-penal-para-perseguir-silenciar-vozes-disidentes/>.

¹⁹¹⁸ Tweet from Provea [@_Provea], 23 June 2023. Available at: https://twitter.com/_Provea/status/1539975843413258246

¹⁹¹⁹ *Suprema Injusticia*, Activistas de Derechos Humanos en Venezuela enfrentan nuevo cerco judicial, 16 May 2022. Available at: <https://supremainjusticia.org/sigue-cerco-judicial-contra-activistas-de-derechos-humanos-venezuela/>.

¹⁹²⁰ Document PPDC077: Record of the tribunal.

¹⁹²¹ See example of stigmatization of Luz Mely Reyes by Diosdado Cabello over the period 2015-2019: *Con el Mazo Dando*, Cabello sobre Luz Mely Reyes: ¡Es la campeona de los Fake News! 20 March 2019. Available at: <https://mazo4f.com/cabello-sobre-luz-mely-reyes-es-la-campeona-de-los-fake-news>.

¹⁹²² Some examples of the more than 15 stigmatizing publications made between 2015 and 2019 that the Mission accessed online in 2023 include: Tweet from MV [@Mision_Verdad], 18 November

Defamation

919. In January and February 2021, Reyes and *Efecto Cocuyo* were object of several statements and publications that criticized the journalist and the media outlet for having received funds from the United Kingdom as part of the support to civil society in Venezuela. On 7 January 2021, State media outlets, such as VTV and *Correo del Orinoco*, published articles accusing Reyes and *Efecto Cocuyo* of being “information mercenaries” hired to “attack the Bolivarian Government.”¹⁹²³ On 19 January 2021, the Twitter account of the Bolivarian Military Aviation (@AmbFanb), that has 17,800 followers, posted the message: “In the war against #Venezuela the use of media is just a screen at the service of foreign interests. An example of this is @EfectoCocuyo”. The message was accompanied by a video with images of Reyes in which she is called an “information mercenary” and manipulative.¹⁹²⁴ The video, which also mentions media outlet *Fe y Alegría* and the National Union of Press Workers, was widely diffused on social media and by messaging groups in Venezuela.

920. The Mission was able to document more than 12 articles, published on the websites of government media outlets between 6 January and 10 November 2021, that linked *Efecto Cocuyo* with terrorism and initiatives to overthrow the government, and accusing it of publishing false information.¹⁹²⁵ In addition, there were numerous

2015. Available at: https://twitter.com/Mision_Verdad/status/667000597900472320; Tweet from MV, [@Mision_Verdad], 26 February 2016. Available at:

https://twitter.com/Mision_Verdad/status/703336495881400320; *Lechuguinos*, ¡Desgraciados!

Conozca el manual de los medios de derecha (+Fascismo Cínico), 14 April 2017,

<https://www.lechuguinos.com/manual-medios-derecha/>; *Lechuguinos*, ¡Inmorales! Vea cómo diario El Clarín manipula información en beneficio de los gobiernos de derecha. 28 May 2017.

Available at: <https://www.lechuguinos.com/clarin-manipula-informacion-venezuela/>;

Lechuguinos ¡Hasta el cuello! Estos son los medios venezolanos que están embarradísimos en los Paradise Papers, 8 November 2017. Available at: <https://www.lechuguinos.com/medios-venezolanos-paradise-papers/>;

Lechuguinos ¡Mitómana profesional! Luz Mely Reyes puso a rodar otro fake news y tuiteros la acabaron, 16 March 2019. Available at:

<https://www.lechuguinos.com/luz-mely-reyes-fake-news/>.

¹⁹²³ VTV, Gobierno británico contrató por un millón de dólares a Efecto Cocuyo como “mercenarios del periodismo”, 7 January 2017. Available at: <https://www.vtv.gob.ve/gobierno-britanico-contrato-millon-de-dolares-efecto-cocuyo-cmercenarios-periodismo/>; *Correo del Orinoco*, Gobierno británico contrató por un millón de dólares a Efecto Cocuyo como “mercenarios del periodismo”, 7 January 2017. Available at: <http://www.correodelorinoco.gob.ve/gobierno-britanico-contrato-por-un-millon-de-dolares-a-efecto-cocuyo-mercenarios-periodismo/>.

¹⁹²⁴ Document OODC008: Video of Bolivarian Air Forces.

¹⁹²⁵ *La Iguana*, Opera desde Colombia: Revelan que Reino Unido financia agenda mediática contra Venezuela, 6 January 2021. Available at: <https://www.laiguana.tv/articulos/863254-reino-unido-agenda-mediatica-contra-venezuela/>; Tweet from La Tabla [@Latablablog], 8 January 2021.

Available at: <https://twitter.com/latablablog/status/1347562282738450433>; *Lechuguinos*, Efecto Cocuyo, Carota Digital, El Pitazo entre los medios que recibieron millones de dólares para derrocar a Maduro, 9 January 2021. Available at: <https://www.lechuguinos.com/efecto-cocuyo-caraota-digital-el-pitazo/>;

Misión Verdad, Reino Unido financia a medios y ONG antigubernamentales en Venezuela, 7 January 2021. Available at:

<https://misionverdad.com/venezuela/reino-unido-financia-medios-y-ong-antigubernamentales-en-venezuela>. *Lechuguinos*, ¡Mercenarios de la comunicación! Efecto Cocuyo recibió 1 millón de dólares para desestabilizar y mentir sobre Venezuela, 7 January 2021. Available at:

<https://www.lechuguinos.com/efecto-cocuyo-financiamiento-britanico/>; *Lechuguinos* ¡Al

descubierto! Vea la comunicación oficial del Reino Unido donde Efecto Cocuyo recibe un millón de dólares, 8 January 2021. Available at: <https://www.lechuguinos.com/efecto-cocuyo-recibe-dolares/>;

El Universal, Reino Unido reconoce que financia guerra de Cuarta Generación en contra de Venezuela, 9 January 2021. Available at:

<https://www.eluniversal.com/internacional/88185/reino-unido-reconoce-que-financia-guerra-de-cuarta-generacion-en-contra-de-venezuela>; *Misión Verdad*, Alex Saab y el bloqueo de alimentos a Venezuela, 8 March 2021. Available at: <https://misionverdad.com/investigaciones/alex-saab-y-el-bloqueo-de-alimentos-venezuela/>;

Misión Verdad, Río Bravo: una puesta en escena para otra operación contra Venezuela, 1 June 2021. Available at: <https://misionverdad.com/venezuela/rio-bravo-una-puesta-en-escena-para-otra-operacion-contra-venezuela/>;

Misión Verdad, Fiesta de

postings on social media, particularly on Twitter and Facebook, distributing articles that link Reyes and *Efecto Cocuyo* to projects to overthrow the Government and accuse Reyes of treason simply for receiving funds from an international donor to promote independent media in Venezuela.¹⁹²⁶

921. In a press release published on 5 February 2021, the Inter-American Commission on Human Rights and its Office of the Special Rapporteur for Freedom of Expression denounced the stigmatization against *Efecto Cocuyo* and its director, and they underlined the fact that “every person has a right, individually or collectively, to ask for, receive and use resources with the express purpose of promoting and protecting, through peaceful means, human rights, and fundamental freedoms.”¹⁹²⁷

922. The publications that called *Efecto Cocuyo* and its director “traitors” have continued in 2022 and 2023, although with less intensity. However, the statements made directly from State authorities, such as deputy and vice-president of the PSUV Diosdado Cabello, continue. On 3 May 2023, on his TV show *Con el Mazo Dando*, Cabello pointed out Reyes and *Efecto Cocuyo* for receiving funds from the United Kingdom, indicating that “they are not good people”¹⁹²⁸.

Conclusions

923. The Mission has reasonable grounds to believe that Luz Mely Reyes and *Efecto Cocuyo* have been objects of defamatory and discrediting statements between 2015 and 2023, particularly by deputy Diosdado Cabello. These statements have been distributed by State entities, such as the Bolivarian Military Aviation, as well as on government platforms. Additionally, state media, like VTV and *Correo del Orinoco*, have re-posted these messages.

D. Criminalization

1. Introduction

924. The Mission observed that during the period covered by this report, from 2020 to the present, the Venezuelan criminal justice system was used as an instrument to restrict civic and democratic space in the country, through processes of criminalization of real or perceived opponents¹⁹²⁹. These processes include, among others, arbitrary accusations, the abuse of the use of precautionary measures, as well as undue delays and other violations of due process.

Caracas – Assassination Attempt: Popular Will party at forefront of terrorism, 14 July 2021. Available at: <https://misionverdad.com/english/fiesta-de-caracas-assassination-attempt-popular-will-party-forefront-terrorism>; *Mision Verdad*, “Fiesta de Caracas” y magnicidio: voluntad popular al frente del terrorismo, 14 July 2021. Available at: <https://misionverdad.com/venezuela/fiesta-de-caracas-y-magnicidio-voluntad-popular-al-frente-del-terrorismo>; *Lechuguinos*, La danza de dólares de la “prensa libre” y la destrucción de democracias, 12 October 2021. Available at: <https://www.lechuguinos.com/danza-dolares-prensa-libre/>; *Misión Verdad*, Monitor Venezuela: Una nueva iniciativa de injerencia electoral, 10 November 2021. Available at: <https://misionverdad.com/investigaciones/monitor-venezuela-una-nueva-iniciativa-de-injerencia-electoral>.

¹⁹²⁶ Interview OOIV052.

¹⁹²⁷ IACHR, Press release, 5 February 2021. Available at:

<https://www.oas.org/pt/CIDH/jsForm/?File=/es/cidh/prensa/comunicados/2021/025.asp>.

¹⁹²⁸ YouTube Video – Transmisión en vivo: Con el Mazo Dando – Programa 429, 3 May 2023.

Available at: https://www.youtube.com/watch?v=zcX_kQmzgec [min 25:24 – 28:10].

¹⁹²⁹ The Mission understands criminalization as the incorrect use of the criminal system to punish an activity or the exercise of a freedom protected by international law. The term “criminalization” has been previously used by other United Nations accountability mechanisms. See for example Group of Human Rights Experts on Nicaragua, A/HRC/CRP.5, paragraph 304; The Independent International Commission of Inquiry on the Occupied Palestinian Territory, Including East Jerusalem and Israel, A/HRC/53/CRP.1, paragraphs 79 and 118-123.

925. The Mission has reasonable grounds to believe that the criminal system is used to criminalize people, particularly journalists, union workers, defenders, and human rights defenders and real or perceived opponents. These people have experienced accusations of crimes related to terrorism, incitement to hatred and defamation, among others. The inappropriate use of the criminal system against these people has translated into long sentences and into long periods of imprisonment in preventive detention. Additionally, criminal charges have been filed for the crimes mentioned above against people that are on parole, and that are still waiting for their criminal process to end. Although a physical detention is not imposed in these types of cases, the accusation for the crimes mentioned above is maintained during long periods, waiting for the next stage of the process, or it is simply maintained indefinitely. This usually comes along with excessively restrictive precautionary measures.

926. The Mission has reasonable grounds to believe that instead of protecting and guaranteeing human rights, the Venezuelan criminal justice system has been used to criminalize those who try to generate an open and democratic discussion, and those who seek progress regarding the respect of human rights. The Mission interviewed several people involved in these types of judicial processes and they all said that their faith in the Venezuelan justice system had been completely undermined. One person said that the presumption of innocence did not exist in Venezuela.¹⁹³⁰ Two other people stated that journalists live under constant fear of being prosecuted by the law against hate for publishing or saying something that might make the government uncomfortable;¹⁹³¹ a fourth person interviewed said that if someone dared to go against the government's interests, they would be treated as a deserter and traitor, and that the sole fact of being accused meant that "you are already sentenced,"¹⁹³² a fifth person stated "since there are no just processes, with simply accusing you they may take you to prison, torture you and impose precautionary measures without going through trial. You do not have protection nor solution."¹⁹³³ Finally, another person stated that workers that report corruption within the institutions are accused through criminal processes.¹⁹³⁴

927. The negative impact of criminalization on the civil and democratic areas is perceptible, not only through the people that have been criminally accused and processed, but through the threatening effect it has, which is wider because it means there is a constant threat that security forces or the Public Prosecutor's Office may impose punitive measures to those who speak out against the government. The Mission observes that criminalization has a very threatening and intimidating effect on those opposing the Government, as well as on those who are perceived as such.¹⁹³⁵

2. Relevant legal framework

928. The Mission will now provide a description of the norms that are used to criminalize real or perceived opponents. Afterwards, an analysis of their interpretation by the courts will be performed.

¹⁹³⁰ Interview PPIV067: This person, who was victim of criminalization, stated: "Forget presumption of innocence. That does not exist here".

¹⁹³¹ Interview with Carlos Correa, 17 February 2023: This person stated: "If you get criminally charged in Venezuela, it is a sentence." In another interview, the president of the National College of Journalists talked about criminalized communicators: "Although they are physically free, they fear being detained at any moment, because detentions and the cases against them are arbitrary"; Interview with Edgar Cárdenas, 22 November 2022.

¹⁹³² Interview PPIV045.

¹⁹³³ Interview with NGO CAPIR, 24 February 2023.

¹⁹³⁴ Tweet by Keymer Avila [@Keymer_Avi], Interview with Alfredo Chirinos, posted by Keymer Avila, 5 April 2023. Available at: https://twitter.com/Keymer_Avila/status/1643642978768920576.

¹⁹³⁵ Interview with Eudis Giroto, 14 February 2023: "My sentence isn't just mine. This sentence institutionalizes criminalization of protests, and the workers' fight in this country. Whoever dares to raise their voice to defend any right, or whoever makes a comment on social media, this is used as a threat that they might also live the same situation".

(a) Organic Law on Organized Crime and Financing of Terrorism of 2012¹⁹³⁶

929. According to article 1 of the Law on Organized Crime and Terrorism, the law is intended to prevent, investigate, pursue, classify, and sanction crimes related to organized crime and financing of terrorism; and it is applied to all natural or legal persons, whether public or private. Several human rights mechanisms have considered that this law includes very general and ambiguous definitions, which may produce an arbitrary implementation of said law, contributing to reduce civic space when used to criminalize activities related to the rights of freedom of speech and opinion, of association and to peaceful assembly.¹⁹³⁷

930. The absence of an international framework that precisely defines terrorism, generates the possibility that States adopt nationwide repressive measures against illicit and non-violent activities of civic society.¹⁹³⁸ There is currently a worldwide tendency of adopting vague and general definitions for terrorism¹⁹³⁹, which may cause violations of human rights. As observed by the Special Rapporteur on Promotion and Protection of Human Rights while Countering Terrorism, these norms have been used “deliberately in an incorrect manner to attack a great variety of groups, people and civic society activities,”¹⁹⁴⁰ including human rights defenders, journalists, minority groups, trade union activists, indigenous people, and members of political opposition, among others.¹⁹⁴¹

931. The Mission observes, as it will be shown further on, that the Bolivarian Republic of Venezuela has not been the exception¹⁹⁴², and the Organic Law on Organized Crime and Financing of Terrorism has been used to repress the exercise of several rights, including freedom of expression, of assembly and association, because the crimes classified in this law have been used to criminalize people that have participated in protests, and human rights defenders, and journalists, as well as political opponents¹⁹⁴³.

932. The Mission has identified a series of provisions of the Law that are considered concerning due to their wide and uncertain content, and therefore, could be used to wrongfully restrict activities related to civic space. For example, article 4(10) defines serious crimes, as those that affect collective and diffused interests. The terms “affect collective and diffuse interests” may cover a series of activities related to civic and democratic space, such as the exercise of political rights. The fact that these activities may be considered as serious crimes, may generate an effect in which those who wish to exercise these rights decide not to do so, for fear of being criminalized and receiving serious sentences. The Mission also expresses concern regarding article 30 establishing that the crimes contained in the Law do not have a statute of limitations, especially because they have been used to criminalize real or perceived opponents, just as it will be described further on, which implies that they may be accused of these crimes at any time without a time limit.

933. The Law defines the crime of terrorism in its article 52: “The individual terrorist or those associated to a terrorist organization that conduct or try to conduct one or several terrorist acts will be sentenced to twenty-five to thirty years in prison”. According to several human rights international mechanisms, including the Inter-American

¹⁹³⁶ Organic Law on Organized Crime and Financing of Terrorism, Official Gazette no. 39.912 (hereinafter, “Law on Organized Crime and Financing Terrorism”) 30 April 2012.

¹⁹³⁷ IACHR, Annual Report of 2013, paragraph 753; A/HRC/WG.6/40/VEN/3, paragraph 16; Special Rapporteur on Promotion and Protection of Human Rights while Countering Terrorism and the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association; Venezuela: Expertos de la ONU condenan el uso de leyes antiterroristas para condenar a sindicalistas y dirigentes sindicales, 11 August 2023. Available at: <https://www.ohchr.org/es/press-releases/2023/08/venezuela-un-experts-condemn-use-counter-terrorism-laws-convict-trade>; CIVILIS Derechos Humanos, Situación del derecho de la libertad de asociación y al espacio cívico en Venezuela, Informe Especial, June 2021, p. 6;

¹⁹³⁸ A/HRC/40/52, para. 19.

¹⁹³⁹ A/76/273, para. 15.

¹⁹⁴⁰ A/HRC/40/52, para. 34.

¹⁹⁴¹ *Ibid.*

¹⁹⁴² A/76/273: Report of the Secretary General on Terrorism and Human Rights (2021), para. 24.

¹⁹⁴³ IACHR, Annual report 2013, para 753, see *supra* chapter III, for example, case 12: Freddy Guevara, case 15: young activists of Popular Will)

Commission on Human Rights,¹⁹⁴⁴ there are several problematic definitions in the law, due to their general and ambiguous nature, among those are the definitions of “terrorist act,”¹⁹⁴⁵ “organized crime”¹⁹⁴⁶ and suspicious activities¹⁹⁴⁷. The mission is concerned that serious sentences: from 25 to 30 years, may be imposed based on these definitions. For example, regarding the definition of terrorist act, the Mission observes that expressions such as “severely intimidate the population” or “severely destabilize or destruct the fundamental political, constitutional, economic, social structures of a country” provide a wide range of interpretation for the judicial authorities in charge of their application.¹⁹⁴⁸ This, combined with the concerns expressed by the Mission about the lack of independence and impartiality of the judiciary system in Venezuela, particularly the Special Jurisdiction on Terrorism, which, as will be seen in the next section,¹⁹⁴⁹ has been created by a Decree of the TSJ and has been questioned for its lack of independence and impartiality.¹⁹⁵⁰ This increases the possibilities that this Law is used to criminalize real or perceived opponents. In this sense, the Mission emphasizes that, just as the Human Rights Committee indicates, the principles of legal certainty demand that criminal laws specify in detail the types of behaviour that constitute a crime, as well as the consequences of committing it.¹⁹⁵¹ To penalize acts without clearly defining the forbidden behaviour entails the risk of not complying with the obligations set in article 15 of the International Covenant on Civil and Political Rights, of which the Bolivarian Republic of Venezuela is part.¹⁹⁵²

¹⁹⁴⁴ IACHR, Annual report 2013, para. 753; A/HRC/WG.6/40/VEN/3, para 16; Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association; Venezuela: Expertos de la ONU condenan el uso de leyes antiterroristas para condenar a sindicalistas y dirigentes sindicales, 11 August 2023. Available at: <https://www.ohchr.org/es/press-releases/2023/08/venezuela-un-experts-condemn-use-counter-terrorism-laws-convict-trade>.

¹⁹⁴⁵ According to article 4.1, a terrorist act is “the intentional act that, due to its nature or context, may seriously harm a country or an international organization classified as a crime according to the Venezuelan legal system, committed with the purpose of severely intimidating a population; to unreasonably force a government or international organization to perform an act or to abstain itself of performing one; or seriously destabilize or destruct the fundamental political, constitutional, economic and social structures of a country or international organization”

¹⁹⁴⁶ According to article 4.9, organized crime is: “The action or omission of three or more people associated for a certain time with the intention of committing the crimes defined in this Law and obtaining, directly or indirectly, an economic benefit or of any other kind for themselves or third parties. Furthermore, the activity of one person acting on behalf of a legal person or association with intentions of committing crimes determined in this Law is considered as organized crime.”

¹⁹⁴⁷ According to article 4.2 a suspicious activity is: “a non-conventional operation, complex, under way or structured that, after being analysed, one may presume it involves funds from an illicit activity, or that has been committed or attempted to commit with the purpose of hiding or concealing funds or assets obtained from illicit activities. 3. Undercover operation agents: officials of special units of police who assume a different identity with the purpose of infiltrating organized crime and financing of terrorism to obtain evidence on the committing of some of the crimes established in this Law.

¹⁹⁴⁸ A/HRC/WG.6/40/VEN/2, paragraph 17. In the contribution presented by the OHCHR on the Universal Periodic Review of Venezuela, performed in 2022, it was stated that “the team of the United Nations in the country had informed that the definition of terrorism in the Law on Organized Crime and Financing of Terrorism was vague and that it might be used against human rights defenders, who were facing criminal acts based on weak evidence or that pursued legitimate forms of public participation”.

¹⁹⁴⁹ See *infra*, Section D, number 2 (b) Resolutions of the Supreme Tribunal of Justice regarding crimes related to terrorism.

¹⁹⁵⁰ A/HRC/48/CRP.5, para 56-60.

¹⁹⁵¹ CCPR/C/BEL/CO/6, para 11; CCPR/C/KEN/CO/4, para 16; IACHR, Annual Report 2013, para. 754.

¹⁹⁵² A/76/273, para. 15.

934. The Mission echoes the comments of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, who reported the misuse of anti-terrorist laws against union members and union leaders in the Bolivarian Republic of Venezuela, and stressed that the use of anti-terrorist measures must be necessary, proportional and non-discriminatory and that anti-terrorist legislation and practice must be implemented in a manner that respects human rights.¹⁹⁵³

935. The Mission observes that several articles of the Organic Law have been used in criminal procedures against real or perceived opponents. For example, the crime of association¹⁹⁵⁴ has been used in five cases investigated by the Mission for this report, which refer to the criminalization of different actors of civil society, including journalists and human rights defenders; as well as politicians, involving thirteen people.¹⁹⁵⁵ Furthermore, the Mission investigated four cases that involve a total of eleven people, in which trade union members and political opponents were charged with the crime of terrorism.¹⁹⁵⁶ An emblematic example of the use of these crimes to restrict civic space, particularly the freedom of association, is the case of six trade union members Nestor Astudillo, Gabriel Blanco, Alcides Bracho Reynaldo Cortes, Alonso Melendez, and Emilio Negrín, who were accused of “terrorism,”¹⁹⁵⁷ “membership of an organized crime group,”¹⁹⁵⁸ “sabotage,”¹⁹⁵⁹ and “conspiracy.”¹⁹⁶⁰ According to the sources consulted by the Mission, the common element in the case of the six trade union members was their participation in protests demanding labor rights, particularly against ONAPRE’s instructions.¹⁹⁶¹ The union members were sentenced for crimes of conspiracy and association, based on counter-intelligence reports,¹⁹⁶² supported by the testimony of a “cooperating witness” that never showed up to testify at court. The evidence used was, among other,¹⁹⁶³ *tweets* posted by the defendants, for example, one addressed to the High Commissioner for Human Rights requesting protection for one of the trade union members detained,¹⁹⁶⁴ which were classified as information disseminated to promote and incite hostility, discrimination or violence against the Venezuelan State, and against social order and peace; as well as the production of “clandestine” banners and graffiti inciting social disruption, with the purpose of threatening the constitutional order, using digital platforms and social media with the purpose of recruiting people located around the nation. This

¹⁹⁵³ Press release, Special Rapporteur on the promotion and protection of human rights while countering terrorism and the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Venezuela: Expertos de la ONU condenan el uso de leyes antiterroristas para condenar a sindicalistas y dirigentes sindicales, Geneva, 11 August 2023.

¹⁹⁵⁴ Law on Organized Crime and Financing of Terrorism, art. 37: “Those who form part of an organized crime group will be punished, for the sole reason of association, with six to ten years in prison”.

¹⁹⁵⁵ See *supra*, Case 7: Roland Carreño; Case 8: Eudis Girot; Case 12: Freddy Guevara; Case 15: Young activists of Popular Will; and Case 16: Six Trade Union Leaders.

¹⁹⁵⁶ See *supra*, Case 8: Eudis Girot; Case 16: Six Trade Union Leaders; Case 11: Javier Tarazona and other activists from *Fundaredes*; and Case 12: Freddy Guevara.

¹⁹⁵⁷ Law on Organized Crime and Financing of Terrorism, art. 52.

¹⁹⁵⁸ *Ibid.*, art. 37.

¹⁹⁵⁹ Special Law on Cybercrime, Official Gazette number 37.313 (hereinafter, “Law on Cybercrime”) 30 October 200, art. 7.

¹⁹⁶⁰ Criminal Code of 2025, arts. 128 and 132.

¹⁹⁶¹ See *supra*, Case 16: Six trade union leaders.

¹⁹⁶² Prepared by intelligence agencies which are not the competent organizations to conduct criminal investigations. The competent organization is the Scientific, Criminal and Forensic Investigations Corps (CICPC by its Spanish acronym). See interview JEP III with Zair Mundarain, Venezuelan criminal lawyer <https://www.youtube.com/watch?v=-TQHwHPtrtE>.

¹⁹⁶³ In addition, WhatsApp communications and emails in which communication channels were covertly established between those accused are referenced, alluding to the “Popular Resistance Units” (URP, by their acronym in Spanish). However, the ruling does not explain why these communications are considered as crimes, given that they are only referenced as “covert conversations using pseudonyms to identify contacts and plan activities within the URP”, or “using codes to get to situations or develop activities of interest to evade controls”, without specifying the content of the conversations or which were the activities of interest. Document OODC008: Final judgement of conviction of the 6 trade union members.

¹⁹⁶⁴ Document OODC005: Records from the oral trial.

would be carried out by subversive groups self-designated as “Popular Resistance Units” (URP¹⁹⁶⁵, by their acronym in Spanish).

936. On the other hand, the Mission noticed that article 64 of the Law allows the Public Prosecutor’s Office, through the authorization from a supervisory Judge, to impose special measures, which include, among others, the interception of communications, emails and correspondence; freezing bank accounts or other financial instruments; as well as “any other similar measure that favours the prevention, prosecution and punishment of the crimes established in this Law”, granting broad discretionary power to the competent authorities, given the lack of precision regarding what other measures may be taken, by indicating that it is possible to use “any measure” that the authorities consider appropriate.

(b) Resolutions of the Supreme Tribunal of Justice regarding crimes related to terrorism

937. The Special Jurisdiction on Terrorism and related crimes was created by resolution 2004-2017 of the Supreme Tribunal of Justice on 22 November 2004.¹⁹⁶⁶ Afterwards, it was resumed in two occasions by resolution 2012-0026 of 17 October 2012 and by resolution 2015-0007 of 15 April 2015,¹⁹⁶⁷ both enacted by the Supreme Tribunal of Justice in plenary. These resolutions grant jurisdiction over the crimes provided by in the Organic Law on Organized Crime and Financing of Terrorism to a new series of tribunals based in Caracas, but with competence throughout all national territory.¹⁹⁶⁸ According to information received by the Mission, this jurisdiction lacks guarantees of independence and objectivity, and denies time and again the rights of judicial protection to real or perceived opponents.¹⁹⁶⁹

938. As provided by articles 156(32)¹⁹⁷⁰ and 127(1)¹⁹⁷¹ of the Constitution, the National Assembly must legislate in civil, commercial, criminal, and procedural matters¹⁹⁷². The Organic Code of Criminal Procedure is the instrument that organizes the tribunals and, to do so, it creates the Criminal Judicial Circuits – 24 in total nationwide¹⁹⁷³

¹⁹⁶⁵ Document OODC008: Final judgement of conviction of the 6 trade union members.

¹⁹⁶⁶ Issued from the Judicial Commission of the Supreme Tribunal of Justice, published in *Official Gazette*, number 38.071.

¹⁹⁶⁷ *Official Gazette* No. 40092 of 17 January 2013. Available at: <https://tugacetaoficial.com/leyes/tsj-se-crea-y-se-constituye-tribunales-con-competencia-exclusiva-para-conocer-y-decidir-casos-cuyas-imputaciones-por-ilicitos-penales-estén-vinculadas-al-terrorismo-gaceta-40092-2013-texto/>.

¹⁹⁶⁸ Document IIDC019: Report from *Justicia y Proceso*.

¹⁹⁶⁹ A/HRC/48/CRP.5, para 57; Interview with *Justicia y Proceso* Venezuela, 23 May 2023.

¹⁹⁷⁰ According to this article, the Public People’s Power is in charge of the “legislation regarding constitutional rights, duties and guarantees; civil, commercial, criminal, penitentiary, procedural and private international law; electoral; expropriation for reasons of public or social utility; public credit; intellectual, artistic and industrial property; cultural and archaeological heritage; agrarian; immigration and settlement; indigenous peoples and territories occupied by them; work, social security; animal and plant safety; notaries and public registry; banks and insurance; lotteries, racetracks and betting in general; organization and operation of the entities of the National Public Power and other national entities and institutions of the State; and that relating to all matters of national competence”.

¹⁹⁷¹ According to this article the National Assembly oversees the “legislation in matters of national competence and the functioning of the different branches of the National Power”.

¹⁹⁷² Document IIDC019: Report from *Justicia y Proceso*.

¹⁹⁷³ Article 504 of the Organic Code of Criminal Procedure states: “In every Judicial Constituency there will be a jurisdictional and administrative organization, integrated by criminal judges with jurisdiction over the entire territory of the State or in one or more municipalities, which will be called the Criminal Judicial Circuit. The Supreme Tribunal of Justice may create more than one Criminal Judicial Circuit in a Judicial Constituency, when necessary for service reasons. Its organization, composition and operation will be governed by the provisions established in this Code, by the corresponding organic laws, resolutions and regulations issued for such purposes by the Supreme Tribunal of Justice”.

- which are comprised by the Tribunals of First Instance (integrated by supervisory, trial and enforcement judges) and a Court of Appeals.¹⁹⁷⁴

939. Therefore, it is a formal legal instrument, meaning a law, to define the jurisdictional order to know and decide on the crimes and misdemeanours provided for in the substantive criminal law;¹⁹⁷⁵ while the Supreme Tribunal of Justice has the power to determine the number of tribunals necessary for the correct functioning of each jurisdiction and the administration of justice.¹⁹⁷⁶ This happened, for example, with the Organic Law on the Right of Women to a Life Free of Violence, which created the Tribunals of violence against women (see chapter V *infra*).¹⁹⁷⁷

940. The special jurisdiction on terrorism is currently made up of four Supervisory Tribunals, three Trial Tribunals and two Courts of Appeals that function under the coordination of the president of the Criminal Judicial Circuit of the Judicial Constituency of the Metropolitan Area of Caracas. These are the Thirty-Fourth, Eleventh and Sixth Courts with Supervisory Functions of the Criminal Judicial Circuit of the Metropolitan Area of Caracas, and Chambers no. 4 and no. 7 of the same Criminal Judicial Circuit¹⁹⁷⁸. The presidency of the Circuit is headed by Katherine Nayarith Harrington Padrón, who has been sanctioned by countries such as Canada, the United States, Panama, the United Kingdom, Switzerland, and the European Union¹⁹⁷⁹. The Mission commented in a previous report the role that Harrington played in cases against people imprisoned for being perceived as opponents of the Government¹⁹⁸⁰.

¹⁹⁷⁴ Article 505 of the Organic Code of Criminal Procedure states: “Each criminal judicial circuit will be made up of an appeals court, integrated by at least a chamber of three judges, and a tribunal of first instance integrated by judges who will exercise the functions of supervision, trial and enforcement of sentences. The tribunals of first instance with supervisory functions will operate at the municipal and state level in accordance with the competence provisions established in this Code. The organization and operation of the municipal tribunals of first instance will be established by resolution issued by the Supreme Tribunal of Justice. The Supreme Tribunal of Justice will ensure that in each judicial circuit, there is a shift system so that at least one supervisory Judge is immediately available in the event of being required for the purposes of addressing matters of extreme need and urgency, that cannot wait for normal business hours.”

¹⁹⁷⁵ Document IIDC019: Report from *Justicia y Proceso*.

¹⁹⁷⁶ *Ibid.*

¹⁹⁷⁷ Document IIDC019: Report from *Justicia y Proceso*.

¹⁹⁷⁸ Resolution of the Supreme Tribunal of Justice number 2015-0007/2015-0008, Resolution that partially modifies Resolution number 2012-0026, issued by the full chamber on 17 October 2012 (http://historico.tsj.gob.ve/informacion/resoluciones/sp/resolucionSP_0001846.html number 40.092 of 17 January 2013) that creates and establishes the special tribunals with exclusive competence to decide on causes of criminal offenses related to terrorism, 15 April 2015, http://historico.tsj.gob.ve/informacion/resoluciones/sp/resolucionSP_0001846.html quoted on A/HRC/48/CRP.5 paragraph 56. See also A/HRC/48/CRP.5 para 56.

¹⁹⁷⁹ *Efecto Cocuyo*, Las 8 imputaciones clave de Katherine Harrington contra opositores, 4 July 2017. Available at: <https://efectococuyo.com/politica/las-8-imputaciones-clave-de-katherine-harrington-contra-opositores/>; El Cooperante, Katherine Harrington, la sancionada por EE.UU que fue vicefiscal y entró al MP en la maletera de un carro, 23 October 2018. Available at: <https://elcooperante.com/katherine-harrington-la-sancionada-por-eeuu-que-fue-vicefiscal-y-entrol-mp-en-la-maletera-de-un-carro/>; *El Diario*, ¿Quién es Katherine Harrington, la nueva presidenta del circuito judicial de Caracas? 23 March 2023. Available at: <https://eldiario.com/2023/03/23/quien-es-katherine-haringhton-la-nueva-presidenta-del-circuito-judicial-de-caracas/>; France 24, Unión Europea sanciona a funcionarios venezolanos, 26 June 2018, Available at: <https://www.france24.com/es/20180626-union-europea-sanciona-funcionarios-venezolanos>.

¹⁹⁸⁰ A/HRC/45/33, paras. 361, 382, 410. See <http://www.tsj.gob.ve/-/presidenta-del-tsj-mag-gladys-maria-gutierrez-alvarado-juramento-a-la-nueva-presidenta-del-circuito-judicial-penal-del-area-metropolitana-de-caracas>.

941. According to information received by the criminal lawyers interviewed by the Mission,¹⁹⁸¹ when judges must make decisions regarding people in prison for political motives, they escalate their inquiry on the decision to the president of the Criminal Circuit, Harrington, who simultaneously escalates it to the chamber of criminal cassation of the Supreme Tribunal of Justice – integrated by 5 magistrates -¹⁹⁸². The same lawyer explained that in these cases of real or perceived opponents, the prosecutors do a preliminary classification of the facts and charge with serious crimes based on the Law on Organized Crime and Financing of Terrorism (LOCDOFT, by its Spanish acronym) on their prosecution reports, so the cases are distributed directly to the courts with special competence on terrorism. The interviewed sources report that in the preliminary hearings significant pressure is exerted against people perceived as opponents so they admit to the facts in exchange of eliminating the more serious charges¹⁹⁸³ or under the promise of being released¹⁹⁸⁴. Moreover, the supervisory judges on terrorism would completely admit the reports and evidence of the Public Prosecutor’s Office.¹⁹⁸⁵

942. Another of the lawyers interviewed told the Mission that political interference in the development of these cases is greatly favoured by the high percentage of provisional judges in this jurisdiction, meaning, that they have been elected to the position without participating in a public contest¹⁹⁸⁶. It is estimated - in the absence of official data - that around 90% of the judges of the criminal circuit of the metropolitan area of Caracas are provisional and that they have been appointed by senior officials of the executive branch or the judicial branch based on personal considerations or inappropriate policies¹⁹⁸⁷. This maintains a pattern that influences biased and flawed judicial decisions to be made outside the law¹⁹⁸⁸ already identified by the Mission in previous reports.

943. Some of the violations of due process identified and reported by the Mission and that have remained constant in recent years include the impossibility of opting for private defense, the lack of access of the defending lawyers to the minutes of the oral hearings and the files, arbitrary detentions for the non-execution of prison release forms or exceeding the maximum period of three years in preventive prison and procedural delay¹⁹⁸⁹. In addition, the unequal treatment between men and women is palpable. In three of the cases that were reported to the Mission, women received harsher sentences than their male counterparts, including preventive deprivation of liberty, for the same acts and with the same applicable regulation¹⁹⁹⁰.

(c) Constitutional Law against Hate for Peaceful Coexistence and Tolerance

944. The Constitutional Law against Hate for Peaceful Coexistence and Tolerance, hereinafter Law against Hate 2017, was approved by the National Constituent Assembly on 8 November 2017.¹⁹⁹¹ The Law imposes strong criminal sanctions, from 10 to 20 years, against those who “publicly promote or incite hate, discrimination, or violence against a person or a group of people”, with the purpose of discriminating “based on their real or perceived membership to a particular group”, including political groups.¹⁹⁹² Additionally, the Law establishes aggravating circumstances due

¹⁹⁸¹ Interview with *Justicia y Proceso Venezuela*, 23 May 2023; YouTube Video – JEP Venezuela, Entrevista JEP III – Hablemos de los cambios de competencia en los tribunales penales en Venezuela, 26 July 2023. Available at: <https://www.youtube.com/watch?v=TQHwHPtrtE>.

¹⁹⁸² DPLf, Radiografía: la independencia judicial en Venezuela, 11 July 2019. Available at: <https://dplfblog.com/2019/07/11/radiografia-la-independencia-judicial-en-venezuela/>

¹⁹⁸³ Interview IIIV036, Interview IIIV002;

¹⁹⁸⁴ Interview IIIV036; Interview IIIV002; Interview with *Justicia y Proceso Venezuela*, 23 May 2023.

¹⁹⁸⁵ *Ibid.*

¹⁹⁸⁶ Interview with *Justicia y Proceso Venezuela*, 23 May 2023.

¹⁹⁸⁷ CIJ, Venezuela: Un poder judicial politizado que es una herramienta de represión más que un defensor del Estado de derecho, 22 June 2021. Available at: <https://www.icj.org/es/venezuela-un-poder-judicial-politizado-que-es-una-herramienta-de-represion-mas-que-un-defensor-del-estado-de-derecho/>.

¹⁹⁸⁸ A/HRC/48/69 paras. 20 and 36; A/HRC/48/CRP.5 paras. 471 and 472.

¹⁹⁸⁹ Interview with *Justicia y Proceso Venezuela*, 23 May 2023; interview IIIV036.

¹⁹⁹⁰ Interview with *Justicia y Proceso Venezuela*, 23 May 2023; interview IIIV036.

¹⁹⁹¹ *Official Gazette* number 41.274, 8 November 2017, re-issued due to failure in originals in *Official Gazette* No. 41.276, 10 November 2017. Available at: <https://www.ghm.com.ve/wp-content/uploads/2017/11/41276.pdf>.

¹⁹⁹² Law against Hate 2017, art. 20.

to hate or intolerance in its article 21.¹⁹⁹³ The Law also establishes that the crimes provided for in it do not have a statute of limitations because they are serious violations against human rights.¹⁹⁹⁴

945. Furthermore, the Law against Hate establishes strong sanctions - sentences of 8 to 10 years in prison - for public officials or health personnel who abstain, omit, or delay an intervention to prevent any of the punishable acts established in the Law from happening.¹⁹⁹⁵

946. The Mission expresses concern about the broad and ambiguous terms used in the Law, which may be used to punish activities or expressions that may be covered by the right to freedom of expression, freedom of association or freedom of assembly. In this respect, the United Nations Special Rapporteurs on the right to freedom of peaceful assembly and of association; on the promotion and protection of the right to freedom of opinion and expression; on the situation of human rights defenders, and the Working Group on discrimination against women and girls indicated that the arrest of five members of the NGO *Azul Positivo*, on 12 January 2021, was part of a pattern of criminalization against civil society, which operates under restrictive laws, in particular the “Law against Hate of 2017, which restricts the exercise of the right to freedom of peaceful assembly, association and expression, among others.”¹⁹⁹⁶

947. The Mission also considers that the fact that the Law imposes severe sentences, based on vague and ambiguous definitions, in addition to the fact that the crimes do not have a statute of limitations, puts the exercise of these rights at risk, since this can generate, as it will be demonstrated later, that people censor themselves¹⁹⁹⁷. In this regard, the Inter-American Commission on Human Rights indicated that the restrictions of the Law could severely prevent the exercise of freedom of expression in Venezuela, generating a strong intimidating effect incompatible with a democratic society. The Commission identified the following elements of the Law as alarming: “a) the use of vague concepts and exorbitant penalties not subject to any statute of limitations to criminalize speech concerning matters of public interest; b) the imposition of burdensome obligations on all media outlets, including the suppression and deletion of information of public interest; c) the broad power granted to the State to use media outlets and impose content.”¹⁹⁹⁸ The Mission recalls that although the right to freedom of expression and opinion may be subject to limitations, they must be imposed by law, which must be written in a clear and precise manner;¹⁹⁹⁹ and must be imposed to protect the rights or reputations of others, or to protect national security, public order or public health or morals.²⁰⁰⁰

¹⁹⁹³ The article indicates that: An aggravation is considered as any punishable act performed or increased on account of membership, real or presumed, of the victim to a specific racial, ethnic, religious, or political group, as well as on account of gender, sexual orientation, gender identity, gender expression or any other discriminatory motive. In these cases, the applicable sanction will be the maximum limit of the established sentence for the correspondent punishable act.

¹⁹⁹⁴ Law against Hate 2017, art. 25.

¹⁹⁹⁵ Law against Hate 2017, art. 24.

¹⁹⁹⁶ Press release, Declaraciones de Relatores de la ONU sobre el caso de la ONG Azul Positivo, 18 February 2021. Available at: <https://venezuela.un.org/es/112418-declaraciones-de-relatores-especiales-de-la-onu-sobre-el-caso-de-la-ong-azul-positivo>.

¹⁹⁹⁷ See Chapter IV, Section F.3.d; Chapter VI.

¹⁹⁹⁸ IACHR, Press release, Office of The Special Rapporteur for Freedom of Expression [of the IACHR] Expresses Serious Concern Over the Enactment of the “Anti-Hate Law” In Venezuela and its Effects on Freedom of Expression and Freedom of the Press. Available at: <https://www.oas.org/en/iachr/expression/showarticle.asp?artID=1082&IID=1>

¹⁹⁹⁹ Covenant on Civil and Political Rights, art. 19(2).

²⁰⁰⁰ *Ibid.*

948. The Mission considers that the fact that this Law, as documented in this report, has been used and continues to be used to criminalize human rights defenders, journalists, and politicians, among others, is a violation of the international obligations of the Bolivarian Republic of Venezuela.²⁰⁰¹ The Mission recalls that limitations to the mentioned rights are necessary in a democratic society to achieve their purpose, strictly proportional to their objective, and appropriate to achieve this objective.²⁰⁰² Additionally, the Mission emphasizes that, although international law on human rights accepts that certain types of speeches or expressions be banned, these expressions must be in the defense of national, racial, or religious hatred which incite discrimination, hostility, or violence.²⁰⁰³ The authorities, when applying the Law against Hate, must conduct a detailed analysis of the expression or speech that is considered to have violated article 20 of the Law, and they must concretely and individually demonstrate the exact nature of the expression and the need, proportionality and suitability of the specific measure adopted, particularly establishing a direct and immediate connection between the expression and its purpose and/or possible consequences.²⁰⁰⁴

949. An example of the application of this Law to criminalize real or perceived opponents, is the case of Javier Tarazona, director, and President of the human rights NGO *Fundaredes*. Javier Tarazona was detained on 2 July 2021. Tarazona appeared before the Third Special Supervisory Court of First Instance with competence in terrorism matters for a preliminary hearing, pursuant to article 373 of the Organic Code of Criminal Procedure.²⁰⁰⁵ The judge charged him with promotion and incitement to hatred,²⁰⁰⁶ terrorism,²⁰⁰⁷ and treason.²⁰⁰⁸ Regarding the first charge, the provisional 94th public prosecutor, in charge of the accusation, referred to some statements made by Tarazona as part of an interview distributed on social media, during which he alleged that some people related to the Government of the Bolivarian Republic of Venezuela worked along with Colombian guerrilla groups, ELN and FARC, in the State of Apure. It was the Public Prosecutor's opinion that the statements put at risk the legitimately constituted Government's sovereignty, with the purpose of destabilizing it and that they promoted hatred.²⁰⁰⁹

950. This accusation was admitted by the head Judge of the Third Special Supervisory Court of First Instance with competence in terrorism matters, who, based on it, ordered Tarazona's preventive detention, without adding any other reason beyond what the Public Prosecutor stated. The Judge referenced, among other evidence, intelligence reports – of the DGCIM – according to which, Tarazona uses his Twitter account and *Fundaredes*' website to “conduct campaigns with the purpose of creating a negative image of the National Executive branch”²⁰¹⁰. As previously mentioned,²⁰¹¹ Tarazona is still detained, and at least one request to review the precautionary measure of deprivation of liberty, filed by his lawyer, was rejected on 22 October 2022, based on the severity of the crimes he was charged with.²⁰¹²

951. The criminal process against Tarazona has suffered several delays, to the point that it is interrupted at the time of writing this report, due to a change in the jurisdiction of the Court handling the case²⁰¹³. The Mission observes that the 3rd Special Supervisory Judge of First Instance with competence in terrorism matters, in charge of Tarazona's case, did not carry out a detailed analysis of the expression or speech that was considered to violate Article

²⁰⁰¹ The Human Rights Committee indicated that the use of the law to criminalize journalists and human rights defenders, among others, is not compatible with article 19(3) of the Covenant. CCPR/C/GC/34, para 30.

²⁰⁰² IACHR, Press release, Office of The Special Rapporteur for Freedom Of Expression [of the IACHR] Expresses Serious Concern Over The Enactment Of The “Anti-Hate Law” In Venezuela And Its Effects On Freedom Of Expression And Freedom Of The Press. Available at: <https://www.oas.org/es/cidh/expresion/showarticle.asp?artID=1082&IID=2>.

²⁰⁰³ Covenant on Civil and Political Rights, art. 20(2).

²⁰⁰⁴ VCCPR/C/GC/34, para 35.

²⁰⁰⁵ This article refers to detentions in the act of breaking the law. Document HHDC103: Record of the presentation hearing.

²⁰⁰⁶ Law against Hate 2017, art. 20.

²⁰⁰⁷ Law on Organized Crime and Financing of Terrorism, art. 52.

²⁰⁰⁸ Criminal Code of 2005, art. 129.

²⁰⁰⁹ Document HHDC103: record of the presentation hearing.

²⁰¹⁰ *Ibid.*

²⁰¹¹ See case 11: Javier Tarazona and other activists of *Fundaredes*

²⁰¹² Document HHDC103: Acta de la audiencia de la presentación.

²⁰¹³ See case 11: Javier Tarazona and other activists of *Fundaredes*.

20 of “the Law against Hate“, nor did she demonstrate the need, proportionality and appropriateness of the precautionary measure of preventive detention of Tarazona, violating his right to freedom of expression and opinion.

(d) Criminal Code

952. Additional to the use of the existent crimes of terrorism²⁰¹⁴ and incitement to hatred, the Mission confirmed the use of several articles of the Criminal Code to criminalize real or perceived opponents. For example, the Criminal Tribunals frequently use a series of crimes: “Instigation to commit a criminal act“²⁰¹⁵ and “conspiracy.”²⁰¹⁶ Furthermore, the Criminal Code references “membership of an organized crime group,”²⁰¹⁷ in relation to activities aimed to “prevent or disrupt meetings or functioning of legitimately constituted judicial, political, electoral or administrative bodies or their representatives or other public authorities or institutes or to influence their deliberations,”²⁰¹⁸ punishing these behaviours with sentences of two to four years, when they constitute threats against public officials or their immediate family,²⁰¹⁹ and from two to five years, when senior officials are involved²⁰²⁰.

953. The Criminal Code establishes a Section on crimes of treason and crimes related to it.²⁰²¹ The sentences established for these crimes are quite high, reaching between 20 and 30 years in prison.²⁰²² For example, article 128 of the Section establishes a penalty of 20 to 30 years in prison for any person who conspires with certain actors - including foreign countries and terrorist groups - “against the integrity of national territory or against its republican institutions or harass them by any means for any of these purposes”.

954. The Criminal Code also establishes that those who conspire to destroy the republican political form that the Nation has taken will be punished with a prison sentence of eight to 16 years²⁰²³. As documented in this report, this article of the Criminal Code has been used on several occasions to criminalize civil society actors, journalists, and political opponents²⁰²⁴. Article 140 establishes that any person who harbors, protects, delivers, or receives money, food supplies or any type of logistical support, or war supplies, or technological devices that may be used to the detriment of the Bolivarian Republic of Venezuela, on behalf of a foreign government or other groups or associations, will be sentenced to fifteen years of prison.

²⁰¹⁴ See Chapter IV, Section D.2.a.

²⁰¹⁵ Criminal Code of 2005, art. 285: “Whoever instigates disobedience of the laws or hatred among its inhabitants, or advocates acts that the law foresees as crimes, in a way that endangers public tranquility, will be punished with three years to six years of prison.”

²⁰¹⁶ Article 132: “Anyone who, inside or outside the national territory, conspires to destroy the republican political structure that the Nation has taken will be punished with imprisonment from eight to sixteen years. The same penalty will be suffered by any Venezuelan who requests foreign intervention in the affairs of the internal politics of Venezuela, or requests their assistance to disrupt the peace of the Republic or who, before its officials, or through publications made in the foreign press, incites civil war in the Republic or defames its President or insults the diplomatic Representative or consular officials of Venezuela, based on their functions, in the country where the act was committed.”

²⁰¹⁷ Article 217: “Anyone who is part of an association of ten or more people whose objective is to commit, through violence or threat, the act defined in the preceding article will be punished with imprisonment from one month to two years. If the act is committed with weapons, the prison sentence will be from three months to three years. If at the first request of the authority the association is dissolved, the people who were part of it will not suffer any criminal liability for the act defined in this article”.

²⁰¹⁸ Criminal Code of 2005, art. 216.

²⁰¹⁹ *Ibid.*; art. 215(1).

²⁰²⁰ Constitution of the Bolivarian Republic of Venezuela, art. 266.

²⁰²¹ Criminal Code of 2005, art. 128-165.

²⁰²² See art. 128 (Conspiracy); art. 129 (request the intervention of a Foreign Government); art. 129 (rebellion); art. 131 (facilitation of foreign government plans); art. 132 (attempting against the structure of the Republic); art. 143 (uprising against the legitimately constituted Government or the Constitution)

²⁰²³ Criminal Code of 2005, art. 132.

²⁰²⁴ See Case 7: Roland Carreño; Case 8: Eudis Giro; Case 12: Freddy Guevara; and Case 16: Six Trade Union Leaders.

955. An example of the use of regulations of the Criminal Code to criminalize people who are real or perceived opponents, documented by the Mission, is the case of Eudis Girot, a worker at the public company *Petróleos de Venezuela S.A. (PDVSA*, by its Spanish acronym), who was executive director of the United Federation of Workers of Venezuela (FUTPV by its Spanish acronym) since 2009. Girot was initially accused - in the presentation hearing - of the crimes of terrorism,²⁰²⁵ conspiracy,²⁰²⁶ and membership of an organized crime group.²⁰²⁷ However, these charges were dismissed at the preliminary hearing, leaving Girot accused of the crimes of instigation to commit a criminal act,²⁰²⁸ disclosure of confidential information²⁰²⁹ and illegal possession of a firearm.²⁰³⁰

956. On 9 May 2022, the First Court of First Instance with competence in terrorism matters sentenced Girot to three years of prison for instigation to commit a criminal act, absolving him of the crimes of disclosure of confidential information and of illegal possession of a firearm. In the sentence, based on intelligence reports – DGCIM – it was said that Girot disseminated messages with the purpose of creating confusion, and uneasiness among the population in order to generate chaos related to oil shortage, with the purpose of affecting the elections of 6 December 2020.

957. Among the quoted Tweets on the intelligence reports, the ones in which Girot indicated that gas had run out at the Paraguaná Refinery Complex and at Cardón Refinery were included, as well as others in which he allegedly had called oil workers to protest, however the text of these Tweets²⁰³¹ was not transcribed in the judgement. According to the court, the mentioned Tweets, particularly the one that said “Gas production at Cardón Refinery is in danger” aimed to create uncertainty and upset the population for lack of gas.

958. The Court considered, without explaining why, that Girot’s Tweets aimed to defame the personnel in charge of the oil company of Oriente, and that the Tweets that called oil workers and general public to take the streets, instigated “in one way or another hatred between citizens in a critical time in which the Venezuelan State was going through a difficult moment with the state company PDVSA, given that it was public, notorious and communicated that in the year 2020 the world was living one of the most important pandemics in history, that not only affected the area of health, but also the economic one”. Once Eudis Girot obtained access to his sentence, he found out that, in addition to his prison sentence, he was also sentenced to disqualification to participate in trade union elections, during his sentence²⁰³² (*see* Case 8: Eudis Girot, *supra*).

959. Additionally, just as previously indicated²⁰³³, the Mission observes that the Special Law on Cybercrime²⁰³⁴ has been used to criminalize real or perceived opponents. Article 7 of this Law references the crime of sabotage or damage to systems and states that “anyone that intentionally destroys, damages, modifies or performs any act that alters the functioning or that renders useless a system that uses information technology or any of its components, will be sentenced to four to eight years in prison and a fine of four hundred to eight hundred tax units”.

²⁰²⁵ Law on Organized Crime and Financing of Terrorism, art. 52.

²⁰²⁶ Criminal Code of 2005 art. 132.

²⁰²⁷ *Ibid.*, art. 127.

²⁰²⁸ *Ibid.*, art. 285.

²⁰²⁹ *Ibid.*, art. 134.

²⁰³⁰ Law on Disarmament and Control of Firearms and Ammunition, art. 111.

²⁰³¹ Document: HHDC063: File judgement of Eudis Girot – Final judgement of conviction.

²⁰³² Criminal Code of 2005, art. 16.

²⁰³³ See Case 16: Six Trade Union Leaders.

²⁰³⁴ Official Gazette of the Bolivarian Republic of Venezuela No. 37.313 of 30 October 2001.

960. The Mission has also observed that the crimes of defamation and slander²⁰³⁵ have been used to criminalize journalists, communicators, and human rights defenders, among others.²⁰³⁶ Article 442 of the Criminal Code states that “anyone communicating with several people, gathered or not, accuse an individual of a specific act capable of exposing them to disdain or public hatred, or is offensive to their honour and reputation” will be sentenced to one to three years in prison and fines.²⁰³⁷ In case that the defamation was conducted through documents or expressions exposed to the public, “the copy of the printed medium, or copy of the radio or television broadcast of the defamatory kind” will be used as evidence. In turn, article 444 states that whoever offends in any way somebody else’s honour, reputation, or decorum, will be punished with six months to a year in prison and a fine²⁰³⁸. If the offense was performed in a public space, the sentence may be increased in a third part, and if it is conducted through any of the means mentioned in article 442, the sentence is one to two years in prison.²⁰³⁹ In case that the offense was performed against a person in charge of a public service, and in their presence, the offender will be punished with 14 to 45 days of prison.²⁰⁴⁰ These crimes are subject to private action and prescribe in one year.²⁰⁴¹

961. The Mission also notes with concern that the Criminal Code contains regulation that establishes prison sentences for those who offend or disrespect the President of the Republic or senior officials of the State.²⁰⁴² According to article 150, Tribunals are responsible for analyzing if these offenses must be classified as serious or minor; and the offended person must indicate this before the Public Prosecutor’s Office for the process to initiate.²⁰⁴³ In this regard, the Human Rights Committee has called to repeal the regulation that establishes prison sentences for crimes of defamation, especially when this regulation is frequently used to intimidate journalists²⁰⁴⁴. In General Comments No. 34 on freedom of expression, the Committee indicated that:

Defamation laws must be crafted with care to ensure that [...] they do not serve, in practice, to stifle freedom of expression [...] At least with regard to comments about public figures, consideration should be given to avoiding penalizing or otherwise rendering unlawful untrue statements that have been published in error but without malice. In any event, a public interest in the subject matter of the criticism should be recognized as a defence. Care should be taken by States parties to avoid excessively punitive measures and penalties.²⁰⁴⁵

²⁰³⁵ Criminal Code of 2005, arts. 442-450

²⁰³⁶ See for example reference made by the IACHR in this regard: “the IACHR was informed about the investigation initiated against four reporters and editors of the portal specialized in investigation journalism Armando.info as a result of a complaint from Colombian businessman Alex Saab for defamation and slander. After the justice system accepted the request to initiate an investigation, journalists Roberto Deniz, Joseph Polizuk, Alfredo Meza, and Ewald Scharfenberg decided to leave Venezuela”. The Commission also referenced in its report the complaints made by Diosdado Cabello against the journal El Nacional for defamation. IACHR, Annual Report 2018, para 136.

²⁰³⁷ From 100 tax units to 1000 tax units.

²⁰³⁸ From 50 to 10 tax units.

²⁰³⁹ And a fine of 200 to 500 tax units.

²⁰⁴⁰ Criminal Code of 2005, art. 445.

²⁰⁴¹ *Ibid.* arts. 449 to 450.

²⁰⁴² *Ibid.* arts. 147, 148 and 149. The sentence goes from 6 to 30 months if it is a serious offence against the President, if it is a minor offence, it is reduced to half. However, the sentence is increased in a third part if the offence is carried out publicly. If other senior officials of the State are involved, such as the Vice-President, Magistrates of high Courts, Defenders of the people, the Attorney General, the sentence goes from 3 to 15 months in prison. If it involves the National Assembly or the TSJ or the Council of Ministers, the sentence goes from 15 to 10 months in prison.

²⁰⁴³ Criminal Code of 2005, art. 151.

²⁰⁴⁴ Concluding Observations on Croatia, CCPR/C/HRV/CO/3, para. 17, Concluding observations on Poland CCPR/C/POL/CO/7, paras. 37-38; Concluding observations on Cambodia CCPR/C/KHM/CO/2, para. 21.

²⁰⁴⁵ CCPR/C/GC/34, para 47.

962. In addition, the Mission received information about other legislative advances that could be used to criminalize civil society. Although some of these legislative advances are not yet Law of the Republic, the threat of their approval has a negative impact on the civic and democratic space. Among these initiatives is the proposed Law on Control, Regularization, Operations and Financing of Non-Governmental and Related Organizations.²⁰⁴⁶ Furthermore, the Mission has received information that the crime of “disclosure of confidential information”²⁰⁴⁷ has been used to silence people who have criticized the Government's policies, particularly against union leaders and public officials who have denounced corruption within State institutions.

3. Arbitrary and unfounded charges

963. The Mission has documented that the laws described above are used as a tool to criminalize the exercise of legal activities and freedoms protected by international law, such as freedom of expression, the claim to rights, and the right of peaceful assembly. This includes accusations of crimes related to incitement to hatred or crimes of defamation and slander, particularly against journalists, with the aim of creating an intimidating effect on freedom of expression.²⁰⁴⁸ Trade union members, politicians, and human rights defenders have also been charged with crimes based on legitimate and legal activities such as reporting human rights violations and making public calls for them to be investigated.²⁰⁴⁹

964. For example, Luis Carlos Díaz, journalist and human rights defender was criminalized for using his right of freedom of expression, because he was accused of “instigation to commit a criminal act” after posting a video online (see Case 35: Luis Carlos Díaz, *infra*).²⁰⁵⁰

965. Miguel Henrique Otero Castillo, president of the newspaper *El Nacional*, and 21 other people, executives of media outlet *El Nacional*, *La Patilla* and *Tal Cual*²⁰⁵¹ were object of a suit filed by Diosdado Cabello

²⁰⁴⁶ See Chapter IV, Section G.

²⁰⁴⁷ Criminal Code of 2005 art. 134, which states that “Anyone who, improperly and to the detriment of the Republic, has revealed political or military secrets concerning the security of Venezuela, either by communicating or publishing documents, data, drawings, plans or other information relating to the material, fortifications or military operations, or by transmission in any other way their knowledge, will be punished with seven to ten years of prison (...)”. It also establishes aggravating circumstances in certain situations, for example if the person had obtained the information revealed illegally through his or her work as a public official. According to several sources consulted by the Mission, the crime of disclosing confidential information began to be used in 2020, particularly against union members and PDVSA workers. See Case 8: Eudis Giro; Tweet by Tarek William Saab [@TarekWilliamSaab], 5 April 2023. Available at: <https://twitter.com/TarekWilliamSaab/status/1643706087474970628>

²⁰⁴⁸ See Case 11: Javier Tarazona and others; Case 15: Young activists of Popular Will; Case 17: Leonardo Azocar and Daniel Romero; Case 35: Luis Carlos Díaz Vázquez; Case 39: Miguel Henrique Otero; Case 3: Arnaldo Sumoza; Case 37: Freddy Superlano.

²⁰⁴⁹ See Case: 8 Eudis Giro; Case 18: Zikiu Rivas; Case 10: Orlando Moreno; Case 16: Six Union Leaders; Case 7: Roland Carreño; Case 33: Members of PROVEA organization; and Case 2: Wilfredo Rodríguez.

²⁰⁵⁰ A/HRC/48/CRP.5, chart 6; Document PPDC028: Record of presentation hearing; YouTube Video – Naky Luis Carlos, #EnSerio con Naky Soto: preguntas y respuestas, 26 February 2019. Available at: https://www.youtube.com/watch?app=desktop&v=EWBt-1yo_c4&t=17s.

²⁰⁵¹ According to information published by *El Nacional* on 12 May 2015, the people named in Diosdado Cabello's lawsuit are: Miguel Henrique Otero, Mariana Otero, Argenis Rafael Martínez Mota, José Simón Elarba Haddad, Oswaldo Karam Macía, Luis Carlos Serra Carmona, Juan Andrés Wallis Brandt, Omar José Delgado Lugo, Jorge Papatzikos Gianopulos, Vivianne de Lourdes Font Fernández, Ramón José Medina Simancas, Beatriz Cecilia De Majo de Algisi, Carmen Elena Macía Fortique, Leopoldo Eduardo López Mendoza, Teodoro Petkoff Malec, Juan Antonio Rafael Golia Amodio, Francisco Layrisse, Manuel Antonio Puyana Santander, Alberto Federico Ravell Arreaza, Isabel Cristina Ravell Nolck and David Alberto Morán Bohórquez. See *El Nacional*, Imponen prohibición de salida del país a 22 directivos de medios, 12 May 2015. Available at: <https://web.archive.org/web/20160811092844/http://www.el->

in April 2015, for persistent aggravated defamation,²⁰⁵² because they reproduced information previously published on international media outlets about reports that Cabello was involved in drug trafficking.²⁰⁵³ *El Nacional* was also the object of a civil action presented by Cabello for these same facts. The criminalization of the members of *El Nacional* has continued until 2023. On 25 January 2023, a prosecutor, and a commission of the Scientific, Criminal and Forensic Investigations Corps showed up to the homes of two members of *El Nacional* and took them to one of the delegations of the Scientific, Criminal and Forensic Investigations Corps in Caracas to question them on an investigation based on the Law against Hatred (see Case 39: Miguel Henrique Otero, *infra*).²⁰⁵⁴ According to the information received by the Mission, the cases against *El Nacional* and its members are an example of a series of cases in which senior officials claim to have been defamed by people who publish information that upsets them, and as a consequence, these people face expedited legal processes based on the Law against Hate and other regulations, such as articles 442 and 444 of the Criminal Code²⁰⁵⁵.

966. According to information received by the Mission, Arnaldo Sumoza, journalist and radio host, was charged on 16 April 2020 in a hearing before the Court of San Juan de los Morros for the crime of “alteration of public order”²⁰⁵⁶ after interviewing participants in a protest over water scarcity. The court imposed alternative precautionary measures of appearing before court every 60 days and performing community service. However, at the end of 2020, the case was dismissed (see Case 3: Arnaldo Sumoza, *supra*).²⁰⁵⁷

967. Ana Belén Tovar, former manager of the media outlet *Venmedios*, was detained on 19 November 2019 by agents of the Directorate General of Military Counter-intelligence. On 20 November 2019, the presentation hearing was held without Tovar being informed of what was happening, and without having access to lawyers of her choice.²⁰⁵⁸

nacional.com/politica/Imponen-prohibicion-salida-directivos-medios_0_626937459.html; IPYS Venezuela, *Alerta IPYSve*, Entregan sede de El Nacional a Diosdado Cabello, 8 February 2022. Available at: <https://ipysvenezuela.org/alerta/alerta-ipysve-entregan-sede-de-el-nacional-a-diosdado-cabello/>.

²⁰⁵² Criminal Code of 2005, art. 442. According to the lawsuit filed by Cabello, the crime is “persistent” in accordance with article 99 of the Criminal Code, as according to him the alleged attacks have been several and extended in time.

²⁰⁵³ See Cases Chapter IV. IACHR, Resolution 43/15, 9 November 2015. Available at: <https://www.oas.org/es/cidh/decisiones/pdf/2015/MC43-2015-es.pdf>; *El Nacional*, Imponen prohibición de salida del país a 22 directivos de medios, 12 May 2015. Available at: https://web.archive.org/web/20160811092844/http://www.el-nacional.com/politica/Imponen-prohibicion-salida-directivos-medios_0_626937459.html.

²⁰⁵⁴ Interview with Miguel Henrique Otero, 25 March 2023; *El Debate*, Contra El Nacional: los ataques del régimen venezolano continúan, 31 January 2023. Available at: https://www.eldebate.com/internacional/latinoamerica/20230131/contra-nacional-ataques-continuan_90142.html; IPYS Venezuela, Alerta IPYSve, Periodista José Gregorio Meza fue interrogado por trabajo publicado en El Nacional, 27 January 2023. Available at:

²⁰⁵⁵ See Case 33: Member of PROVEA organization; and case of Ana Belén Tovar in Chapter IV, Section d.3, *infra*.

²⁰⁵⁶ Interview with Arnaldo Sumoza, 28 July 2023; Facebook posting of IPYS Venezuela, 18 April 2020. Available at: [https://provea.org/publicaciones/investigaciones/informe-patrones-de-violacion-de-derechos-civiles-durante-2-meses-estado-de-alarma-en-venezuela/](https://www.facebook.com/IpysVenezuela/posts/2916645161735636/?paipv=0&eav=Afa1VkVbyQIG30yJGZTA1TmokJXmZJ9aPIRm7pkJyXlqq6lob9IHRM8KgfrLJmVQ0rg&_rd; PROVEA-Laboratorio de Paz, Patrones de violación de derechos civiles durante 2 meses de estado de alarma en Venezuela, 28 May 2020. Available at: <a href=); IPYS, Alerta IPYSve | En menos de 24 horas detuvieron a dos periodistas en Guárico y Apure, 17 April 2020. Available at: IPYS, Alerta IPYSve | En menos de 24 horas detuvieron a dos periodistas en Guárico y Apure – IPYS (ipysvenezuela.org).

²⁰⁵⁷ Interview with Arnaldo Sumoza, 28 July 2023.

²⁰⁵⁸ *Espacio Público*, Tres años sin justicia Ana Belén Tovar, ex gerente de Venmedios, 6 May 2023. Available at: <https://espaciopublico.org/tres-anos-sin-justicia-ana-belen-tovar-ex-gerente-de-venmedios/>.

She was charged with the crimes of improper disclosure of personal data or information,²⁰⁵⁹ obstruction of Justice,²⁰⁶⁰ and membership of an organized crime group²⁰⁶¹, in relation to an alleged re-publication of an international news story about the Minister of Defense, Vladimir Padrino López.²⁰⁶² According to the 22nd National Prosecutor's Office, the alleged publication contained information that instigated “hatred” and included “offensive and discriminatory messages against the senior official Padrino López and his family environment.”²⁰⁶³ Tovar's lawyers were denied access to the case file because the Prosecutor's Office requested its confidentiality on 29 November 2019, which was maintained until 16 June 2022.²⁰⁶⁴ Tovar was released from prison on 6 May 2020, and since then she has been subject to alternative precautionary measures prohibiting her from leaving the country and demanding her to appear before the Tribunal every 30 days.²⁰⁶⁵

968. The Mission investigated 11 other cases that demonstrate the use of Venezuelan legislation as a tool to criminalize legitimate activities, through arbitrary or unfounded accusations. These include Case 8: Eudis Giro (supra); Case 37: Freddy Superlano Salinas (infra); Case 33: Members of PROVEA organization (supra); Case 11: Javier Tarazona and other activists of *Fundaredes* (supra); Case 15: Young activists from Popular Will (supra); Case 17: Leonardo Azocar and Daniel Romero, SIDOR union members (supra); Case 10: Orlando Moreno (supra); Case 7: Roland Carreño (supra); Case 2: Wilfredo Rodriguez (supra); and Case 18: Zikiu Rivas (supra).

4. Due process violations

969. In all the criminalization cases investigated by the Mission, the people accused have been victims of violations of due process. The most common are wrongful delays of procedures that result in trials that extend for years, which impacts the accused in many ways, including having to live under precautionary measures for years, in spite of not being declared guilty.

970. In addition to the violations of the periods established by law, the Mission has received information about other violations of due process that affect criminalized people such as members of civil society and real or perceived opponents. These violations are generalized and have been happening for many years.²⁰⁶⁶ The Mission recognizes that some of these violations reflect greater deficiencies of the Venezuelan criminal justice system; however, the Mission has reasonable grounds to believe that these violations are intensified particularly in cases against real or perceived opponents, and there are identifiable patterns of the use of the criminal justice system to persecute and repress these people. During the period covered by this report, the Mission has received information of several violations of due process in cases against real or perceived opponents, in particular preventing access to private defense, denying access to files, declaring to archive the fiscal and judicial files instead of the dismissal of cases, and coercing the defendants to admit to crimes under threat that if they don't, they will be sentenced to long prison stays.

²⁰⁵⁹ Law against Cybercrime, art. 22 (current article 23, amended by Decree 236 published January 2022).

²⁰⁶⁰ Law on Organized Crime and Financing of Terrorism, art. 45.

²⁰⁶¹ *Ibid.* art. 37.

²⁰⁶² Document PPDC063: Summary of the case prepared by the team of Defensa de Espacio Publico; Espacio Publico, Tres años sin justicia Ana Belen Tovar, ex gerente de Venmedios, 6 May 2023. Available at: <https://espaciopublico.org/tres-anos-sin-justicia-ana-belen-tovar-ex-gerente-de-venmedios/>.

²⁰⁶³ Document PPDC063: Summary of the case prepared by the team of Defensa de Espacio Publico.

²⁰⁶⁴ *Ibid.*

²⁰⁶⁵ *Espacio Publico*, Tres años sin justicia Ana Belen Tovar, ex gerente de Venmedios, 6 May 2023. Available at: <https://espaciopublico.org/tres-anos-sin-justicia-ana-belen-tovar-ex-gerente-de-venmedios/>.

²⁰⁶⁶ A/HRC/48/CRP.5; CEPAZ, Persecución política en Venezuela (2015). Available at: <https://provea.org/actualidad/cepaz-persecucion-politica-en-venezuela-informe-2015/>; *Foro Penal*, Reporte Especial sobre el trato a los abogados defensores en el sistema de justicia venezolano, May 2022. Available at: https://foropenal.com/wp-content/uploads/2022/07/FP_REPORTE-ABOGADOS_220718.pdf.

(a) Wrongful delays of process

971. The Mission has received information about extended delays²⁰⁶⁷ that in some cases exceed the periods established in Venezuelan law²⁰⁶⁸. While the Mission recognizes that violations of the right to a speedy trial are common in the Venezuelan criminal justice system, the Mission has reasonable grounds to believe that in some cases related to real or perceived opponents, the delays in process occur without any justification, and the courts deny answering official requests about delays to the defendants and their legal representatives.

972. For example, the case of Victor Ugas, filed on 22 December 2019 before the 2nd Special Supervisory Tribunal with competence in terrorism matters of Caracas, at the time of writing this report, the Tribunal had not yet ruled on this case, and the Public Prosecutor's Office had not filed the conclusive act of the investigation, despite the fact that the period established in article 295 of the Organic Code of Criminal Procedure had expired in August 2020 (see Case 36: Andrés Ugas Azocar, *infra*)²⁰⁶⁹.

973. Furthermore, the Mission received information related to the criminal process of Ana Belén Tovar, detained arbitrarily in November 2019 (see *supra*), which has also had wrongful delays. According to her lawyers, since Tovar appeared before the 6th Supervisory Tribunal of the Criminal Judicial Circuit of Caracas in November 2019, the tribunal postponed the preliminary hearing 11 times, alleging failure of the prosecution to appear, and lack of due notification to the victim's representation²⁰⁷⁰. On 20 June 2023, on the 12th opportunity, the preliminary hearing took place, during which the Court ratified the charges and the precautionary measures against Tovar, without establishing a connection between the evidence and Tovar's responsibility, nor the legal base for promoting them²⁰⁷¹.

(b) Violations of the access to a private legal defense

974. The Mission has documented cases in which the right that the criminally processed person has to legal assistance, including the access to a private legal defense of their choice²⁰⁷², have been violated by different tribunals. For example, in the case of Ana Belén Tovar (see *supra*), she was forced to be represented by a public defender in her presentation hearing because the office of the 6th Supervisory Tribunal of the Criminal Judicial Circuit of Caracas did not allow her private defense lawyers to be sworn to represent her²⁰⁷³. In the case of Victor Ugas, since his first appearance before the 2nd Tribunal with competence in terrorism matters in December 2019 until 25 August 2022, the tribunal denied him more than 15 requests to swear a lawyer of his choice (see Case 36: Victor Andrés Ugas Azocar, *infra*)²⁰⁷⁴.

(c) Violations of access to essential information for the defense

975. In its 2021 report, the Mission informed that the Public Prosecutor's Office and judicial authorities denied access of the defendants to essential information²⁰⁷⁵. This tendency has continued since 2020; the Mission has documented several cases in which the Public Prosecutor's Office and the judicial authorities deny the defendants access to their files, an essential document to assemble their defense, violating their rights to judicial assistance and

²⁰⁶⁷ See Case 36: Víctor Andrés Ugas Azocar; Case 35: Luis Carlos Díaz Vázquez; Case 7: Roland Carreño; Case 6: Matthew John Heath and other eight people – Case “Gringo Spy”; and Case 8: Eudis Girot.

²⁰⁶⁸ According to Article 295 of the Organic Code of Criminal Procedure, The Public Prosecutor's Office will complete the preparatory phase with the diligence that the case requires within a period of six months starting from the identification of the accused or from the act of accusation. Once this period has expired, the accused or the victim may request the Supervisory Judge to set a reasonable period of thirty days to conclude the investigation. In certain types of crimes, including those related to organized crime, the reasonable period referred to in the first section of this article, may be up to six months.

²⁰⁶⁹ Document PPDC079: Request filed before the Tribunal by the victim's lawyer.

²⁰⁷⁰ Document PPDC063: Summary of the case prepared by the team of Defensa de Espacio Público.

²⁰⁷¹ *Ibid.*

²⁰⁷² Covenant on Civil and Political Rights, art. 14 (3) (d).

²⁰⁷³ *Espacio Público*, Ana Belén Tovar cumple una semana incomunicada, 26 November 2019.

Available at: <https://espaciopublico.org/ana-belen-tovar-cumple-una-semana-incomunicada/>.

²⁰⁷⁴ Interview with Victor Ugas, 29 July 2023; Interview with Victor Ugas' lawyer, 1 August 2023;

Document PPDC078: acta de juramentación de Victor Ugas.

²⁰⁷⁵ A/HRC/48/CRP.5, para. 306.

of having enough time and resources to prepare a defense²⁰⁷⁶. In the case of Ana Belén Tovar (see *supra*), her lawyers explained to the Mission, that although article 286 of the Organic Code of Criminal Procedure determines that the file may remain reserved for a maximum period of 30 days²⁰⁷⁷, the court decided to reserve it for an indefinite period, despite the constant claims of arbitrariness from her lawyers²⁰⁷⁸. There were two more cases investigated by the Mission in which the defendants – Víctor Ugas and Aidaliz Guarisma – never had access to their files, despite having open processes against them for years and months, respectively²⁰⁷⁹.

(d) Wrongful use of judicial and fiscal archiving

976. The Mission also documented that there is a practice of archiving cases, by means of fiscal archiving²⁰⁸⁰ or judicial archiving²⁰⁸¹, during the phase of the procedure in which the case would be definitively closed or annulled. According to a source interviewed by the Mission, this practice of ordering “to archive cases” instead of their “dismissal” leaves defendants in a precarious situation in which they are vulnerable to further criminalization, as their cases may be reopened at any time²⁰⁸². In the case of Víctor Ugas, his lawyer stated that after almost four years without the conclusive act of the investigation against him having been presented, she received information that the Prosecutor's Office had requested to archive the file of the case (see Case 36: Víctor Andrés Ugas Azocar, *infra*)²⁰⁸³. In the case of Luis Carlos Díaz, almost three years after the case against him was opened, a judicial archive was declared²⁰⁸⁴, instead of a dismissal, despite the fact that not enough evidence had been presented to convict him (see Case 35: Luis Carlos Díaz Vázquez, *infra*)²⁰⁸⁵.

(e) Wrongful use of “informal negotiations”

977. The Mission also investigated cases in which “informal negotiations” were proposed through which some judges intimidated the defendants into admitting a lesser charge - even when they claimed their innocence - in order to avoid a long prison sentence. The pressure on the defendants is increased by the arbitrary nature of the trial and by all the failures of the Venezuelan judicial system previously identified by the Mission²⁰⁸⁶.

978. These “negotiations” are used to pressure these people to accept crimes they have not committed, which lead to very serious charges, usually related to terrorism²⁰⁸⁷, which are often not even included in the accusation due

²⁰⁷⁶ Covenant on Civil and Political Rights, art. 14 (3) (b) and (d). See Case 36: Víctor Andrés Ugas Azocar; Case 35: Luis Carlos Díaz Vázquez; and Case 13: Aidaliz Guarisma Mérida.

²⁰⁷⁷ According to this article, The Public Prosecutor's Office may establish, through a reasoned document, the complete or partial confidentiality of the proceedings for a period no longer than fifteen consecutive days, provided that publicity hinders the investigation. In exceptional cases, the deadline may be extended for up to an equal period, but in this case, any of the parties, including the victim, even if the victim has not filed a complaint, or their representatives with special power, may request the Supervisory Judge to examine the basis of the measure and put an end to the confidentiality.

²⁰⁷⁸ Document PPDC063: Summary of the case prepared by the team of *Defensa de Espacio Público*.

²⁰⁷⁹ See *supra* Chapter IV (Cases).

²⁰⁸⁰ Organic Code of Criminal Procedure, art. 297. According to which, when the result of an investigation is insufficient to make an accusation, the Public Prosecutor's Office may order to archive the proceedings, without prejudice of reopening it once new elements for a conviction appear. See Chapter IV (Cases).

²⁰⁸¹ Organic Code of Criminal Procedure, art. 364. According to which if the Public Prosecutor's Office omitted the presentation of the correspondent conclusion within the period established, the judge of the municipal instance will order the Judicial Archive of the proceedings.

²⁰⁸² See Case 36: Víctor Andrés Ugas Azocar; and Case 35: Luis Carlos Díaz Vázquez.

²⁰⁸³ See Case 36: Víctor Andrés Ugas Azocar; and Case 13: Aidaliz Guarisma Mérida.

²⁰⁸⁴ Organic Code of Criminal Procedure, art. 364. According to which, once the 60 days since the breach of the Compensation Agreement have expired within the established time limit, or of the imposed conditions for the Conditional Suspension of the Process, and no conclusion has been issued, the Municipal Judge will order to archive the judicial proceedings.

²⁰⁸⁵ Interview with Espacio Público's lawyer, 23 June 2023; *Voz de América*, Archivan caso contra periodista venezolano Luis Carlos Díaz: “vamos a seguir escribiendo”, 2 February 2022. Available at: <https://www.vozdeamerica.com/a/archivan-caso-contra-periodista-venezolano-luis-carlos-diaz/6423877.html>.

²⁰⁸⁶ A/HRC/48/CRP.5.

²⁰⁸⁷ See case 16: Six Union Leaders. Interview PPIV082.

to the absence of factual and/or legal bases²⁰⁸⁸. Furthermore, according to information received by the Mission, in some cases prosecutors, including the Attorney General, made public statements accusing these individuals of committing these serious crimes to pressure them to accept their guilt as part of these negotiations²⁰⁸⁹.

(f) Disproportionate precautionary measures

979. The Mission interviewed victims of criminalization and their legal representatives who explained that, given the violations of due process described above, particularly the postponement of hearings and procedural delays, alternative precautionary measures become an “anticipated sentence”²⁰⁹⁰. The most common alternative precautionary measures imposed on criminalized persons include travel restrictions²⁰⁹¹, a ban on speaking to the media about their case²⁰⁹², or the obligation to appear regularly at tribunals²⁰⁹³, all of which are imposed due to the alleged risk of recidivism, or flight from the country, or the defendant interfering with the criminal process. However, as previously explained, in many cases the hearings are repeatedly postponed and the trials remain open without progress and without response from the tribunals to requests for information or dismissal, making the defendants live with alternative precautionary measures for disproportionate amounts of time. This can have important consequences in the lives of the defendants. For example, the obligation to appear regularly at the tribunals, prolonged for years, entails an accumulation of expenses for attorney fees and transportation to travel to hearings, which are often postponed once the defendant has appeared at court.

980. For example, in the case of Luis Carlos Díaz, he was released on parole with alternative precautionary measures of appearing before the tribunals every eight days, a prohibition of leaving the country without prior authorization from the tribunals, and the prohibition of disclosing information related to his judicial case to the media and on social networks²⁰⁹⁴. Díaz told the Mission of the negative impacts that these prolonged precautionary measures have had on his life and indicated that the judicial process is a punishment itself (see Case 35: Luis Carlos Díaz Vázquez, *infra*).

5. Illustrative cases

Case 35: Luis Carlos Díaz Vázquez

Background

981. Luis Carlos Díaz Vázquez is a journalist, human rights defender and host in *Circuito Union Radio*, and president of the Internet Society (ISOC) Venezuela.

²⁰⁸⁸ Document OODC007: Commission of accounts about liberty of peaceful assembly.

²⁰⁸⁹ A source indicated that, as an example, in the case of the six union members, the Attorney General publicly affirmed that they had been sentenced for attempting to assault a military base in Mérida, while the actual ruling dismissed those charges; Interview OODC007.

²⁰⁹⁰ Interview with Carlos Correa, 17 February 2023; Interview with Luis Carlos Díaz, 1 March 2023; Interview PPIV045; Interview PPIV067; Interview with Edgar Cárdenas, 22 November 2022; Document PPDC063: Summary of the case prepared by the team of *Defensa de Espacio Público*.

²⁰⁹¹ Organic Code of Criminal Procedure, art. 242(4) of. See Case 35: Luis Carlos Díaz Vázquez; Case 36: Víctor Andrés Ugas Azocar; and Case 39: Miguel Henrique Otero.

²⁰⁹² Organic Code of Criminal Procedure, art. 242(9), which refers to any other preventive or precautionary measure that the tribunal, through reasoned decree, deems applicable or necessary. According to information analysed by the Mission, the prohibition of disclosing information related to a judicial case on media and social networks is based on this regulation of the Organic Code of Criminal Procedure. See Case 35: Luis Carlos Díaz Vázquez; and Case 36: Víctor Andrés Ugas Azocar; Document PPDC028: record of presentation hearing.

²⁰⁹³ Organic Code of Criminal Procedure, art. 242(3). See Case 35: Luis Carlos Díaz Vázquez; and Case 36: Víctor Andrés Ugas Azocar; Case 3: Arnaldo Sumoza.

²⁰⁹⁴ A/HRC/48/CRP.5, Chart 6; Document PPDC027: account of the victim to United Nations; Document PPDC028: record of presentation hearing.

982. As documented by the Mission in its 2021 report²⁰⁹⁵, on 11 March 2019, Díaz was detained by the Bolivarian National Intelligence Service accused of “instigation to commit a criminal act”²⁰⁹⁶ after publishing a video online explaining how to document the social situation and possible human rights violations²⁰⁹⁷. Díaz’ arrest and criminalization in 2019 was based on the allegation that he was linked to the failures of the electrical system in Venezuela as part of a plan to overthrow the Government²⁰⁹⁸. As the Mission documented, Díaz was transferred to a “safe house,” where he was victim of death threats, torture, and mistreatment by people who identified themselves as Directorate General of Military Counter-intelligence agents. His savings were stolen during a raid to his home by Bolivarian National Intelligence Service²⁰⁹⁹.

983. Díaz was released on parole on 12 March 2019, and he was ordered to appear at court every eight days, he was prohibited of leaving the country without prior authorization from the Tribunal, and of disclosing information related to his judicial case in media and social networks²¹⁰⁰.

984. Based on Díaz’ detention and the allegations of torture and harassment by State agents, on 29 March 2019, the Inter-American Commission on Human Rights granted precautionary measures in favour of Díaz and his immediate family²¹⁰¹. These measures remain in force.

Violations of due process

985. The criminal process against Díaz remained open until 10 January 2022, when the tribunal declared its judicial archive and suspended the precautionary measures²¹⁰². As Díaz’s lawyers explained to the Mission, by declaring to archive²¹⁰³ it, instead of dismissing the case, the Tribunal maintains the possibility of reopening the investigation if the supervisory judge determines that there are new elements that could justify it²¹⁰⁴. The Organic Code of Criminal Procedure does not establish a limit in terms of how long a case can remain archived²¹⁰⁵.

986. Without being sentenced, Díaz lived almost three years with precautionary measures, that had a negative impact on several aspects of his life. Díaz told the Mission “*With my case you can demonstrate that the judicial process is a punishment itself*”²¹⁰⁶. For example, the precautionary measure that stated that he required prior authorization from the Tribunal for him to leave the country resulted in a complete prohibition on leaving the country. Between March 2019 and February 2022, Díaz submitted eight travel requests for academic, professional, or family related reasons, and the Tribunal denied them all, regardless of the justification for the trip²¹⁰⁷. Díaz explained to the Mission that this travel ban caused him to lose professional opportunities, economic income, and the possibility of responding to family

²⁰⁹⁵ A/HRC/48/CRP.5, chart 6

²⁰⁹⁶ Contemplated by article 285 of the Venezuelan Criminal Code: “Whoever instigates the disobedience of the laws or hatred among the inhabitants, or advocates acts that the law foresees as crimes in a way that endangers public peace, will be punished with three to six years in prison.”

²⁰⁹⁷ A/HRC/48/CRP.5, chart 6. See also Document PPDC028: record of presentation hearing; YouTube Video – NakyLuisCarlos, #EnSerio con Naky Soto: preguntas y respuestas, 26 February 2019. Available at: https://www.youtube.com/watch?app=desktop&v=EWBt-+1yo_c4&t=17s.

²⁰⁹⁸ A/HRC/48/CRP.5, chart 6.

²⁰⁹⁹ *Ibid.*

²¹⁰⁰ A/HRC/48/CRP.5, Chart 6, Document PPDC027: account of the victim to United Nations; Document PPDC028: record of presentation hearing.

²¹⁰¹ IACHR, Resolution 17/2019, 29 March 2019.

²¹⁰² Document PPDC072: Decree to archive; Interview with Luis Carlos Díaz, 1 March 2023; Interview with Luis Carlos Díaz’ lawyer, 21 June 2023.

²¹⁰³ Organic Law to Reform the Organic Code of Procedure, Official Gazette No. 6.644 of 17 September 2021, art.364.

²¹⁰⁴ Interview with Luis Carlos Díaz’ lawyer, 21 June 2023; *Voz de América*, Archivan caso contra periodista venezolano Luis Carlos Díaz: “Vamos a seguir escribiendo”, 2 February 2022. Available at: <https://www.vozdeamerica.com/a/archivan-caso-contra-periodista-venezolano-luis-carlos-diaz/6423877.html>.

²¹⁰⁵ However, the Organic Code of Criminal Procedure does not establish either that judicial archiving does not prescribe, therefore cases under judicial archive could not be reopened once the crime prescribes.

²¹⁰⁶ Interview with Luis Carlos Díaz, 1 March 2023.

²¹⁰⁷ *Ibid.*; Document PPDC073: request for dismissal.

medical emergencies²¹⁰⁸. In Díaz's words: “*I lost contacts, I lost money, I lost confidence. I made my living through traveling. I couldn't live with my salary in Venezuela. I made a living out of being a consultant and advisor outside the country*”²¹⁰⁹.

987. Díaz explained to the Mission that the prohibition of disclosing information about his case was also particularly threatening, because during his presentation hearing, the judge alerted Díaz that, if anyone close to him spoke publicly about his case, including his wife, his lawyer, or even journalists known to be his friends, Díaz ran the risk of being detained again for having violated the precautionary measure. Consequently, many people close to Díaz did not dare to report the irregularities and violations associated with his case due to threats of a new detention²¹¹⁰.

Lack of follow-up of reports of human rights violations

988. Díaz reported the abuses to which he had been subjected to by the Public Prosecutor's Office. On 12 March 2019, while in detention, Díaz informed a representative of the Fundamental Rights Prosecutor's Office about the torture and ill-treatment he was suffering, but the representative refused to include that information in the report²¹¹¹. During his presentation hearing on 12 March 2019, he also reported having been tortured²¹¹².

989. The first time that Díaz received any follow-up from the Public Prosecutor's Office about his case was more than three years later, on 27 May 2022, when his team of defense lawyers received a call from the 83rd Public Prosecutor's Office of the Caracas metropolitan area with competence in fundamental rights, requiring Díaz to appear at the Public Prosecutor's Office on Monday, 30 May 2022 at 13:00²¹¹³.

990. When Díaz showed up at the Public Prosecutor's Office on the indicated date and time, he was informed that his lawyers could not be at the meeting with the Public Prosecutor. It was only after insisting, that his lawyers were allowed to accompany him²¹¹⁴. The Prosecutor asked Díaz if he had been mistreated while detained, and he explained the many human rights violations he endured²¹¹⁵. The Public Prosecutor discarded the complaints of torture and told him at different moments: “*There is no evidence that you were tortured*”²¹¹⁶. The Prosecutor acted in a hostile and intimidatory ways towards Díaz²¹¹⁷, denying providing her name or identification, and asking in a sarcastic and aggressive manner: “*What? Are you nervous? Are you scared?*” and Díaz and his lawyers felt that the Public Prosecutor would not genuinely investigate the case²¹¹⁸. After this meeting on 30 May 2022, Díaz was no longer contacted by the Public Prosecutor's Office²¹¹⁹.

²¹⁰⁸ Interview with Luis Carlos Díaz, 1 March 2023; A/HRC/48/CRP.5, para 236; *Voz de América*, archivan caso contra periodista venezolano Luis Carlos Díaz: “Vamos a seguir escribiendo”, 2 February 2022. Available at: <https://www.vozdeamerica.com/a/archivan-caso-contra-periodista-venezolano-luis-carlos-diaz/6423877.html>.

²¹⁰⁹ Interview with Luis Carlos Díaz, 1 March 2023.

²¹¹⁰ *Ibid.* *Voz de América*, archivan caso contra periodista venezolano Luis Carlos Díaz: “Vamos a seguir escribiendo”, 2 February 2022. Available at: <https://www.vozdeamerica.com/a/archivan-caso-contra-periodista-venezolano-luis-carlos-diaz/6423877.html>.

²¹¹¹ Interview with Luis Carlos Díaz, 1 March 2023. Document PPDC025: account of Luis Carlos Díaz; Interview with Luis Carlos Díaz' lawyer, 21 June 2023.

²¹¹² PPDC028: record of presentation hearing; A/HRC/48/CRP.5, chart 6.

²¹¹³ Interview with Luis Carlos Díaz, 1 March 2023; Document PPDC025: relato de Luis Carlos Díaz; Interview with Luis Carlos Díaz' lawyer, 21 June 2023.

²¹¹⁴ Document PPDC025: account of Luis Carlos Díaz; Interview with Luis Carlos Díaz' lawyer, 21 June 2023.

²¹¹⁵ *Ibid.*

²¹¹⁶ Interview with Luis Carlos Díaz, 1 March 2023; Interview with Luis Carlos Díaz, 20 June 2023; Document PPDC025: account of Luis Carlos Díaz; Interview with Luis Carlos Díaz' lawyer, 21 June 2023; Interview with Luis Carlos Díaz' lawyer, 23 June 2023.

²¹¹⁷ Interview with Luis Carlos Díaz, 20 June 2023; Interview with Luis Carlos Díaz' lawyer, 21 June 2023.

²¹¹⁸ *Ibid.*, Interview with Luis Carlos Díaz' lawyer, 23 June 2023.

²¹¹⁹ Interview with Luis Carlos Díaz, 20 June 2023.

Defamation Acts

991. On 19 January 2022, on his show *Con El Mazo Dando*, Diosdado Cabello pointed out several members of political parties of the opposition and people that had criticized President Maduro's Government with banners with their pictures and the words "wanted" and "thief". Among these banners there was one with Díaz' name and picture, and another one with the picture and name of his wife²¹²⁰.

992. On the show *Con El Mazo Dando* of 12 April 2023, a compilation of videos with alleged attacks against Venezuela was released, this included a portion of a video of Luis Carlos Díaz which was used to criminalize him in 2019. This compilation contained a recording of Díaz calling him a "fascist influencer" and linking him to a "sabotage against the electrical system"²¹²¹.

Conclusions

993. Based on the facts described, the Mission has reasonable grounds to believe that the criminal process against Díaz is a criminalization²¹²² for practicing his right of freedom of expression. The Mission also points out that Díaz has been object to stigmatization on the part of Diosdado Cabello at least in two occasions (19 January 2022 and 12 April 2023) on his show *Con El Mazo Dando*, which has a great reach and impact, in which Díaz was accused of being a thief, and accusations of his participation in an alleged crime, of which the criminal procedure was archived by a tribunal, was reiterated.

Case 36: Víctor Andrés Ugas Azocar

Background

994. Víctor Andrés Ugas Azocar is a journalist and member of the political party Popular Will. He was arbitrarily detained on two occasions, just as documented by the Mission in its 2020 report²¹²³. On his first detention, he was accused of improper disclosure of personal information and of cyber espionage²¹²⁴, because he had posted photos on Twitter of the body of a murdered deputy of the Unified Socialist Party of Venezuela²¹²⁵. On 20 December 2019, he was arbitrarily detained for a second time while he was with a member of the National Assembly and of the political party Popular Will, Gilber Caro²¹²⁶. On 22 December 2019, his presentation hearing was conducted at the 2nd Special Supervisory Tribunal with competence in terrorism matters of Caracas ("2nd Tribunal of Terrorism")²¹²⁷, and he was charged with "contempt"²¹²⁸.

Violations of due process

995. On 14 January 2020, the 2nd Tribunal of Terrorism stipulated Ugas' conditional release²¹²⁹ which was effective on 17 January 2020²¹³⁰. Although the prison release form²¹³¹ only contained as precautionary measures to appear at the same tribunal every 15 days and to present two guarantors, Ugas claimed that on 19 January 2020, when

²¹²⁰ YouTube Video – Transmisión en vivo, *Con El Mazo Dando* – Programa 371, 19 January 2022. Available at: <https://www.youtube.com/watch?v=zH-U72bBotk> [min 1:16:47].

²¹²¹ YouTube Video – Transmisión en vivo, *Con El Mazo Dando* – Programa 426, 12 April 2023. Available at: <https://www.youtube.com/watch?v=oXitf5H3dN4> [min 3:09:50 – 3:10:19].

²¹²² See *supra*, chapter IV, Section D.1. The Mission understands as criminalization the misuse of the criminal system to punish an activity or exercise of a protected freedom by international law.

²¹²³ A/HRC/45/CRP.11, paras. 356, 439, 441 and 694.

²¹²⁴ Special Law against Cybercrime, *Official Gazette* No. 37.313, 30 October 2001, arts. 11 and 22.

²¹²⁵ A/HRC/48/CRP.5, para. 694.

²¹²⁶ A/HRC/48/CRP.5, para. 356, 439 and 441.

²¹²⁷ Interview with Víctor Ugas, 29 July 2023; IACHR, resolution 2/2020, 10 January 2020. Available at: <https://www.oas.org/es/cidh/decisiones/pdf/2020/2-20MC426-19-VE-Ampliacion.pdf>.

²¹²⁸ Provided by article 218 of the COPP: Anyone who uses violence or threat to oppose a public worker fulfilling his official duties, or individuals called to aid them, will be sentenced with one month to two years in prison.

²¹²⁹ Document PPDC064: Prison release form.

²¹³⁰ Interview with Víctor Ugas, 29 July 2023; *El Pitazo*, Víctor Ugas es liberado con prohibición de declarar sobre su caso, 17 January 2020. Available at: <https://elpitazo.net/politica/victor-ugas-es-liberado-con-prohibicion-de-declarar-sobre-su-caso/>.

²¹³¹ The prison release form is the only part of the file that Ugas and his lawyer have had access to.

he went to the tribunal for the first time after his conditional release, Hilda Villanueva, head judge of the 2nd Tribunal of Terrorism at the time, informed him that he was banned from leaving the country and of disclosing information about his case to the public²¹³².

996. Ugas told the Mission that in 2020, he appeared before the 67th National Public Prosecutor's Office with competence in corruption matters to recover his work equipment that had been seized when he was detained in 2019. Ugas affirms that the Prosecutor's Office never gave him an answer and he is still waiting for his property²¹³³.

997. Ugas has continued to post about social issues on social media. According to Ugas, when he appears at the 2nd Tribunal of Terrorism every 15 days in compliance with his precautionary measures, the clerks who receive his signature make comments warning him not to talk about human rights: "I follow you on social media and I have seen that you talk about rights. Why do you say that? You know you must handle yourself because you have an open case"²¹³⁴.

998. Ugas' process has been subject to several irregularities. Since his first appearance before the 2nd Tribunal of Terrorism on 22 December 2019 until 25 August 2022²¹³⁵, the tribunal denied him more than 15 requests to swear in an attorney of his choice²¹³⁶. Furthermore, they never gave him a copy of his case file, despite repeated requests to the 67th National Prosecutor's Office requesting access to it, he only has a copy of the prison release form²¹³⁷.

999. On 28 September 2022, Ugas' lawyer filed a request before the 2nd Tribunal of Terrorism, so that the Public Prosecutor's Office presented the conclusive act of the case's investigation, given that the deadline established in article 295 of the Organic Code of Criminal Procedure for these cases²¹³⁸ had expired in August 2020²¹³⁹. After receiving no response from the tribunal or the Public Prosecutor's Office, on 14 December 2022, the lawyer filed a second request²¹⁴⁰. Given the new lack of response, Ugas' lawyer filed a third request on 6 February 2023²¹⁴¹. At the time of writing this report, the 2nd Tribunal of Terrorism had not ruled on Ugas' case, and the Public Prosecutor's Office had not presented the conclusive act of the investigation.

1000. Ugas' lawyer states that since September 2022 she has gone to the Tribunal's Office approximately two to three times per week to follow-up on her requests, without receiving a formal answer²¹⁴². On 22 June 2023, when the lawyer went to the Tribunal's Office to request information on the case, she was verbally informed that the Public Prosecutor's Office had sent an official communication to the Tribunal ordering to archive the case²¹⁴³. According to

²¹³² Interview with Victor Ugas, 5 June 2023; Interview with Victor Ugas, 29 July 2023.

²¹³³ Interview with Víctor Ugas 5 June 2023.

²¹³⁴ *Ibid.*

²¹³⁵ Document PPDC078: Sworn Statement.

²¹³⁶ Interview with Victor Ugas, 29 July 2023; Interview with Ugas' lawyer, 1 August 2023.

²¹³⁷ Interview with Víctor Ugas 5 June 2023; Interview with Victor Ugas, 29 July 2023; Interview with Ugas' lawyer, 1 August 2023.

²¹³⁸ Article 295 of the 2021 reform states that the Public Prosecutor's Office will ensure concluding the preparation phase with the appropriate diligence for the case, and after 8 months of the identification of the defendant, they or the victim may the enforcement judge an appropriate period within 30 and 45 days to conclude the investigation. The Organic Law to Reform the Organic Code of Criminal Procedure of 17 September 2021 reduced from eight to six months the period for the Public Prosecutor's Office to deliver the conclusive act of the investigation. Available at: <https://www.asambleanacional.gob.ve/storage/documentos/leyes/ley-organica-de-reforma-del-codigo-organico-procesal-penal-20211004180004.pdf>.

²¹³⁹ Document PPDC079: Request of 295 September 2022.

²¹⁴⁰ Document PPDC080: Request of 295 b December 2022.

²¹⁴¹ Document PPDC081: Request of 295 c February 2023.

²¹⁴² Interview with Ugas' lawyer, 1 August 2023.

²¹⁴³ The archive of a case is provided by article 297 of the Organic Law to Reform the Organic Code of Procedure of 2021. The article states "when the outcome of an investigation is insufficient enough for a judgement, the Public Prosecutor's Office will order to archive the proceedings, without prejudice of being reopened when new evidence for conviction appears (...) Any precautionary measure against the accused will cease. The victim may request to reopen the case at any time, indicating the appropriate procedural steps". Interview to Ugas' lawyer, 1 August 2023; Document PPDC064: prison form.

the Tribunal clerk, the notification from the Public Prosecutor's Office included additional charges related to terrorism of which Ugas was not accused, because according to his prison release form, he was only accused of contempt²¹⁴⁴.

1001. In response to this information, that same day, Ugas' lawyer filed a brief before the 2nd Tribunal of Terrorism, emphasizing that Ugas was accused solely of "contempt", requesting to archive the case only with this accusation. In the brief, the lawyer opposed the modification of her defendant's preliminary charges by the Public Prosecutor's Office²¹⁴⁵. After not receiving an answer to her brief from the tribunal or the Public Prosecutor's Office, Ugas' lawyer filed a second brief on 20 July 2023, requesting once again a copy of the official communication that declares the case archived²¹⁴⁶.

1002. At the time of writing this report, the Tribunal had not provided an answer, the case was still open, and Ugas remained under the restrictive precautionary measures ordered by the Tribunal. Ugas has filed several complaints before the Victim Protection Unit of the Public Prosecutor's Office and before the National Human Rights Institution, but according to his testimony, he has never received an answer from these institutions, nor were his complaints followed-up²¹⁴⁷.

Conclusions

1003. Based on the facts described, the Mission has reasonable grounds to believe that Víctor Andrés Ugas has been the object of several violations of due process since 2019 until the present, the Mission refers in particular to the impossibility of naming a lawyer of his own for several years, the lack of access to the file, the imposition of precautionary measures that are not stated on the prison release form, and the lack of answer to several briefs filed by his lawyer, including the request for the official communication that supposedly ordered to archive the case.

E. Political disqualification

1. Applicable legal framework

1004. The Constitution of 1999 establishes in its article 42 that the exercise of citizenship or of some political rights can only be suspended through a final sentence and in the cases provided for by the law²¹⁴⁸. In this regard, article 65 of the Constitution clearly states that the ineligibility of exercising the right to stand as a candidate in elections originates from the fact that a person was sentenced for crimes committed during the exercise of their functions and others that affect public assets²¹⁴⁹.

1005. In the criminal sphere, political disqualification is regulated by article 24 of the Criminal Code, which determines that it cannot be imposed as a principal penalty, but as an accessory to the prison penalty²¹⁵⁰. The disqualification entails the ineligibility for public office, and the inability, during the sentence, to obtain others and to exercise the right of voting or of standing as a candidate for public office²¹⁵¹.

1006. In the administrative sphere, disqualification is a sanction established in the legislation of Fiscal Oversight since 1975, and it was initially conceived as an accessory measure of the removal sanction²¹⁵². However, since 2001, after the approval of the Organic Law of the Comptroller General of the Republic and the National Fiscal

²¹⁴⁴ Interview with Ugas' lawyer, 1 August 2023; Document PPDC064: prison form.

²¹⁴⁵ Document PPDC082: archive request of June 2023.

²¹⁴⁶ Document PPDC083: archive request of July 2023.

²¹⁴⁷ Interview with Víctor Ugas, 5 June 2023; Interview with Víctor Ugas, 29 July 2023.

²¹⁴⁸ Constitution of the Bolivarian Republic of Venezuela of 1999, art. 42.

²¹⁴⁹ *Ibid.* art. 65. This article indicates that "those who have been convicted for crimes committed during the exercise of their functions and others that affect public assets, within the period established by law, from the moment of compliance of the sentence and according to the seriousness of the crime".

²¹⁵⁰ Criminal Code of Venezuela, arts. 16,24.

²¹⁵¹ Criminal Code of Venezuela, art. 24.

²¹⁵² *Acceso a la justicia*, Nuevas inhabilitaciones allanan el camino a Maduro para próximas elecciones", 5 March 2021. Available at: <https://accesoaljusticia.org/nuevas-inhabilitaciones-allanan-camino-maduro-proximas-megaelecciones/>.

Oversight System²¹⁵³, disqualifications ceased to be accessory sanctions imposed to public officials that committed administrative irregularities that were removed, and it became an additional sanction to the fine for administrative responsibility²¹⁵⁴.

1007. The Organic Law of the Comptroller General of the Republic and the National Fiscal Oversight System determines the sanctions that entail the administrative responsibility of public officials²¹⁵⁵. One of the grounds that generates such responsibility is “repeatedly committing mistakes or omissions while handling matters that must be submitted to the fiscal oversight entities”²¹⁵⁶. In terms of proceedings, article 105 confers on the Comptroller General of the Republic the faculty “in an exclusive and excluding manner, without any other proceedings” to impose the disqualification from holding public office for a maximum of fifteen years²¹⁵⁷.

1008. In 2022, the reform of the Law against corruption expanded the cases in which the Comptroller General may declare the disqualification of public officials. Among the new situations accepted is the omission to present a sworn statement of assets or other documents required by the Comptroller General²¹⁵⁸.

1009. According to the process established by law, the Comptroller General must send the pertinent information to the office in charge of administrating human resource of the entity or organization in which the events occurred for it to conduct the appropriate procedure²¹⁵⁹. Additionally, the Law determines that, before naming any public official, the responsible entities are required to consult the list of ineligibility of the Comptroller General²¹⁶⁰.

1010. Article 113 of the Regulation on the Organic Law of the Comptroller General of the Republic and the National Fiscal Oversight System²¹⁶¹ orders to notify the decisions of the Comptroller General regarding political disqualifications to those interested and the pertinent organizations. According to this regulation, the Comptroller General is compelled to publish their decisions regarding disqualifications in the *Official Gazette*²¹⁶².

1011. The CNE is in charge of administrating candidate registrations through an online Automated System for Candidacy²¹⁶³. The CNE posts the regulation for candidacy including the reasons of ineligibility of the people subject to civil interdiction²¹⁶⁴.

2. The ruling of the Inter-American Court of Human Rights in the case of *Leopoldo López Mendoza v. Venezuela*

1012. In February 2008, the then Comptroller of the Republic, Clodosbaldo Russián, gave the CNE the so called “Russián List” through which he disqualified approximately 400 public officials for candidacy to a position of

²¹⁵³ The Organic Law of the Comptroller General of the Republic and the National Fiscal Oversight System, was initially sanctioned in 2001, reformed in 2010, published in Official Gazette of the Bolivarian Republic of Venezuela no. 6.013 Extraordinary, 23 December 2010.

²¹⁵⁴ *La Gran Aldea*, Todo lo que necesita saber sobre las inhabilitaciones de candidatos, 22 March 2023. Available at: <https://lagranaldea.com/2023/03/22/todo-lo-que-necesita-saber-sobre-las-inhabilitaciones-de-candidatos/>.

²¹⁵⁵ The Organic Law of the Comptroller General of the Republic and the National Fiscal Oversight System, arts. 93-94.

²¹⁵⁶ *Ibid.*, art. 94(1).

²¹⁵⁷ The Organic Law of the Comptroller General of the Republic and the National Fiscal Oversight System, Official Gazette no. 6013 of 23 December 2010, art. 105.

²¹⁵⁸ Reform Law with the Rank, Value and Force of Law Against Corruption, Official Gazette num. 6.699 Extraordinary of 2 May 2022, arts. 38, 42, 43 and 46.

²¹⁵⁹ *Ibid.*

²¹⁶⁰ *Ibid.*

²¹⁶¹ Regulation on the Organic Law of the Comptroller General of the Republic and the National Fiscal Oversight System, Official Gazette num. 39240, 12 August 2009.

²¹⁶² *Ibid.*

²¹⁶³ CNE, Noticias: Sistema Automatizado de Postulaciones fue presentado a organizaciones con fines políticos, 3 August 2021. Available at: http://www.cne.gov.ve/web/sala_prensa/noticia_detallada.php?id=3971.

²¹⁶⁴ CNE, Manual para el proceso de Postulaciones de Candidatas y Candidatos a cargos de elección popular, Elecciones a la Asamblea Nacional 2020, page 14. Available at: http://www.cne.gov.ve/web/normativa_electoral/elecciones/2020/asamblea_nacional/documentos/postulaciones/manual_para_el_proceso_de_postulaciones_de_candidatas_y_candidatos_a_cargos_de_eleccion_popular.pdf.

popular election due to administrative irregularities²¹⁶⁵. In this list, 80% of the people disqualified were part of the opposition²¹⁶⁶.

1013. Among those disqualified was Leopoldo López, who was the then Mayor of the Municipality of Chacao, and who aspired to run as candidate for Mayor of the State of Caracas in the regional and local elections of 23 November 2008²¹⁶⁷. As with López, none of those disqualified by this list, who had intentions of participating in those elections, were able to register their candidacy²¹⁶⁸.

1014. Leopoldo López went to the Inter-American human rights system to denounce the violation of his human rights protected by the American Convention on Human Rights. Three years later, the Inter-American Court of Human Rights, through a sentence, held the Venezuelan State responsible for the “violation of López’s right to be elected” (art. 23 of the American Convention) and other rights protected by the Convention, including judicial protection (art. 25), defense (art. 8) and non-discrimination (art. 1.1)²¹⁶⁹.

1015. The Inter-American Court based its ruling on the fact that the disqualification was imposed on López without meeting the requirements for the restriction of political rights of the American Convention, since it should be a “conviction, by a competent judge, in criminal process”²¹⁷⁰. In its ruling, the Court also concluded that Article 105 of the Organic Law of the Comptroller General of the Republic, in addition to allowing the imposition of restrictions on political rights by an administrative authority, did not meet the predictability requirements necessary for a sanctioning process²¹⁷¹. For this reason, the Inter-American Court ruled that the Venezuelan State must “within a reasonable period, adapt Article 105 of the Organic Law of the Comptroller General of the Republic”²¹⁷².

1016. The Case of Leopoldo López Mendoza is particularly relevant to the cases of disqualifications from holding public office analyzed by the Mission for this section, in the sense that these continued to be imposed by administrative decision, despite the judgement of the Inter-American Court of Human Rights, and without a judicial decision. Furthermore, the disqualifications were issued by the Comptroller's Office through the same procedure that was questioned by the Inter-American Court

1017. On 17 October 2011, the Constitutional Chamber of the Supreme Tribunal of Justice determined that the sentence of the Inter-American Court of Human Rights was “unenforceable”. The Tribunal criticized the Court for

²¹⁶⁵ CNE, Contralor General ratificó al CNE lista de inhabilitados para ejercer funciones públicas, 25 February 2008. Available at:

http://www.cne.gob.ve/web/sala_prensa/noticia_detallada.php?id=712.

²¹⁶⁶ *Tal Cual*, La Lista Russián por Teodoro Petkoff, 4 June 2008. Available at:

<https://talcualdigital.com/la-lista-russian-por-teodoro-petkoff/>; *El Mundo.es*, Los opositores a Chávez se manifiestan como protesta ante las inhabilitaciones, 13 July 2008. Available at: <https://www.elmundo.es/elmundo/2008/07/13/internacional/1215905280.html>; Observatorio Electoral Venezolano, Boletín 101: Contigo sí, contigo no...: el juego desigual de la inhabilitación, March 2023. Available at: <https://oevenezolano.org/2023/03/boletin-101-contigo-si-contigo-no-el-juego-desigual-de-la-inhabilitacion/>.

²¹⁶⁷ Interview with Leopoldo López, 4 July 202; Interview HHIV079; Reuters, Alcalde inhabilitado aviva inquietud sobre democracia Venezuela, 30 July 2008. Available at: <https://www.reuters.com/article/latinoamerica-elecciones-venezuela-alcal-idLTAN3038583820080730>; *Venelogía*. Ciudadanos inhabilitados para el ejercicio de la función pública de conformidad con el artículo 105 de la ley Orgánica de la Contraloría General de la República y del Sistema Nacional de Control Fiscal, 25 February 2008. Available at: <https://www.venelogia.com/uploads/PDF/inhabilitados-contraloria-2008.pdf>; *La Gran Aldea*. Todo lo que necesita saber sobre las inhabilitaciones de candidatos, 22 March 2023. Available at: <https://lagranaldea.com/2023/03/22/todo-lo-que-necesita-saber-sobre-las-inhabilitaciones-de-candidatos/>.

²¹⁶⁸ Supreme Tribunal of Justice – Constitutional Chamber. Sentence N°1265, 5 August 2008.

Available at: <https://vlexvenezuela.com/vid/ziomara-socorro-lucena-guedez-283312111>.

²¹⁶⁹ IACourtHR, the Case of López Mendoza Vs. Venezuela, Sentence of 1 September 2011 (Merits, reparations, and costs) para. 249.

²¹⁷⁰ *Ibid.* para. 107. Cf. ICCPR, 23(3).

²¹⁷¹ *Ibid.* Para. 206.

²¹⁷² *Ibid.*

having attempted to impose “political and ideological criteria absolutely incompatible with [the Venezuelan] constitutional system”²¹⁷³.

1018. On 10 September 2013, the Bolivarian Republic of Venezuela formally denounced the American Convention on Human Rights. In its complaint, the Government stated that it was “unacceptable” that the country was “summoned and defamed for reasons of political nature, through unfounded complaints, lacking evidence [and] coming from political sectors linked to the laws and the Constitution”²¹⁷⁴. In its complaint, the Government referenced the judgement of the Inter-American Court in the Case of Leopoldo López Mendoza, which, according to the Government, “actually led to (...) the strengthening of the international smear campaign” against the country²¹⁷⁵.

3. The jurisprudence of the Supreme Tribunal of Justice

1019. On 6 August 2008, in response to an appeal for annulment due to unconstitutionality filed by an opposition mayor, the Constitutional Chamber of the Supreme Tribunal of Justice declared the constitutionality of article 105 of the Organic Law of the Comptroller General of the Republic and decreed its compatibility with article 23 of the American Convention on Human Rights²¹⁷⁶. In addition, the Court declared itself incompetent to hear the annulment appeals filed against the administrative acts issued by the Comptroller General²¹⁷⁷.

1020. In another sentence of June 2019, the Political-Administrative Chamber concluded that article 105 of the Organic Law of the Comptroller General of the Republic “does not infringe in any way the rights and guarantees established in the Fundamental Text, regarding due process, the right to a defense, principal of typology of the sanctions”²¹⁷⁸.

1021. The jurisprudence of the TSJ confirmed the continuation of the internal regulation on political disqualification, allowing the perpetuation of this practice by the Comptroller General of the Republic (CGR, by its Spanish acronym).

4. Political disqualification of opposition candidates

1022. The Mission concluded that at least since 2015, the disqualifications made by the Comptroller General of the Republic have become a mechanism used by the Government to prevent opposition candidates from standing for candidacy for public office²¹⁷⁹. In this respect, political disqualification has become, along with judicial intervention against political parties, one of the main restrictions to the democratic space of the Bolivarian Republic of Venezuela.

²¹⁷³ Supreme Tribunal of Justice (Constitutional Chamber), Ruling nom. 1547, 17 October 2011.

²¹⁷⁴ Ministry of People’s Power for Foreign Affairs of the Bolivarian Republic of Venezuela. Note from the Secretary General to the Organization of American States, 6 September 2012, p 4. Available at:

https://www.oas.org/dil/esp/Nota_Republica_Bolivariana_de_Venezuela_al_SG_OEA.PDF/.

²¹⁷⁵ *Ibid.* p. 6-7.

²¹⁷⁶ Supreme Tribunal of Justice (Constitutional Chamber), Ruling no. 1266, 6 August 2008, section of provisions, numeral 3 and 4.

²¹⁷⁷ *Ibid.*

²¹⁷⁸ Supreme Tribunal of Justice (Constitutional Chamber), Sentence no. 0298, 5 June 2019.

²¹⁷⁹ *Acceso a la Justicia*, Elecciones en Autocracia: El caso venezolano 2017-2021, 29 July 2022, p.39. Available at: <https://accesoaljusticia.org/elecciones-autocracia-caso-venezolano-2017-2021/>; *Acceso a la Justicia*, El chavismo no renuncia a las inhabilitaciones políticas para asegurar su hegemonía, 7 October 2021. Available at: <https://accesoaljusticia.org/el-chavismo-no-renuncia-a-las-inhabilitaciones-politicas-para-asegurar-su-hegemonia/>; *Acceso a la Justicia*, Nuevas inhabilitaciones allanan el camino a Maduro para próximas megaelecciones, 5 March 2021. Available at: <https://accesoaljusticia.org/nuevas-inhabilitaciones-allanan-camino-maduro-proximas-megaelecciones/>; *La Gran Aldea*, Todo lo que necesita saber sobre las inhabilitaciones de candidatos, 22 March 2023. Available at: <https://lagranaldea.com/2023/03/22/todo-lo-que-necesita-saber-sobre-las-inhabilitaciones-de-candidatos/>.

1023. The Mission identified that disqualifications have become systemic and recurrent prior to electoral processes²¹⁸⁰. According to the NGO *Observatorio Electoral Venezolano* (Venezuelan Electoral Observatory), 2015, a year in which congressional elections were held, was the year with the highest number of disqualifications (375), 68.25% more than the previous year²¹⁸¹. Among those affected by this measure in 2015 were María Corina Machado, who was disqualified by the Comptroller General of the Republic for an initial period of 12 months (see Case 38: María Corina Machado, *infra*)²¹⁸², the former governor of the State of Zulia, Pablo Pérez (10 years), and the former mayor of the municipality of San Diego of the State of Carabobo, Vicencio “Enzo” Scarano (12 months), among other politicians of the opposition²¹⁸³.

1024. In the 2017 regional elections, the CGR disqualified the then governor of the State of Miranda and two-time presidential candidate, Henrique Capriles Radonski, for a period of 15 years²¹⁸⁴. The Comptroller General of the Republic argued that Capriles had committed administrative irregularities during his tenure as Governor of the State of Miranda²¹⁸⁵. The measure imposed by the Comptroller General of the Republic prevented Capriles from participating in the 2018 presidential elections²¹⁸⁶.

1025. In August 2019, the Comptroller General of the Republic announced disqualification sanctions directed against the former mayor of Caracas, Antonio Ledezma²¹⁸⁷, and the former Attorney General, Luisa Ortega Díaz and her husband, former deputy, Germán Ferrer, for the maximum period of 15 years²¹⁸⁸. Along with them, deputies Julio Borges and Tomás Guanipa, linked to the interim government of Juan Guaidó, were disqualified as well²¹⁸⁹.

1026. In February 2021, months before the regional and municipal elections held in November of that same year, the Comptroller General disqualified 28 opposition deputies. Among those disqualified were Julio Borges,

²¹⁸⁰ *El Nacional*, La inhabilitación es la carta bajo la manga en tiempos electorales, 27 August 2017. Available at: https://www.elnacional.com/venezuela/politica/inhabilitacion-carta-bajo-manga-tiempos-electorales_200662/.

²¹⁸¹ *Observatorio Electoral Venezolano*. Boletín 101, Contigo sí, contigo no...:el juego desigual de la inhabilitación, March 2023. Available at: <https://oevenezolano.org/2023/03/boletin-101-contigo-si-contigo-no-el-juego-desigual-de-la-inhabilitacion/>; *Observatorio Electoral Venezolano*, Elección regional y municipal 2021. Reporte de Garantía y Condiciones 2021, page 6 Available at: <https://oevenezolano.org/wp-content/uploads/2021/12/Eleccion-regional-y-municipal-2021.-Reporte-de-garantias-y-condiciones-parte-II-OEV.pdf>.

²¹⁸² Interview with María Corina Machado, 13 July 2023; Document HHDC07: Political persecution and attacks against María Corina Machado; Interview with Antonio Ledezma of 5 July 2023; BBC News Mundo, Venezuela: inhabilitan a María Corina Machado para ejercer cargos públicos, 14 July 2015. Available at: https://www.bbc.com/mundo/noticias/2015/07/150714_venezuela_machado_inhabilitan_dp.

²¹⁸³ *El Diario*, ¿Cuáles dirigentes políticos están inhabilitados por el régimen? 1 September 2020. Available at: <https://eldiario.com/2020/09/01/dirigentes-politicos-inhabilitados-regimen/>; Interview with Raúl Emilio Baduel, 5 July 2023.

²¹⁸⁴ Tweet by Henrique Capriles [@hcapriles], 7 April 2017. Available at: <https://twitter.com/hcapriles/status/850384759184347136?s=20>; YouTube Video – CABLENOTICIAS. Mensaje de Capriles al Gobierno de Maduro por inhabilitación de 15 años, 7 April 2017. Available at: https://www.youtube.com/watch?v=E47Lfk_1GGL.

²¹⁸⁵ *Runrun.es*, Contraloría inhabilita a Henrique Capriles Radonski por 15 años, 7 April 2017. Available at: <https://runrun.es/nacional/venezuela-2/304252/contraloria-inhabilita-a-henrique-capriles-radonski-por-15-anos/>; *El Mundo*, Venezuela inhabilita para ejercer cargos públicos al opositor Henrique Capriles durante 15 años, 8 April 2023. Available at: <https://www.elmundo.es/internacional/2017/04/07/58e7c4f646163f75658b4570.html>.

²¹⁸⁶ *Acceso a la Justicia*, Nuevas inhabilitaciones allanan el camino a Maduro para próximas megaelecciones, 5 March 2021. Available at: <https://accesoalajusticia.org/nuevas-inhabilitaciones-allanan-camino-maduro-proximas-megaelecciones/>.

²¹⁸⁷ Interview with Antonio Ledezma, 5 July 2023.

²¹⁸⁸ YouTube Video – Diario Libre, inhabilitan por 15 años en Venezuela a Ledezma, exfiscal Ortega y 3 diputados, 15 August 2019. Available at: <https://www.facebook.com/watch/?v=1223336791172320>.

²¹⁸⁹ *Ibid.*

Américo De Grazia, Juan Guaidó, Juan Pablo Guanipa, Freddy Guevara and other prominent leaders of opposition parties²¹⁹⁰.

1027. Within the list of candidates for the November 2021 elections, 27 were excluded by the National Electoral Council after having been previously disqualified by the Comptroller General of the Republic. Out of the group, 15 were candidates from the Communist Party of Venezuela (PCV, by its Spanish acronym). The Communist Party of Venezuela alleged that no investigations were carried out nor was there a legal decision involved in the disqualification of its candidates²¹⁹¹.

1028. In the context of the November 2021 elections, the case of Freddy Superlano also stood out, he was recognized by the CNE as the winner for governor of Barinas. However, on the same day, the Supreme Tribunal of Justice established a new date to repeat the elections because, according to the Tribunal, Superlano had been disqualified by the Comptroller General of the Republic since August 2021, for the maximum period of 15 years, for alleged acts of corruption and appropriation of State resources, among others (see Case 36: Freddy Superlano Salinas, *infra*). Superlano had not been notified of this disqualification in advance, and he was even able to register his candidacy with the National Electoral Council²¹⁹².

1029. Two people who were presented as substitutes for Superlano in the repeat elections were also disqualified in an “express” manner, among them, his wife Aurora Silva²¹⁹³. A similar situation occurred with the Communist Part of Venezuela candidate, who was able to run for office, but appeared disqualified 16 days later, when trying to register for the repeat elections of January 2022²¹⁹⁴.

1030. The EU Election Observation Mission of the regional and municipal elections of 2021 referred to the “arbitrary political disqualification of opposition candidates” as one of the main “structural deficiencies”²¹⁹⁵. In its final report, the Election Observation Mission recommended to “suppress the Comptroller General’s prerogative of

²¹⁹⁰ *Acceso a la Justicia*, Nuevas inhabilitaciones allanan el camino a Maduro para próximas megaelecciones, 5 March 2021. Available at: <https://accesoalajusticia.org/nuevas-inhabilitaciones-allanan-camino-maduro-proximas-megaelecciones/>.

²¹⁹¹ YouTube Video – Luigino Bracci Roa, PCV realiza balance de las megaelecciones del 21 de noviembre de 2021, 23 November 2021. Available at: <https://www.youtube.com/watch?v=ULaEkH90rw4>; *Efecto Cocuyo*, Contraloría lleva 21 candidatos inhabilitados en un mes, 11 December 2021. Available at: <https://efectococuyo.com/politica/contraloria-21-candidatos-inhabilitados-en-un-mes/>; *Observatorio Electoral Venezolano*, Boletín 101 – “Contigo sí, contigo no...” el juego desigual de la inhabilitación, March 2023. Available at: <https://oevenezolano.org/2023/03/boletin-101-contigo-si-contigo-no-el-juego-desigual-de-la-inhabilitacion/>.

²¹⁹² Supreme Tribunal of Justice. Announcement – Sala Electoral de TSJ ordena al CNE realizar nuevas elecciones para gobernador o gobernadora en Barinas para el 9 de enero de 2022, 29 November 2021. Available at: <http://www.tsj.gob.ve/-/sala-electoral-del-tsj-ordena-al-cne-realizar-nuevas-elecciones-para-gobernador-o-gobernadora-en-barinas-para-el-09-de-enero-de-2022>.

²¹⁹³ Interview with Freddy Superlano, 9 August 2023; *El Mundo*, Chavismo desencadenado: inhabilitación exprés de la candidata opositora en Barinas, 6 December 2021. Available at: <https://www.elmundo.es/internacional/2021/12/06/61ada3f2fc6c8357278b45c4.html>; *Infobae*, La dictadura Chavista inhabilitó a otro candidato opositor en Barinas: dejó fuera de carrera a Julio Cesar Reyes, 6 December 2021. Available at <https://www.infobae.com/america/venezuela/2021/12/06/la-dictadura-chavista-continua-inhabilitando-a-candidatos-opositores-en-barinas-dejo-fuera-de-carrera-a-julio-cesar-reyes/>.

²¹⁹⁴ *Efecto Cocuyo*, Inhabilitan a candidato del PCV en Barinas Aldemarro Sanoja, 8 December 2021. Available at: <https://efectococuyo.com/politica/inhabilitan-candidato-pcv-barinas-aldemarro-sanoja/>; *Observatorio Electoral Venezolano*, Boletín 101 – “Contigo sí, contigo no...”: el juego desigual de la inhabilitación, March 2023. Available at: <https://oevenezolano.org/2023/03/boletin-101-contigo-si-contigo-no-el-juego-desigual-de-la-inhabilitacion/>.

²¹⁹⁵ Preliminary statement of the European Union Election Observation Mission in Venezuela 2021, 23 November 2021. Available at: <https://provea.org/actualidad/derechos-civiles-y-politicos/declaracion-preliminar-de-la-mision-de-observacion-electoral-de-la-union-europea-en-venezuela-2021/>.

stripping citizens of their fundamental right to stand as candidates through an administrative process and without proper notification, which negatively affects the right to a defense”²¹⁹⁶.

1031. The information regarding disqualifications is not published by the Comptroller General of the Republic, which means that only the Comptroller General knows with certainty who is disqualified, what their disqualifications periods are, and if the National Electoral Council has been informed or not²¹⁹⁷. However, disqualifications, according to the Law of Official Publications, must be published in the Official Gazette and communicated to the interested parties and competent entities²¹⁹⁸. According to the Venezuelan Electoral Observatory, in most cases, those involved received the news of their disqualification without previous notice that the Comptroller General of the Republic had started a process against them²¹⁹⁹. In several of the cases investigated by the Mission, those who had been disqualified had never been notified, and they found out about the sanction months or even years after it was imposed²²⁰⁰.

1032. In all the cases reviewed by the Mission, the disqualifications were always imposed on politicians who opposed the Government. In July 2015, in an interview on the television show *Vladimir a la 1*, Diosdado Cabello mentioned that even though members of the Government’s political party had been disqualified in the past, none had been disqualified to participate in the parliamentary elections of 2015²²⁰¹. According to the Venezuelan Electoral Observatory, there are no cases documented of politicians from political parties that support the Government disqualified for the last elections of 2021²²⁰².

1033. The most recent disqualification case is that of María Corina Machado, who on 27 June 2023 was disqualified for a second time by the Comptroller General of the Republic, which imposed the maximum period of 15 years. The measure, that was allegedly enforced in 2019 based on assumed administrative irregularities, was imposed four days after Machado’s registration as candidate for the party “*Vente Venezuela*” for the primary elections of the opposition in 2023²²⁰³, of which she was heading the polls in July and August 2023, according to polling companies *Meganálisis*, Frequency 58 and *Pronóstico*²²⁰⁴ (see Case 38: María Corina Machado, *infra*).

²¹⁹⁶ European Union Election Observation Mission in the Bolivarian Republic of Venezuela, Regional y municipal elections 2021, Final report, p. 24. Available at: https://www.eeas.europa.eu/eo-venezuela-2021_es?s=4434.

²¹⁹⁷ *La Gran Aldea*, Todo lo que necesita saber sobre las inhabilitaciones de candidatos, 22 March 2023. Available at: <https://lagranaldea.com/2023/03/22/todo-lo-que-necesita-saber-sobre-las-inhabilitaciones-de-candidatos/>; *Observatorio Electoral Venezolano*, Boletín 101 – “Contigo sí, contigo no...”: el juego desigual de la inhabilitación, March 2023. Available at: <https://oevenezolano.org/2023/03/boletin-101-contigo-si-contigo-no-el-juego-desigual-de-la-inhabilitacion/>.

²¹⁹⁸ Law of Official Publications, Official Gazette no. 6688 Extraordinary, 25 February 2022, article 7, numeral 10.

²¹⁹⁹ *Observatorio Electoral Venezolano*, Boletín 101 – “Contigo sí, contigo no...”: el juego desigual de la inhabilitación, March 2023. Available at: <https://oevenezolano.org/2023/03/boletin-101-contigo-si-contigo-no-el-juego-desigual-de-la-inhabilitacion/>.

²²⁰⁰ See Case 37: Freddy Superlano Salinas; and Case 38: María Corina Machado.

²²⁰¹ YouTube Video – Sucredanda 3 Hugo Chávez Venezuela, Diosdado Cabello en Globovisión – 1989 – 4F – FANB – ESEQUIBO – OLP – Antiimperialista – Venezuela, 29 July 2015. Available at: <https://www.youtube.be/vd6Jzt4LYpw&t=2144> [min 35.44].

²²⁰² *Observatorio Electoral Venezolano*, Boletín 101 - Contigo sí, contigo no...”: el juego desigual de la inhabilitación, March 2023. Available at: <https://oevenezolano.org/2023/03/boletin-101-contigo-si-contigo-no-el-juego-desigual-de-la-inhabilitacion/>.

²²⁰³ Comptroller General of the Republic, Official letter no. DGPE-23-08-00-008, 27 June 2023.

²²⁰⁴ *Costa del Sol FM*, Meganálisis – Encuesta Cati Meganálisis Verdad Venezuela July 2023 – Resultados públicos. July 2023; *Pronóstico* – Encuesta Nacional August 2023. Available at: <https://www.costadelsolfm.org/wp-content/uploads/2023/08/Encuesta-CATI-Verdad-Venezuela-julio-2023.pdf>; Tweet from Polianalitica [@polianalitica] 29 August 2023. Available at: <https://twitter.com/polianalitica/status/1696562852033712322?s=20>; Tweet from Polianalitica [@polianalitica] 26 August 2023. Available at: <https://twitter.com/polianalitica/status/1695511267648102469?s=20>; Tweet from 6toVisión [@6tovision] 11 August 2023. Available at: <https://twitter.com/6toVision/status/1690128509090320385?s=20>.

1034. Regarding Machado's disqualification, the Inter-American Commission on Human Rights stated that "administrative disqualifications of candidates of the opposition (...) are not isolated events, [but] the result of a state policy that intends to close the civic space"²²⁰⁵. In July 2023, the United Nations High Commissioner for Human Rights, Volker Türk, prompted to "urgently" address "the administrative disqualification of members of the opposition to hold positions" for the next national electoral processes²²⁰⁶.

1035. At the time of writing this report, three of the candidates for the primary elections of the Unitary Platform of the opposition, María Corina Machado (*Vente Venezuela*), Henrique Capriles (Justice First) and Freddy Superlano (Popular Will), were disqualified from running for the presidential elections of 2024. Other opposition leaders who are currently exiled are also disqualified, as is the case of Leopoldo López, Juan Guaidó and Antonio Ledezma²²⁰⁷. Regarding the latter, the Mission learned that on 21 August 2023, the Attorney General of the Republic issued an arrest warrant against him and his extradition from Spain²²⁰⁸.

5. Illustrative cases

Case 37: Freddy Superlano Salinas

1036. Freddy Superlano is a politician and ex-deputy of the National Assembly for the 2016-2021 period. In 2018, he was elected president of the National Assembly's Permanent Commission of the Comptroller General's office. In 2021, he ran for governor of Barinas. He is currently a candidate in the primary elections of the Unitary Platform of 2023 for the political party Popular Will²²⁰⁹.

Disqualification

1037. On 21 November 2021, Superlano, candidate of *Mesa de la Unidad Democrática* (MUD), competed against Argenis Chávez, the then Governor of Barinas, candidate of the Unified Socialist Party of Venezuela and brother of the ex-President Hugo Chávez, in the regional and municipal elections for Governor of Barinas. According to the projections of the National Electoral Council, Superlano won the elections²²¹⁰.

1038. On 29 November, the Supreme Tribunal of Justice admitted an action for the protection of constitutional rights filed by Adolfo Superlano, another candidate for Governor of Barinas for the party MIN-Unidad, due to alleged irregularities linked to the regional elections in Barinas²²¹¹. The same day, the Supreme Tribunal of Justice through sentence no. 78²²¹² ordered the National Electoral Council the immediate suspension of the proceedings and/or

²²⁰⁵ IACHR, Press release no. 155/23: Venezuela: CIDH condena la persecución a personas por motivos políticos en el contexto preelectoral, 14 July 2023.

²²⁰⁶ OHCHR, Actualización sobre Venezuela por el Alto Comisionado Türk, 5 July 2023. Available at: <https://www.ohchr.org/es/statements/2023/07/venezuela-update-high-commissioner-turk>.

²²⁰⁷ Interview with Leopoldo Lopez, 4 July 2023; Interview with Antonio Ledezma, 5 July 2023; Interview with Juan Guaidó, 24 July 2023.

²²⁰⁸ YouTube Video – Luigino Bracci Roa, Orden de aprehensión contra Antonio Ledezma emite Fiscal General Tarek William Saab, 21 August 2023. Available at: <https://www.youtu.be./0o61sRGz6vw?feature=share>.

²²⁰⁹ Interview with Freddy Superlano, 9 August 2023; *Efecto Cocuyo*, Freddy Superlano formaliza su inscripción para las primarias del 22 de octubre, 23 June 2023. Available at: <https://efectococuyo.com/politica/freddy-superlano-formaliza-su-inscripcion-para-las-primarias-del-22-de-octubre/>.

²²¹⁰ Interview with Freddy Superlano, 9 August 2023; Tweet by Freddy Superlano [@freddysuperlano], 21 November 2021. Available at: <https://twitter.com/freddysuperlano/status/1462643577956225025?s=20>; *Correo del Caroní*. CNE notificó a Freddy Superlano que ganó la gobernación de Barinas, 25 November 2021. Available at: <https://correodelcaroni.com/pais-politico/cne-notifico-a-freddy-superlano-que-gano-la-gobernacion-de-barinas/>.

²²¹¹ Tweet from Polianalitica [@polianalitica], 29 November 2021. Available at: <https://twitter.com/polianalitica/status/1465432805995855881?s=20>.

²²¹² Supreme Tribunal of Justice, Announcement – Sala Electoral del TSJ ordena al CNE suspender los procedimientos vinculados a la totalización, adjudicación y proclamación de los candidatos a gobernador de Barinas, 29 November 2021. Available at: <http://www.tsj.gob.ve/-/sala-electoral->

processes linked to the completion, adjudication, and proclamation of the results. Hours later, the Supreme Tribunal of Justice established, through sentence num. 79²²¹³ that the elections for Governor of Barinas had to be repeated on 9 January 2022, because Freddy Superlano was disqualified from holding public office according to a decision from the CGR of 17 August 2021.

1039. Superlano had no knowledge of the Comptroller General of the Republic's decision to disqualify him, he had never been notified about it prior to the elections on 21 November 2021²²¹⁴. Additionally, the Comptroller General of the Republic's decision had not been published in the Official Gazette, as established by article 7 numeral 10 of the Law of Official Publications²²¹⁵, nor had the National Electoral Council been notified, therefore Superlano was able to register as a candidate before that entity, without any objection, and participate in the elections²²¹⁶. It is important to emphasize the fact that Superlano was one of the 110 opponents who President Maduro pardoned through a Presidential Decree in August 2020, and this measure ended every criminal action against all those pardoned²²¹⁷. Superlano was pardoned for the criminal process open against him by the Supreme Tribunal of Justice²²¹⁸ for "being

del-tsj-ordena-al-cne-suspender-los-procedimientos-vinculados-a-la-totalizacion-adjudicacion-y-proclamacion-de-los-candidatos-a-goberna; Official Information HHDC089 [Superlano file].

²²¹³ Supreme Tribunal of Justice, Announcement – Sala Electoral del TSJ ordena al CNE realizar nuevas elecciones para gobernadora o gobernador en Barinas para el 9 de enero de 2022, 29 November 2021. Available at: <http://www.tsj.gob.ve/-/sala-electoral-del-tsj-ordena-al-cne-realizar-nuevas-elecciones-para-gobernador-o-gobernadora-en-barinas-para-el-09-de-enero-de-2022>; Document HHDC089 : Superlano file ; *El Nacional*, Afirma que Freddy Superlano está inhabilitado: TSJ ordena suspender totalización y proclamación de gobernador en Barinas, 29 November 2021. Available at: <https://www.elnacional.com/venezuela/afirma-que-freddy-superlano-esta-inhabilitado-tsj-ordena-suspender-totalizacion-y-proclamacion-de-gobernador-en-barinas/>; Document HHDC089 : Superlano file ; Supreme Tribunal of Justice, judgement no. 78 "without prejudice to the fact that even though the projections recorded by the National Electoral Council give a percentage of votes in favour of candidate Freddy Superlano of 37.60% with respect to the 37.21% of votes obtained by candidate Argenis Chávez, it is considered that the condition of ineligibility of Superlano, already identified, in accordance with Resolution No. 01-00-000334 dated 17 August 2021 issued by the Comptroller General of the Republic, violates the principles of equality, equity and transparency in the participation of candidates (...)".

²²¹⁴ Interview with Freddy Superlano, 9 August 2023.

²²¹⁵ Law of Official Publications, *Official Gazette* no. 6688 Extraordinary, 25 February 2022, art. Numeral 10.

²²¹⁶ Interview with Freddy Superlano, 9 August 2023; *Infobae*, El Consejo Nacional Electoral venezolano desconocía la inhabilitación de Freddy Superlano, 1 December 2021. Available at: <https://www.infobae.com/america/venezuela/2021/12/01/el-consejo-nacional-electoral-venezolano-desconocia-la-inhabilitacion-de-freddy-superlano/>; Tweet by Roberto Picón – Rector – Junta Nacional Electoral [@rpiconh], 30 November 2021. Available at: <https://twitter.com/rpiconh/status/1465821387713564677?s=20>; *Acceso a la Justicia*, Repetición de elección en Barinas: un proceso que no puede evaluarse solo por su resultado, 18 January 2022. Available at: <https://accesoaljusticia.org/repeticion-elecciones-en-barinas-un-proceso-que-no-puede-evaluarse-solo-por-su-resultado/>.

²²¹⁷ Interview with Freddy Superlano, 9 August 2023; Decree no. 4.277, through which a presidential pardon is granted to the mentioned citizens. *Official Gazette* no. 6.569 Extraordinary, 31 August 2020; *El Estímulo*, Freddy Superlano en la clandestinidad: sigo en Venezuela a pesar de amenazas del TSJ, 14 May 2019. Available at: <https://elestimulo.com/venezuela/2019-05-14/freddy-superlano-en-la-clandestinidad-sigo-en-venezuela-a-pesar-de-amenazas-del-tsj/>. In May 2019, the Supreme Tribunal of Justice accused ten legislators of crimes of treason, conspiracy, instigation to rebel, civil rebellion, collusion to commit a crime, impersonation of public officials, public incitement to disobey the law and continuous hatred, among them Freddy Superlano. This decision was made in light of the events of 30 April 2019. Superlano decided to go into hiding.

²²¹⁸ Supreme Tribunal of Justice, Plenary Council, Judgement 20 – file no. 2019-000031, 14 May 2019. The Supreme Tribunal of Justice is responsible for conducting the investigation of crimes allegedly committed by deputies of the National Assembly. See art. 200 of the Constitution: The deputies of the National Assembly will enjoy immunity in the exercise of their functions from the moment they are nominated until the conclusion of their mandate or their resignation. The alleged

caught while committing the crimes of treason, conspiracy, instigation to rebel, civil rebellion, collusion to commit a criminal act, impersonation of a public officer, public instigation to disobey the law and continuous hatred”, within the context of “Operation Liberty” of 30 April 2019, led by Juan Guaidó²²¹⁹.

1040. On 30 November 2021, the then rector of the National Electoral Council, Roberto Picón, explained in a personal statement that Superlano’s disqualification was unknown by the National Electoral Council at the time of his nomination. Adding that, if it had been notified, it would have been impossible to process Superlano’s registration request²²²⁰. Furthermore, on 2 December 2021, Roberto Picón revealed in an interview that Freddy Superlano had won the elections in Barinas with 130 votes more than Argenis Chávez and reiterated the fact that the National Electoral Council had never been notified of a judicial sentence disqualifying Superlano²²²¹.

1041. On 3 December, Superlano filed a constitutional review appeal before the Constitutional Chamber of the Supreme Tribunal of Justice against judgements no. 78 and 79 of 29 November 2021²²²². On 8 December, the Supreme Tribunal of Justice dismissed the appeal declaring it inadmissible”. The Constitutional Chamber reiterated the constitutionality of the ability of the Comptroller General of the Republic to disqualify in accordance with what is provided by article 105 of the Organic Law of the Comptroller General of the Republic and of the National System of Fiscal Oversight. Furthermore, the constitutional judge warned that “*the petitioner’s claim that his individual rights were violated clashes with the privilege this Chamber has granted in case of contradictions or antinomies of the regulations that favour general interest and common good, having to apply the regulations that favour collective interests over individual ones*”²²²³

1042. On 4 December, Aurora Silva, Superlano’s wife, was announced as candidate for the governor of Barinas with the MUD for the elections of 9 January 2022²²²⁴, however, the next day, when Silva tried to register, the National Electoral Council rejected the registration because she was also disqualified. Silva had never been a public

crimes committed by members of the National Assembly will be heard exclusively by the Supreme Tribunal of Justice, the only authority that may order, with prior authorization from the National Assembly, their detention and continue their prosecution. In the event of a flagrant crime committed by a deputy, the competent authority will take them into custody at their residence and will immediately report the fact to the Supreme Tribunal of Justice. Public officials who violate the immunity of the members of the National Assembly will incur criminal liability and will be punished in accordance with the law.

- ²²¹⁹ Interview with Freddy Superlano, 9 August 2023; *Infobae*, El diputado venezolano Freddy Superlano acusado de rebelión por el régimen chavista aseguró que se encuentra “en la clandestinidad”, 15 May 2019. Available at: <https://www.infobae.com/america/venezuela/2019/05/15/el-diputado-venezolano-freddy-superlano-acusado-de-rebelion-por-el-regimen-chavista-aseguro-que-se-encuentra-en-la-clandestinidad/>; *Efecto Cocuyo*. Tres diputados más son acusados por el Tribunal Supremo de Justicia de siete delitos, entre ellos traición a la patria, 8 May 2021. Available: <https://efectococuyo.com/politica/tres-diputados-mas-son-acusados-por-tsj-de-siete-delitos-entre-ellos-traicion-a-la-patria/>.
- ²²²⁰ Tweet by Roberto Picón – Rector – Junta Nacional Electoral [@rpiconh], 30 November 2021. Available at: <https://twitter.com/rpiconh/status/1465821387713564677?s=20>.
- ²²²¹ YouTube Video – Globovisión Videos, Vladimir a La 1 – Entrevista a Roberto Picón, 2 December 2021. Available at: <https://www.youtu.be/pZtVZ6MfzC0&t=88s> [min 1:28 and 6:53].
- ²²²² Interview with Freddy Superlano, 9 August 2023; Document HHDC090: Constitutional Review Appeal; *El Cooperante*, Freddy Superlano introdujo recurso de revision contra las sentencias del Tribunal Supremo de Justicia, 3 December 2021. Available at: <https://elcooperante.com/freddy-superlano-introdujo-recurso-de-revision-contra-las-sentencias-del-tsj/>
- ²²²³ Supreme Tribunal of Justice. Sala Constitucional del Tribunal Supremo de Justicia declaró no ha lugar solicitud de revisión interpuesta por Freddy Superlano de dos sentencias de la Sala Electoral sobre elecciones en Barinas, 8 December 2021. Available at: <http://www.tsj.gob.ve/-/sala-constitucional-del-tsj-declaro-no-ha-lugar-solicitud-de-revision-interpuesta-por-freddy-superlano-de-dos-sentencias-de-la-sala-electoral-sobre-el>; See sentence from Supreme Tribunal of Justice: <http://historico.tsj.gob.ve/decisiones/scon/diciembre/315050-0732-81221-2021-21-0798.HTML>.
- ²²²⁴ Interview with Freddy Superlano, 9 August 2023; *El Estímulo*, Aurora Silva de Superlano, la nueva candidata de la MUD por Barinas, 4 December 2021. Available at: <https://elestimulo.com/elecciones-regionales-2021/2021-12-04/aurora-silva-de-superlano-la-nueva-candidata-de-la-mud-por-barinas/>.

official and was not aware of the disqualification either, even so, the Comptroller General of the Republic disqualified her for the same reasons that Superlano was disqualified and for the information presented in the sworn statements of assets as spouses²²²⁵.

1043. On 6 December, Superlano announced that the MUD had decided to nominate Sergio Garrido, deputy of the Legislative Council of Barinas and leader of the political party Democratic Action²²²⁶, for governor, while on 30 November 2021 Argenis Chávez had resigned as governor of Barinas and declined his participation in the elections²²²⁷. Garrido won the elections of 9 January 2022 and was named Governor²²²⁸

1044. On 17 March 2022, four months after the elections for governor of Barinas, Freddy Superlano and his wife received from the Comptroller General of the Republic the Official letters number DC-21-01-00-460 (17 August 2021) and number DC-21-01-00-471 (15 October 2021), respectively at their home. Both letters notified Superlano and Silva about their disqualifications, through resolutions number 01-00-000334 and number 01-00-000276, respectively²²²⁹.

1045. According to resolution 01-00-000334 of 17 August 2021, the Comptroller General of the Republic disqualified Superlano from holding public office for the maximum period of 15 years. The reasons that supported his disqualification were: (1) a request of precautionary or preventive measures that Superlano had, made by the Comptroller General of the Republic to the Superintendency of the Banking Sector Institutions (SUDEBAN, by its Spanish acronym) in December 2019, which included: “prohibition of: leaving the country, disposing and encumbering of assets, freezing or blocking bank accounts and/or any other financial instrument in Venezuelan territory and abroad”, this was in the context of the humanitarian aid provided by Colombia in February 2019, and for having been named by Guaidó to handle it, and having participated in acts of corruption and appropriation of resources, as well as matters related to prostitution and drugs; (2) for participating in the conspiracy to remove the petrochemical company “*Monómeros Colombo Venezolanos S.A.*”; (3) for being financed by drug trafficking to defray personal expenses, for financing the destabilization of Venezuela for electoral purposes; (4) for falsifying information presented in his sworn statements of assets²²³⁰.

1046. On 23 June 2023, Superlano made his registration official for the primary elections of Unitary Platform of 2023 for the political party Popular Will²²³¹. Superlano along with María Corina Machado (*Vente Venezuela*) and Henrique Capriles (Justice First) are the three candidates of the opposition for the primary elections of 2023 that are currently disqualified by the Comptroller General of the Republic.

²²²⁵ Interview with Freddy Superlano, 9 August 2023; Official Document HHDC089: Superlano file; *Infobae*, La dictadura chavista también inhabilitó la candidatura de la esposa del opositor Freddy Superlano a la gobernación de Barinas, 5 December 2021. Available at: <https://www.infobae.com/america/venezuela/2021/12/05/la-dictadura-chavista-tambien-inhabilito-la-candidatura-de-la-esposa-del-opositor-freddy-superlano-a-la-gobernacion-de-barinas/>; *El Mundo*, Chavismo desencadenado: inhabilitación exprés de la candidata opositora en Barinas, 6 December 2021. Available at: <https://www.elmundo.es/internacional/2021/12/06/61ada3f2fc6c8357278b45c4.html>.

²²²⁶ *Runrun.es*, Superlano anuncia que Sergio Garrido será el candidato de la MUD en Barinas, 6 December 2021. Available at: <https://runrun.es/noticias/462267/superlano-anuncia-que-sergio-garrido-sera-el-candidato-de-la-mud-en-barinas/>.

²²²⁷ France24, Hermano de Hugo Chávez renuncia a gobernación tras orden de repetir comicios en su bastión, 30 November 2021. Available at: <https://www.france24.com/es/minuto-a-minuto/20211130-hermano-de-hugo-chavez-renuncia-a-gobernacion-a-gobernacion-tras-orden-de-repetir-comicios-en-su-bastion>.

²²²⁸ *El Mundo.es*, Sergio Garrido – ganador en las elecciones de Barinas: “Vale la pena luchar por la libertad de Venezuela”, 11 January 2022. Available at: <https://www.elmundo.es/internacional/2022/01/11/61dd44e1e4d4d8b8398b4596.html>.

²²²⁹ Document HHDC089 : Superlano file.

²²³⁰ *Ibid.*

²²³¹ Interview with Freddy Superlano, 9 August 2023 ; *Infoabae*, El ex diputado Freddy Superlano formalizó su inscripción en las primarias opositoras de Venezuela, 23 June 2023. Available at: <https://www.infobae.com/venezuela/2023/06/23/el-ex-diputado-freddy-superlano-formalizo-su-inscripcion-en-las-primarias-opositoras-de-venezuela/>.

Arbitrary retention of identification documents

1047. On 25 July 2023, while Superlano was going to Bogotá to participate in an event, he was retained by officials of the Administrative Service of Identification, Migration, and Immigration (SAIME, by its Spanish acronym) at the checkpoint located in the international bridge *Atanasio Girardot*, known as *Tienditas*, State of Táchira, on the border between Venezuela and Colombia, under the pretext of checking his documents²²³²

1048. The person in charge of the migration checkpoint retained Superlano's national identification document and passport for alleged "inconsistencies" detected in the passport²²³³. Afterwards, he was given a Subpoena to Appear before the Administrative Service of Identification, Migration, and Immigration in Caracas on the next day²²³⁴.

1049. On 27 July, while Superlano was out of the country, his lawyer appeared before the Administrative Service of Identification, Migration, and Immigration, representing him, to request the identification document and passport, but according to the source interviewed by the Mission, the Administrative Service of Identification, Migration, and Immigration alleged that "due to superior orders" they could not receive the request and that Superlano had to appear personally²²³⁵. Upon returning from his trip, Superlano entered again through the checkpoint at the border between Venezuela and Colombia. Superlano was accompanied by Francisco Sucre, former deputy of the National Assembly and former president of the Foreign Policy Commission, whose passport was also withheld, on the grounds that he did not have an exit stamp²²³⁶.

1050. On 10 August, Superlano appeared before the Administrative Service of Identification, Migration, and Immigration in Caracas along with his lawyer, who was not allowed to enter the facilities. The Director of Immigration and Borders informed Superlano that his passport had been canceled due to "problems" with the chip and that he should request a new one²²³⁷.

Conclusions

1051. Based on the aforementioned, the Mission has reasonable grounds to believe that the disqualification of Freddy Superlano was arbitrary because it was based on a decision of the Comptroller General of the Republic that allegedly did not exist at the time he registered his candidacy and that, in any case, was not made public nor communicated to the National Electoral Council nor to the interested party until after the elections of 21 November 2021.

Case 38: María Corina Machado

1052. María Corina Machado is a Venezuelan politician, former deputy of the National Assembly for the 2011-2014 term for the State of Miranda. She is currently a candidate for the primary elections of the Unitary Platform of 2023, for the political party *Vente Venezuela*²²³⁸.

²²³² Document HHDC091: Procedures SAIME.

²²³³ Interview with Freddy Superlano, 9 August 2023; Document HHDC091: Procedures SAIME; Tweet from Voluntad Popular [@Voluntad Popular], 26 July 2023. Available at: <https://twitter.com/VoluntadPopular/status/1684392500360884224?s=20>; *Efecto Cocuyo*, Voluntad Popular denuncia que el Saime le quitó el pasaporte a Freddy Superlano, 28 July 2023. Available at: <https://efectococuyo.com/politica/voluntad-popular-denuncia-que-el-saime-le-quito-pasaporte-a-freddy-superlano/>; *Runrun.es*, Caí en una trampa y me quitaron el pasaporte: La denuncia de Freddy Superlano contra el Saime, 27 July 2023. Available at: <https://runrun.es/noticias/506029/cai-en-una-trampa-y-me-quitaron-el-pasaporte-la-denuncia-de-freddy-superlano-contra-el-saime/>.

²²³⁴ Tweet by Alberto Rod News [@AlbertoRodNews], 27 July 2023. Available at: <https://twitter.com/AlbertoRodNews/status/1684518245993271296?s=20>.

²²³⁵ Document HHDC091: Procedures SAIME.

²²³⁶ Interview with Freddy Superlano, 9 August 2023; Document HHDC09: Procedures SAIME.

²²³⁷ Document HHDC09: Procedures SAIME.

²²³⁸ Interview with María Corina Machado, 13 July 2023; ABC International, María Corina Machado presenta su candidatura electoral contra Maduro, 24 June 2023. Available at: <https://www.abc.es/internacional/maria-corina-machado-postula-primarias-oposicion-venezolana-20230623185141-nt.html>.

Harassment

1053. Machado told the Mission about several instances of harassment she suffered in previous years; however, this report only gathers the most recent acts of harassment that happened in the context of her national tour as candidate for the primaries. On 2 February 2023, at approximately 10 a.m., Machado visited the Cantaura parish in the Municipality of Freites, State of Anzoátegui, to attend and participate in the Solemn Mass in honor of the Virgin of Candelaria. When she arrived at the location, she was attacked by civilian followers of the Unified Socialist Party of Venezuela²²³⁹. These persons surrounded her and assaulted her verbally and physically, punching, kicking, and pushing her and throwing objects and water at her to prevent her from passing. The State security agents that were present did not take any actions to stop the aggressions and restore order. Furthermore, the Governor of the State of Anzoátegui, Luis José Marcano, and the Mayor of the Municipality of Pedro María Freites, Dalinda Materán, were present at the event, and according to a source, they did not give any instructions to State security agents to stop the events²²⁴⁰. Machado was able to leave thanks to the people attending the event²²⁴¹. The political party *Vente Venezuela* announced that they had denounced the aggressions against their leader before the Public Prosecutor's Office, suggesting that the responsibility for such acts lay with "Unified Socialist Party of Venezuela leaders" who would have hired "delinquents" to attack Machado²²⁴².

1054. On 23 March 2023, Machado planned to hold a political meeting in the conference room of the "*Hotel Príncipe*" in Barquisimeto, State of Lara. The event could not be held because officials from the Ministry of People's Power for Health entered the place and banned all events, under the pretext that the hotel had a rat infestation. The hotel was temporarily closed, and Machado had to improvise the event on the street²²⁴³.

1055. Machado has repeatedly denounced the creation of checkpoints in different parts of the country that have been used to detain her and prevent her free movement to the towns where she was supposed to carry out her activities²²⁴⁴. On 16 May 2023, Machado arrived at the State of Táchira to carry out activities as part of her national tour for the primaries. The candidate denounced that officials from the Bolivarian National Guard installed checkpoints and prevented free transit on the *Troncal 5* highway to prevent her from reaching her destination and carrying out her political activity. This caused the road to be closed for more than two hours due to trucks parked across the highway. Machado had to get out of her vehicle and finish the journey on foot or by motorcycle on some parts²²⁴⁵.

²²³⁹ Document HHDC07: Political persecution and attacks against María Corina Machado; Document HHDC096: Accusation of Public Prosecutor's Office Case Anzoátegui; *Diario de las Américas*, Oficialistas agreden a María Corina Machado durante la misa, 2 February 2023. Available: <https://www.diariolasamericas.com/america-latina/oficialistas-agreden-maria-corina-machado-una-misa-n5329586>.

²²⁴⁰ Document HHDC096: Accusation of Public Prosecutor's Office Case Anzoátegui

²²⁴¹ Document HHDC071: Political persecution and attacks against María Corina Machado; *Diario de las Américas*, Oficialistas agreden a María Corina Machado durante la misa, 2 February 2023. Available: <https://www.diariolasamericas.com/america-latina/oficialistas-agreden-maria-corina-machado-una-misa-n5329586>.

²²⁴² Document HHDC096 : Accusation of Public Prosecutor's Office Case Anzoátegui; *Vente Venezuela*, Comunicado Vente Anzoátegui presenta denuncia por agresión a María Corina Machado, 6 February 2023. Available at: <https://www.ventevenezuela.org/2023/02/06/vente-anzoategui-presenta-denuncia-por-agresion-a-maria-corina/>.

²²⁴³ Interview with María Corina Machado, 13 July 2023; Document HHDC071: Political persecution and attacks against María Corina Machado; *El Nacional*, Oficialismo Cierra salón del hotel donde María Corina Machado celebraría encuentro con los larenses, 23 March 2023. Available at: <https://www.elnacional.com/venezuela/oficialismo-cierra-espacio-del-hotel-donde-maria-corina-machado-realizaria-un-encuentro-con-los-larenses/>; CEPAZ, Monitoreo, de persecución, y criminalización en Venezuela, March 2023. Available at: <https://cepaz.org/wp-content/uploads/2023/05/Informe-persecucion-Marzo-2023-1.pdf>, p. 13.

²²⁴⁴ Interview with María Corina Machado, 13 July 2023; Tweet from *Vente Venezuela* [@VenteVenezuela], 19 September 2019. Available at: <https://twitter.com/VenteVenezuela/status/1174768496854622209?s=20>.

²²⁴⁵ Interview with María Corina Machado, 13 July 2023; *El Pitazo*, María Corina Machado denuncia sabotaje de la Guardia Nacional durante gira en Táchira, 16 May 2023. Available at:

1056. On 28 June 2023, Machado participated in several political activities during her tour in the State of Barinas²²⁴⁶. That same day, five people that worked in logistics for the event, among them the owner of the sound system, were detained by the Bolivarian National Intelligence Service in Sabaneta de Barinas. They were released the following day, but their equipment was retained²²⁴⁷. Machado indicated to the Mission that this had not been the first time that people that collaborated in her political activities had been detained²²⁴⁸.

1057. On 14 July 2023, on the way to Maiquetía, State of La Guaira, Machado decided to greet her supporters in the town of Catia La Mar, in the State of Vargas. While Machado greeted them, a group of people close to the government, including followers of the Unified Socialist Party of Venezuela, blocked the passage with a bus and attacked her physically and verbally²²⁴⁹. At least 30 members of “*Vente Venezuela*” who accompanied her were injured, and the vehicle transporting Machado was damaged. On this occasion, the Bolivarian National Police intervened to protect the candidate²²⁵⁰.

1058. The next day, 15 July 2023, in Petare, Municipality of Sucre, State of Miranda. A group of people belonging to the Unified Socialist Party of Venezuela arrived at the place where Machado was holding a meeting with supporters. A group of people close to the government verbally attacked her and attacked the vehicle in which she was traveling²²⁵¹.

1059. On 20 July 2023, María Corina Machado was driving along the *Troncal 13* highway to a political activity in the town of Valle de la Pascua, in the State of Guárico. A group of approximately 25 armed and hooded people on motorcycles that belonged to collectives blocked the highway with the purpose of preventing Machado and her team from continuing their journey²²⁵². The next day, 21 July, Machado continued her journey towards San Juan

<https://elpitazo.net/los-andes/maria-corina-machado-denuncia-sabotaje-de-la-guardia-nacional-durante-gira-en-tachira/>; Tweet from Futuro TV [@FuturoTVEnVivo] 17 May 2023. Available at: <https://twitter.com/FuturoTVEnVivo/status/1658967816555429890?s=20>.

²²⁴⁶ Tweet from Vente Venezuela [@VenteVenezuela], 28 June 2023. Available at: <https://twitter.com/VenteVenezuela/status/1674171814769991682>.

²²⁴⁷ Interview with María Corina Machado, 13 July 2023; Document HHDC071: Political persecution and attacks against María Corina Machado; Tweet from Victor Amaya [@victoramaya], 29 June 2023. Available at: <https://twitter.com/victoramaya/status/1674371066204913664>; *Efecto Cocuyo*, María Corina Machado denuncia persecución durante gira en Barinas y pide a seguidores protegerse entre todos, 29 June 2023. Available at: <https://efectococuyo.com/politica/maria-corina-machado-denuncia-persecucion-gira-barinas-seguidores-protgerse/#:~:text=Quiero%20pedirles%20que%20a%20estos,que%20no%20están%20solos%20pidió>.

²²⁴⁸ Interview with María Corina Machado, 13 July 2023; Document HHDC071: Political persecution and attacks against María Corina Machado.

²²⁴⁹ *Cazadores de Fake News*, Engañoso: ¿El pueblo de la Guairá rechazó la presencia de María Corina machado?, 18 July 2023. Available at: <https://www.cazadoresdefakenews.info/enganoso-el-pueblo-guaira-rechazo-presencia-maria-corina-machado/>.

²²⁵⁰ YouTube Video – Dnews, Venezuela: María Corina Machado fue agredida por turba Chavista, 14 July 2023. Available at: <https://www.youtu.be/JxgsKgDUhKY?t=62> [min 1:02]; *Infobae*, Un grupo chavista trató de bloquear a María Corina Machado rumbo a un acto de campaña, pero la policía la ayudó a realizarlo, 14 July 2023. Available at: <https://www.infobae.com/venezuela/2023/07/14/un-grupo-chavista-trato-de-bloquear-a-maria-corina-machado-rumbo-a-un-acto-de-campana-pero-la-policia-la-ayudo-a-realizarlo/>; Tweet from Vente Venezuela [@VenteVenezuela], 14 July 2023. Available at: <https://twitter.com/VenteVenezuela/status/1679874195847622657?s=20>.

²²⁵¹ CNN, María Corina Machado señala agresiones en campaña de parte de “enviados por el régimen”, 15 July 2023. Available at: <https://cnnespanol.cnn.com/2023/07/15/maria-corina-machado-agresiones-campana-orix/>; YouTube Video – El Nuevo Herald, Simpatizantes de Maduro golpean carro de María Corina Machado, 17 July 2023. Available at: <https://www.youtu.be/Wy7yolekn1M>; Tweet by Orlando Avendaño [@OrlvndoA], 15 July 2023. Available at: <https://twitter.com/OrlvndoA/status/1680283757347995648?s=20>.

²²⁵² Document HHDC078: Vente Venezuela – Case Guárico; Tweet from Vente Venezuela [@VenteVenezuela], 20 July 2023. Available at: <https://twitter.com/VenteVenezuela/status/1682139430138544128?s=20>; Tweet by Esteban Gerbasí [@estebangerbasi], 20 July 2023. Available at:

de los Morros, the capital of the State of Guárico, when officials at the toll “*El Sombrero*” located in the Municipality of Juan Mellado, began to inspect the vehicles that were passing, at the moment when Machado was about to pass the toll. There were Bolivarian National Intelligence Service officials at the scene²²⁵³. Once Machado and her team managed to cross the toll, they again encountered another Bolivarian National Police Corps checkpoint in the town of Ortiz²²⁵⁴. Machado had to cross on foot with the help of a group of citizens²²⁵⁵.

1060. On 23 July 2023, the headquarters of “*Vente Venezuela*” in the town of La Fría, in the border State of Táchira, which would be inaugurated the next day, were painted with death threat phrases directed at Machado²²⁵⁶. The Governor of the State of Táchira, Freddy Bernal, accused Machado of “*continuing with her madness*” and of “*ordering*” her party to make threats against herself. Bernal added that “*if the authorities arrest any citizen, regardless of their flag, painting graffiti, they will be prosecuted for terrorism, instigation of violence and incitement to hatred*”²²⁵⁷.

1061. On 4 August 2023, Machado denounced the Governor of the State of Trujillo, Gerardo Márquez, for having ordered an alleged attack against her, after a video circulated on social media in which the Governor was heard ordering some people at a public event to “kick María Corina Machado out of the municipality of Pampanito”²²⁵⁸.

Disqualification

1062. On 27 June 2023, at the request of the National Assembly’s deputy, José Brito, the Comptroller General of the Republic issued an official letter informing about María Corina Machado’s status of ineligibility²²⁵⁹. According to this document, Machado was subject to a sanction of 15 years of disqualification, the maximum period established by law for the exercise of any public office²²⁶⁰.

1063. The Official letter from the Office of the Comptroller General of the Republic explained that the sanction disqualifying her for 15 years was imposed by a resolution of the Comptroller General’s Office of 13 July

<https://twitter.com/estebangerbasi/status/1682221586303025152?s=20>; *Diario Las Américas*, Colectivos armados impiden paso a María Corina Machado, 20 July 2023. Available at:

<https://www.diariolasamericas.com/americas-latina/colectivos-armados-impiden-paso-maria-corina-machado-n5339805>; Tweet from DHHH Vente Venezuela [@VenteVenezuela], 21 July 2023. Available at: <https://twitter.com/VenteDDHH/status/1682428420490141716?s=20>.

²²⁵³ Document HHDC078: Vente Venezuela – Case Guárico]; Tweet from DHHH Vente Venezuela [@VenteVenezuela], 21 July 2023. Available at:

<https://twitter.com/VenteDDHH/status/1682470066502156288?s=20>

²²⁵⁴ Document HHDC078: Vente Venezuela – Case Guárico]; Tweet from DHHH Vente Venezuela [@VenteVenezuela]. Available at:

<https://twitter.com/VenteDDHH/status/1682470099242950658?s=20>.

²²⁵⁵ Document HHDC078: Vente Venezuela – Case Guárico], Tweet from DHHH Vente Venezuela [@VenteVenezuela], 21 July 2023. Available at:

<https://twitter.com/VenteDDHH/status/1682470218558234624?s=20>.

²²⁵⁶ *ABC Internacional*, La guerrilla colombiana amenaza con matar a María Corina Machado, 23 July 2023. Available at: <https://www.abc.es/internacional/guerrilla-colombiana-amenaza-matar-maria-corina-machado-20230723172528-nt.html>; *El Tiempo*, ELN desmiente estar detrás de las

amenazas contra opositora María Corina Machado, 25 July 2023. Available at:

<https://www.eltiempo.com/mundo/venezuela/eln-desmiente-su-participacion-en-amenazas-a-opositora-maria-corina-machado-789514>.

²²⁵⁷ *El Tequeño*, Freddy Bernal acusa a María Corina Machado de ordenar pintas amenazantes en su contra en Táchira, 24 July 2023. Available: <https://xn--eltequeo-j3a.com/freddy-bernal-acusa-a-maria-corina-machado-de-ordenar-pintas-amenazantes-en-su-contra-en-tachira-ella-sigue-con-sus-locuras/>.

²²⁵⁸ *Efecto Cocuyo*, María Corina Machado denuncia que gobernador de Trujillo ordenó un ataque en su contra, 4 August 2023. Available at: <https://efectococuyo.com/politica/maria-corina-machado-denuncia-que-gobernador-de-trujillo-ordeno-un-ataque-en-su-contra/>; Tweet from Alertas 24

[@Alertas24vzla], 4 August 2023. Available at:

<https://twitter.com/Alertas24vzla/status/1687517728603590668?s=20>.

²²⁵⁹ *Red Observación Electoral*, Piden a CGR verificar candidatos inhabilitados, 26 June 2023.

Disponible en: <https://www.redobservacion.org/2023/06/26/piden-a-cgr-verificar-a-candidatos-inhabilitados/>

²²⁶⁰ Comptroller General of the Republic, Official letter no. DGPE-23-08-00-008, 27 June 2023.

2015²²⁶¹. It so happens that, based on that same resolution, Machado had already been previously sanctioned to a period of 12 months of disqualification²²⁶²; this sanction prevented her from running in the elections of the National Assembly held in November 2015²²⁶³.

1064. Although the basis of the new sanction was the resolution of July 2015, the Office of the Comptroller General cited a series of acts “that violate public ethics, administrative morality, the rule of law, and peace and sovereignty” of the country²²⁶⁴. These included events after 2015, such as alleged corruption schemes linked to the administration of the “interim president” Juan Guaidó (2019-2023)²²⁶⁵. The Comptroller General’s document also referred to Machado’s alleged support for “the application of sanctions and economic blockade” against the country, as another basis for the sanction²²⁶⁶.

1065. Machado’s disqualification generated strong national and international rejection²²⁶⁷. On 5 July 2023, in the update for the Human Rights Council about the situation of the Bolivarian Republic of Venezuela, the United Nations High Commissioner called to address the “allegations of obstacles to participate freely in political matters” with a “sense of urgency”²²⁶⁸. On 14 July 2023, the Inter-American Commission on Human Rights condemned “the restrictions on the right to political participation (...) of opposition candidates”, making express reference to Machado

²²⁶¹ *Ibid.*

²²⁶² Comptroller General of the Republic, Resolution no. 01-00-0000398, 13 July 2015; Interview with Antonio Ledezma, 5 July 2023.

²²⁶³ *BBC Mundo*, Inhabilitan para ocupar cargos públicos por 15 años a María Corina Machado, una de las precandidatas presidenciales más populares de Venezuela, 30 June 2023, Available at : <https://www.bbc.com/mundo/articulos/cw5g464g3xwo>.

²²⁶⁴ Comptroller General of the Republic, Official letter no. DGPE-23-08-00-008, 27 June 2023, page 2.

²²⁶⁵ *Ibid.* P. 2-3.

²²⁶⁶ *Ibid.* P. 3.

²²⁶⁷ *Infobae*, Gustavo Petro reaccionó ante la decisión de inhabilitar a María Corina Machado: “Ninguna autoridad administrativa debe quitar derechos políticos”, 30 June 2023. Available at: <https://www.infobae.com/colombia/2023/06/30/gustavo-petro-reacciona-ante-la-decision-de-inhabilitar-a-maria-colina-machado-ninguna-autoridad-administrativa-debe-quitar-derechos-politicos/>; DW, EE.UU. condena que Venezuela inhabilite a opositora, 1 July 2023. Available at: <https://www.dw.com/es/eeuu-condena-que-venezuela-inhabilite-a-mar%C3%ADa-corina-machado/a-66087916>; Tweet by Henrique Capriles R. [[@hcapriles](https://twitter.com/hcapriles)], 30 June 2023. Available at: <https://twitter.com/hcapriles/status/1674801769275346951?s=20>; Tweet by Freddy Superlano [[@freddysuperlano](https://twitter.com/freddysuperlano)], 30 June 2023. Available at: <https://twitter.com/freddysuperlano/status/1674833867214028815?s=20>. Tweet by Delsa Solorzano [[@delsasolorzano](https://twitter.com/delsasolorzano)], 30 June 2023. Available at: <https://twitter.com/delsasolorzano/status/1674815778057535489?s=20>. Tweet by Carlos M. Prospero [[@prospericarlos](https://twitter.com/prospericarlos)], 30 June 2023. Available at: <https://twitter.com/prospericarlos/status/1674817464843087873?s=20>; Tweet by José Ramón Bauzá [[@JRBauza](https://twitter.com/JRBauza)], 30 June 2023. Available at: <https://twitter.com/JRBauza/status/1674736793025933314?s=20>; Tweet by Tamara Adrian [[@TamaraAdrian](https://twitter.com/TamaraAdrian)], 30 June 2023. Available at: <https://twitter.com/TamaraAdrian/status/1674845979650949131?s=20>; Tweet from Comisión Nacional de Primaria VE [[@cnprimariave](https://twitter.com/cnprimariave)], 30 June 2023. Available at: <https://twitter.com/cnprimariave/status/1674953675226202116?s=20>; Tweet by Asdrúbal Aguiar [[@asdrubalaguiar](https://twitter.com/asdrubalaguiar)], 1 July 2023. Available at: <https://twitter.com/asdrubalaguiar/status/1675176147225649153?s=20>; Tweet by Jeanine Anez [[@JeanineAnez](https://twitter.com/JeanineAnez)], 1 July 2023. Available at: <https://twitter.com/JeanineAnez/status/1675224372779393024?s=20>.

²²⁶⁸ OHCHR, Venezuela update by High Commissioner Türk, 5 July 2023. Available at: <https://www.ohchr.org/en/statements/2023/07/venezuela-update-high-commissioner-turk>.

and other politician's disqualification²²⁶⁹. According to the Commission, these disqualifications “result from a state policy that seeks to close civic space in the country”²²⁷⁰.

1066. On 1 July 2023, the Government of Venezuela issued a statement responding to the United States' rejection of Machado's disqualification, describing it as interference in its internal affairs and “attempting to establish a position in relation to different aspects of the future Venezuelan electoral process of 2024”²²⁷¹. In similar terms, on 3 July, the Government rejected the criticism of the European Union, which it described as a “new act of interference in matters that are the exclusive competence of Venezuelan public authorities”²²⁷².

1067. On 14 July 2023, in a public event held in the municipality of Biruaca, State of Apure, Diosdado Cabello referred to the candidates for the primaries who were disqualified: “*To the opponents who are disqualified, do not dress because you're not going, the one going is Nicolás (...). [They are] defeated (...), but I appreciate that you (...) go to the voting centres to take a photo of the blows that are going to happen there*”²²⁷³. In his television program *Con El Mazo Dando*, Cabello has continued to refer to Machado and other candidates' disqualification for the primaries, discrediting their candidacies²²⁷⁴.

1068. On 31 July 2023, Diosdado Cabello said that “*at this point, whatever María Corina says is absolutely insignificant*” and that she would not participate in the elections and that she would not remove President Maduro²²⁷⁵. Cabello added that “*she will not be candidate, she can hold elections at her home if she wants, and she can win the primaries at home and she can lie on the floor and have all the tantrums she wants, but she will not be able to register for the presidential elections because she is disqualified*”²²⁷⁶.

²²⁶⁹ IACHR, Press release no. 155: Venezuela: IACHR condemns politically motivated persecution of individuals in run-up to elections, 14 July 2023. Available at:

<https://www.oas.org/es/CIDH/jsForm/?File=/es/cidh/prensa/comunicados/2023/155.asp>.

²²⁷⁰ IACHR, Venezuela: IACHR condemns politically motivated persecution of individuals in run-up to elections, 14 July 2023. Available at:

<https://www.oas.org/es/CIDH/jsForm/?File=/es/CIDH/prensa/comunicados/2023/155.asp>.

²²⁷¹ Bolivarian Republic of Venezuela – Ministry of People's Power for Foreign Affairs, Comunicado Venezuela rechaza intentos de intromisión de EEUU en venidero proceso electoral de 2024, 1 July 2023. Available at: <https://mppre.gob.ve/comunicado/venezuela-rechaza-intentos-intromision-eeuu-venidero-proceso-electoral-2024/>; See also: *Voz de América*, Venezuela rechaza intromisión de EEUU en su proceso electoral y denuncia injerencia, 1 July 2023. Available at: <https://www.vozdeamerica.com/a/venezuela-rechaza-intromision-eeuu-proceso-electoral-denuncia-injerencia/7163127.html>.

²²⁷² Bolivarian Republic of Venezuela – Ministry of People's Power for Foreign Affairs, Comunicado Venezuela rechaza injerencia de la UE en asuntos de exclusive competencia de los Poderes Públicos venezolanos, 3 July 2023, Available at: <https://mppre.gob.ve/comunicado/venezuela-rechaza-injerencismo-ue-asuntos-de-exclusiva-competencia-poderes-publicos-venezolanos/>. See also: *Infobae*, La UE rechazó la inhabilitación de María Corina Machado en Venezuela: “Le impiden ejercer su derecho político”, 4 July 2023. Available at: <https://www.infobae.com/venezuela/2023/07/04/la-union-europea-rechazo-la-inhabilitacion-de-corina-machado-en-venezuela-le-impiden-ejercer-su-derecho-politico/>.

²²⁷³ YouTube Video – Luigino Bracci Roa, Diosdado Cabello en Apure, 14 July 2023. Available at: <https://youtu.be/8QefWqUgk4c?t=1086> [min. 18:06].

²²⁷⁴ YouTube Video – Transmisión en Vivo Con el Mazo Dando – Programa 438, 12 July 2023. Available at: <https://www.youtube.com/live/bQYL2iRBdes?feature=share>; YouTube Video – Transmisión en Vivo, Con el Mazo Dando, Programa 439, 19 July 2023. Available at: <https://www.youtube.com/live/f6RetALxgSA?feature=share&t=3925> [min. 1:05:25].

²²⁷⁵ YouTube Video – EVTVMiami, Diosdado amenaza a María Corina, 31 July 2023. Available: <https://youtu.be/RxgzgJC7rp0?t=728> [min. 12 :08].

²²⁷⁶ NTN24, No va a ser candidata: Diosdado lanza nueva amenaza contra María Corina Machado a los medios de comunicación, 4 July 2023. Available at: <https://www.ntn24.com/noticias-politica/no-va-a-ser-candidata-diosdado-cabello-lanza-nueva-amenaza-contra-maria-corina-machado-434580>.

1069. Machado has spoken about her disqualification in various media outlets, pointing out that it is a “legal aberration” for President Maduro to choose the candidate he wants to face in the presidential elections. Machado affirmed that she will not withdraw her candidacy from the 22 October 2023 primaries²²⁷⁷.

1070. The disqualification imposed by the Comptroller General of the Republic affects Machado's political intentions. Machado aspires to be elected in the opposition primary elections on 22 October 2023 as an opposition candidate to face President Maduro in the 2024 presidential elections²²⁷⁸. At the time of writing this report, according to the consulting firm *Meganálisis*, 32.88% of citizens surveyed would vote for Machado, surpassing President Maduro, who would receive 11.50% support²²⁷⁹.

Censorship

1071. María Corina Machado has reported being a victim of censorship in the media. She has not appeared on national television programs for approximately 10 years. Although there have been attempts to appear on programs on national network, these have been canceled at the last minute under some pretext²²⁸⁰.

Restrictions of freedom of movement

1072. In addition to the limitations on her movement within the country, Machado is also subject to restrictions on leaving the country. The opposition candidate has been banned from leaving the country since June 2014 due to an investigation related to the violent acts that occurred on 12 February of that year, as part of the protests in Caracas²²⁸¹. Additionally, restrictions of freedom of transit include the prohibition on the sale of airline tickets on commercial airlines²²⁸².

²²⁷⁷ You Tube Video – Vente Venezuela, Declaraciones de María Corina Machado a los médios de comunicación, 4 July 2023. Available at: <https://www.youtube.com/live/wpLbGVKZK0Y?feature=share>; Interview with María Corina Machado, 13 July 2023; AP News, Líder opositora de Venezuela rehúsa retirarse de las primarias pese a inhabilitación política, 4 July 2023. Available at: <https://apnews.com/world-news/general-news-d791c9676d3b4b6075f5b4ce0aa569cd>; *Infobae*, María Corina Machado habló de su inhabilitación por el régimen de Maduro: ‘Es un gran error, un verdadero búmeran’, 4 July 2023. Available at: <https://www.infobae.com/venezuela/2023/07/04/maria-corina-machado-hablo-de-su-inhabilitacion-por-el-regimen-de-maduro-es-un-gran-error-un-verdadero-bumeran/#:~:text=La%20precandidata%20de%20la%20oposici%C3%B3n,verdadero%20b%C3%BAmeran%E2%80%9D%20para%20el%20gobierno.>

²²⁷⁸ Interview with María Corina Machado, 13 July 2023.

²²⁷⁹ *El Nacional*, Encuesta Meganálisis: María Corina Machado lidera la intención de voto para la presidencial, 9 August 2023. Available at: <https://www.elnacional.com/venezuela/encuesta-meganalisis-maria-corina-machado-lidera-la-intencion-de-voto-para-la-presidencial/>; *El País*, La oposición a todo de María Corina Machado gana adeptos en Venezuela, 23 June 2023. Available at: <https://elpais.com/internacional/2023-06-27/la-oposicion-a-todo-de-maria-corina-machado-gana-adeptos-en-venezuela.html>; *Voz de América*, Venezuela: se dispara popularidad de María Corina Machado en las encuestas primarias, 19 June 2023. Available at: <https://www.vozdeamerica.com/a/venezuela-maria-corina-machado-encuestas-popularidad/7143854.html>.

²²⁸⁰ Interview with María Corina Machado, 13 July 2023; *Frontera Viva*, ¿Dejarán a María Corina Machado llegar al 2024, 16 September 2022. Available at: <https://www.fronteraviva.com/dejaran-a-maria-corina-machado-llegar-al-2024/>.

²²⁸¹ Interview with María Corina Machado, 13 July 2023; Ministry of People’s Power for Communication and Information, Tribunal prohíbe a María Corina Machado salir del país, 20 June 2014. Available at: <http://www.minci.gob.ve/tribunal-prohibe-a-maria-corina-machado-salir-del-pais/>; AP News, Venezuela: prohíben salida de país a excongresista, 20 June 2014. Available at: <https://apnews.com/f9396fffc3d34c6cbdc1f056d416fc6d>.

²²⁸² Interview with María Corina Machado, 13 July 2023; *El Interés*, Prohíben a aerolíneas nacionales vender boletos a opositores, 25 May 2017. Available at: <https://elestimulo.com/elinteres/economia/2017-05-25/prohiben-a-aerolineas-nacionales-vender-boletos-a-opositores/>

Conclusions

1073. Based on the aforementioned, the Mission has reasonable grounds to believe that, during 2023, María Corina Machado was subjected on repeated occasions to acts of harassment performed by State agents or by individuals with permission of State agents, due to her status as a candidate in the 2023 opposition primary elections.

1074. The Mission also has reasonable grounds to believe that officials of the Bolivarian National Intelligence Service, the Bolivarian National Guard, and the Bolivarian National Police, as well as civilian members of collectives or related to the government, participated in the acts of preventing Machado's freedom of movement during her visits to the interior of the country within the framework of her national tour for the primaries. Additionally, the Mission has reasonable grounds to believe that groups of people affiliated with the Unified Socialist Party of Venezuela have perpetrated physical attacks against Machado during the various visits made by the candidate for her national tour, and that the authorities have not intervened to stop these attacks, except on one occasion.

F. Censorship and limitations on media operation

1. Introduction

1075. As the United Nations Human Rights Committee has indicated, the “existence of press and other media that are free and exempt from censorship and hindrances is essential...to ensure freedom of opinion and expression” and it is “one of the cornerstones of every democratic society”²²⁸³. Among the main restrictions on civic and democratic space in the Bolivarian Republic of Venezuela are attacks on freedom of expression, which include censorship and other forms of control of information, particularly on radio and television, and thus limiting the operation of independent media.

1076. Censorship of information is manifested, mainly, through CONATEL guidelines that prohibit certain topics from being aired, that prohibit the use – by journalists or interviewees – of certain words, or that prohibit interviewing certain people. When these guidelines are not respected, the Mission was informed that CONATEL uses its powers to suspend the operations of the media.

1077. There is no universally accepted definition of “censorship”, although generally it refers to “controlling and prohibiting information before it is distributed”²²⁸⁴. The International Covenant on Civil and Political Rights does not expressly prohibit censorship; however, the Human Rights Committee has repeatedly emphasized the importance of freedom of expression and that media outlets be free of censorship in a democratic society²²⁸⁵. Within the Inter-American system, the American Convention on Human Rights explicitly prohibits “prior censorship” – without prejudice of subsequent legal responsibilities²²⁸⁶ - except in the case of “public performances”, with the “sole purpose of regulating their access to morally protect children and adolescents”²²⁸⁷. In the rest of the cases, according to the Inter-American Court of Human Rights, the prohibition of censorship is absolute²²⁸⁸. Other forms of “interference or direct or indirect pressure” against content in the media are also banned²²⁸⁹.

1078. According to public sources, many of the current restrictions on freedom of expression in the Bolivarian Republic of Venezuela were imposed under the Government of President Hugo Chávez, especially after the attempted coup of April 2002, which generated an environment of high political polarization²²⁹⁰, reflected in several acts of

²²⁸³ Human Rights Committee, General Comments 34: Article 19. Freedom of opinion and freedom of expression, 12 September 2011, CCPR/C/G/34, para. 13.

²²⁸⁴ IACHR, Comentario a la Declaración de Principios sobre Libertad de Expresión (2000), para. 15. Available at: <https://www.oas.org/es/cidh/expresion/showarticle.asp?artID=597&IID=2>.

²²⁸⁵ Human Rights Committee, General Comments no. 25, CCPR/C/21/REV.1/ADD.7, para 25; Human Rights Committee. *Marqués de Morais Vs. Angola*, CCPR/C/83/D/1128/2002, para. 6.8

²²⁸⁶ American Convention in Human Rights, art. 13(2).

²²⁸⁷ *Ibid.* Art. 13(4).

²²⁸⁸ IACHR, *Olmedo Bustos y otros Vs. Chile*. Sentence of 5 February 2001. Serie C No. 73, para. 70.

²²⁸⁹ IACHR, Declaration of principles on Freedom of Expression. Adopted by the IACHR in its 108 ordinary sessions period on 2 to 20 October 2000, 20 October 2000.

²²⁹⁰ IACHR, *Caso Granier y otros (Radio Caracas Televisión) Vs. Venezuela*, official summary of the Sentence of 22 June 2015, (Preliminary exceptions, merits, reparation and costs). Available at : Disponible en https://www.corteidh.or.cr/docs/casos/articulos/resumen_293_esp.pdf.

violence that occurred between people who supported the different political sectors of the country²²⁹¹. During this period, the Inter-American Court of Human Rights considered that “the statements of high state authorities against independent media and a discourse coming from pro-government sectors to professionally discredit journalists” proved the existence of an environment of intimidation²²⁹².

2. Restrictions against print media

a) Relevant legal framework

1079. In 2012 the government declared that newsprint, a material that is not produced in Venezuela, would no longer be a priority good for import. Since then, to obtain newsprint, Venezuelan printed media has had to request a certificate from the Ministry of Light Industry and Commerce (MILCO, by its Spanish acronym), and then request an import permit from the Centre for Foreign Commerce (CENCOEX, by its Spanish acronym) to be able to import the product and pay the supplier in dollars through the Central Bank of Venezuela²²⁹³.

1080. In May 2013, Presidential Decree 104 authorized the creation of the State company Alfredo Maneiro Editorial Complex (CEAM, its Spanish acronym), attached to the Ministry of Communication and Information, with the purpose of regularizing the production, distribution, and marketing of essential supplies to publish texts, including newsprint and other materials necessary to print newspapers and magazines. The decree also establishes that the Alfredo Maneiro Editorial Complex “must follow the guidelines issued by the National Executive, through the Central Planning Commission and the registration organization, in accordance with centralized planning and the law”²²⁹⁴.

b) Limitations of print media to access supplies

1081. Since its creation in May 2013, the Alfredo Maneiro Editorial Complex became the only legal source for purchasing newsprint in Venezuela²²⁹⁵. Independent media and press and freedom of expression organizations began to denounce, from the same year of its creation, that the Alfredo Maneiro Editorial Complex limited access to newsprint, particularly to media perceived as opposition²²⁹⁶. On 31 March 2016, the National College of Journalists,

²²⁹¹ IACHR, Office of the Special Rapporteur for Freedom of Expression, Annual Report 2003, OEA/Ser.L/V/II.118, para. 55, 292-395. Available at: <https://www.cidh.oas.org/annualrep/2003sp/indice.htm>.

²²⁹² Inter-American Court of Human Rights, *Caso Granier y Otros (Radio Caracas Televisión) Vs. Venezuela*, official summary of the sentence of 22 June 2015, (Preliminary exceptions, merits, reparation and costs), para. 61. Available at: https://www.corteidh.or.cr/docs/casos/articulos/resumen_293_esp.pdf.

²²⁹³ Inter-American Press Association, Note about Venezuela, 4 April 2014. Available at: [https://www.sipiapa.org/notas/1153414-venezuela; Espacio Público, El viacrucis de conseguir papel prensa en Venezuela, 24 September 2014. Available at: https://espaciopublico.org/papel-prensa-ceam/; IPYS, Nuevos requisitos afectan importación del papel periódico. Available at: https://www.ipys.org.ve/alerta/nuevos-requisitos-afectan-importacion-de-papel-periodico/.](https://www.sipiapa.org/notas/1153414-venezuela; Espacio Público, El viacrucis de conseguir papel prensa en Venezuela, 24 September 2014. Available at: https://espaciopublico.org/papel-prensa-ceam/)

²²⁹⁴ Presidential Decree num. 104, Official Gazette num. 40.168 of 16 May 2013.

²²⁹⁵ Knight Center LatAm Journalism Review, Venezuelan journalists take legal action because of discriminatory treatment in the State newspaper paper distribution monopoly, case El Carabobeño, 4 April 2016. Available at: <https://latamjournalismreview.org/es/articles/periodistas-de-venezuela-demandan-por-discriminacion-a-monopolio-estatal-de-distribucion-de-papel-prensa-por-caso-el-carabobeno/>; IPYS, Crisis de papel acaba historia impresas, 17 March 2016. Available at <https://ipysvenezuela.org/alerta/carabobo-crisis-de-papel-acaba-con-82-anos-de-historias-impresas/>; Espacio Público, El viacrucis de conseguir papel prensa en Venezuela, 24 September 2014, available at <https://espaciopublico.org/papel-prensa-ceam/>.

²²⁹⁶ El País, Lack of newspaper paper forces closure of media in Venezuela, 2 September 2013, available at https://elpais.com/internacional/2013/09/03/actualidad/1378167296_079026.html; Espacio Público, El Viacrucis de conseguir papel prensa en Venezuela”, 24 de septiembre de 2014, <https://espaciopublico.org/papel-prensa-ceam/>; IPYS, Paper crisis destroys printed stories, 17 March 2016. Available at <https://ipysvenezuela.org/alerta/carabobo-crisis-de-papel-acaba-con-82-anos-de-historias-impresas/>; TalCual, Maduro on the web, 19 April 2018. Available at <https://talcualdigital.com/el-futuro-de-talcual-esta-aqui/>; IPYS, Printed media: between survival and forgotten, 26 April 2021. Available at <https://ipysvenezuela.org/alerta/balance-ipysve-medios-impresos-entre-el-olvido-y-la-sobrevivencia/>.

the National Union of Press Workers, and civil society organizations filed a lawsuit before the Constitutional Chamber of the Supreme Tribunal of Justice against the president of Alfredo Maneiro Editorial Complex for discriminatory award of newsprint²²⁹⁷. The lawsuit focused on the case of the newspaper *El Carabobeño*, which stopped printing on 17 March 2016 after 82 years of circulation because it was denied access to newsprint by Alfredo Maneiro Editorial Complex²²⁹⁸.

1082. The exclusion of access to newsprint led to the cessation of operations of several newspapers both nationally and locally²²⁹⁹. *El Nacional*, the last independent printed newspaper with national reach, ceased its print circulation in December 2018 (see Case 39: Miguel Henrique Otero, *infra*). According to the records of the NGO IPYS Venezuela, from the creation of CEAM in 2013 until April 2021, 104 printed media stopped circulating in Venezuela²³⁰⁰. According to IPYS Venezuela, after 2021 they no longer received complaints from newspapers forced to stop printing due to not being able to access newsprint, because by the end of 2021 most media outlets had already abandoned their printed editions²³⁰¹.

3. Censorship of Radio and Television Stations

1083. With the disappearance of printed newspapers (see *supra*), radio became an even more important possible source of information for Venezuelans, particularly rural population.²³⁰² Research published in 2021 by Consultores 21, a company that conducts market and public opinion research, indicated that 66% of respondents in Venezuela preferred, or depended on, the radio as a means of communication and source of information.²³⁰³ The study determined that the Andes-Llanos and Oriente regions stood out as the areas where content and information is consumed most through the radio, reaching an average of 74% and 73% respectively of the people surveyed in those areas. In this context, the Venezuelan Chamber of the Broadcasting Industry president pointed out that in these areas data coverage is limited, which makes the radio the only reliable source of information for many people.²³⁰⁴

1084. In September 2022, Delphos polling agency conducted another national survey on media consumption patterns in Venezuela.²³⁰⁵ According to this study, 40% of people have access to news through television and radio and 25.6% use various social media platforms, mainly Instagram and WhatsApp. Social interaction plays an

²²⁹⁷ Espacio Público, Civil society brings legal action against Hugo Cabezas in case *El Carabobeño*, 31 March 2016. Available at: <https://espaciopublico.org/sociedad-civil-demanda-hugo-cabezas-caso-carabobeno/>.

²²⁹⁸ Espacio Público, *El Carabobeño says again bye to public sales because of the paper crisis*, [https://espaciopublico.org/carabobeno-se-vuelve-despedir-los-kioscos-crisis-papel/#:~:text=El%2017%20de%20marzo%20del,dictadura%20de%20Juan%20Vicente%20Gómez.; La Vanguardia, Venezuelan newspaper El Carabobeño will stop printing because of lack of paper, 11 March 2016. Available at: https://www.lavanguardia.com/vida/20160311/40369222333/diario-venezolano-el-carabobeno-dejara-de-circular-por-falta-de-papel.html](https://espaciopublico.org/carabobeno-se-vuelve-despedir-los-kioscos-crisis-papel/#:~:text=El%2017%20de%20marzo%20del,dictadura%20de%20Juan%20Vicente%20Gómez.;La Vanguardia, Venezuelan newspaper El Carabobeño will stop printing because of lack of paper, 11 March 2016. Available at: https://www.lavanguardia.com/vida/20160311/40369222333/diario-venezolano-el-carabobeno-dejara-de-circular-por-falta-de-papel.html).

²²⁹⁹ *El Nacional*, Periódicos en Venezuela dejan de circular por falta de papel, 16 septiembre 2018. Disponible en: https://www.elnacional.com/sociedad/periodicos-venezuela-dejan-circular-por-falta-papel_251968/; IPYS Venezuela, Escasez de papel periódico pone en riesgo derecho a la libertad de expresión e información en Venezuela, 17 de enero de 2014. Disponible en: <https://ipysvenezuela.org/2014/01/17/escasez-de-papel-periodico-pone-en-riesgo-derecho-a-la-libertad-de-expresion-e-informacion-en-venezuela/>.

²³⁰⁰ IPYS, Medios impresos: entre el olvido y la sobrevivencia, 26 de abril de 2021. Disponible en: <https://ipysvenezuela.org/alerta/balance-ipysve-medios-impresos-entre-el-olvido-y-la-sobrevivencia/>.

²³⁰¹ Entrevista PIV092.

²³⁰² Interview PPIV045; Interview with Edgar Cárdenas, 22 November 2022; Espacio Público, Radio in Venezuela or regulatory censorship, 5 October 2022. Available at: <https://espaciopublico.org/la-radio-en-venezuela-o-la-censura-normalizada-2/>; Fundación Bigott, The beginnings of radio in Venezuela, 23 September 2022. Available at: <https://www.fundacionbigott.org/los-inicios-de-la-radio-en-venezuela/?v=a99877f71bd9>; Medianaálisis, Radio is the closest means of communication to the people, 8 December 2022. Available at: <https://www.medianalisis.org/la-radio-es-le-medio-de-comunicacion-mas-cercano-a-la-gente/>.

²³⁰³ Tal Cual, Radio is one of the most widely used media to obtain information according to Consultores 21, 19 September 2022. Available at: <https://talcualdigital.com/la-radio-es-uno-de-los-medios-mas-utilizados-para-informarse-segun-consultores-21/>.

²³⁰⁴ *Ibid.*

²³⁰⁵ Poderopedia, Delphos: Polling company founded in 2005 by Félix Seijas Rodríguez, son of Félix Seijas Zerpa, director of the Venezuelan Institute of Data Analysis (Ivad) by its Spanish acronym). Unlike the Venezuelan Institute of Data Analysis (Ivad), who focuses mainly on political polls, Delphos dedicates its studies to the areas of merchandising and marketing, in addition to current political affairs.

important role to access to information, as 9.2% of people interviewed stated, they obtain news mainly through their circle of friends and family. Only 7% choose to visit news websites, while only 0.9% prefer printed newspapers.²³⁰⁶

1085. According to Consultores 21's study, 48% of households in Venezuela access to Internet and only two out of every ten Venezuelans have a connection to digital media²³⁰⁷. In these contexts, the radio becomes the only source of information available, especially when there is no access to television sets.²³⁰⁸ In this context, the Venezuelan State has been strengthening the regulatory framework and institutions that allow it to control telecommunications content, particularly the radio. The adoption of the Organic Law on Telecommunications (known as LOTEL)²³⁰⁹ in 2000 and the Law on Social Responsibility in Radio and Television (known as the RESORTE law)²³¹⁰ in 2004 constituted two fundamental steps in the progressive restriction of the media in Venezuela.

²³⁰⁶ Elucabista, Carlos Correa, Director of Public Space: "62.9% of Venezuelans consider that there is censorship of content on social networks", 26 June 2023. Available at: <https://elucabista.com/2023/06/26/carlos-correa-director-de-espacio-publico-629-de-los-venezolanos-considera-que-hay-censura-de-contenidos-en-redes-sociales/>.

²³⁰⁷ El Diario, Survey revealed that only 48% of Venezuelan houses have access to the Internet, 22 June 2023. Available at: <https://eldiario.com/2023/06/22/encuesta-hogares-venezolanos-acceso-a-internet/>.

²³⁰⁸ *Ibid.*

²³⁰⁹ The law was adopted by the National Legislative Commission, which was a transitional body between the National Constituent Assembly and the National Assembly established in the 1999 Constitution. Available at: https://www.oas.org/juridico/spanish/cyb_ven_ley_telecomunicaciones.pdf.

²³¹⁰ *Official Gazette* no. 38.333 of 12 December 2005.

(a) Relevant regulatory framework

1086. In June 2000, the LOTEL²³¹¹ was adopted to regulate telecommunications, which created the National Telecommunications Commission (CONATEL by its Spanish acronym), attached to the Executive Power. In effect, this law establishes that the comprehensive regime of telecommunications and radioelectric space, which is a public domain asset, is the National Government's responsibility²³¹² and puts the activities of telecommunications services, particularly television and radio, under the supervision of the CONATEL.

1087. In 2004, the Law on Social Responsibility in Radio and Television, known as the "RESORTE law" came into force²³¹³. The Law, still in force, has a broad objective of promoting "social responsibility" of telecommunications service providers and of "promoting the democratic balance between their duties, rights, and interests²³¹⁴." The Rapporteur for Freedom of Expression of the IACHR expressed its concern regarding several articles of said law due to the risk of restricting freedom of expression.²³¹⁵ Article 27 of the Law contains a prohibition of content, the ambiguous terms of which are susceptible to a broad interpretation. Under this article, it is prohibited the dissemination of messages that: "(1) Incite or promote hatred and intolerance for religious, political, gender difference, racism, or xenophobia reasons. (2) Incite or promote and/or incite the crime. (3) Constitute war propaganda. (4) Promote anxiety among citizens or disturb public order. (5) Ignore the legitimately constituted authorities. (6) Induce homicide. [and/or] (7) Incite or promote non-compliance with the current legal system." According to a source interviewed by the Mission, this broad ban has been the legal basis for political control of media content, for example, to prohibit live coverage of protests.²³¹⁶ The IACHR Rapporteur for Freedom of Expression also expressed concern about the vagueness of the terms used by the Law, especially considering the severity of the sanctions that could be imposed, creating a risk of arbitrary or disproportionate decisions.²³¹⁷ The RESORTE Law also expanded the powers of the National Telecommunications Commission (CONATEL by its Spanish acronym), created by the LOTEL adopted in June 2000²³¹⁸. The IACHR Rapporteur for Freedom of Expression indicated on several occasions that National Telecommunications Commission (CONATEL by its Spanish acronym) lacks independence, since its members can be freely appointed and dismissed by the President of the Republic.²³¹⁹

1088. Article 19 of the RESORTE Law empowers the National Telecommunications Commission (CONATEL) to open, at its own initiative or at the request of a party, the sanctioning procedures derived from this law. Likewise, article 33 gives CONATEL the possibility of issuing precautionary measures at the request of a party or at its own initiative to order the media to refrain from disseminating messages considered contrary to the same law, or "in order to protect the rights of users", even when opening an administrative procedure. As evidenced by the cases investigated by the Mission, CONATEL has used this broad competence to censor media critical of President Maduro's Government or the dissemination of information that State officials do not want to be disclosed.

²³¹¹ The law was adopted by the National Legislative Commission, which was a transitional body between the National Constituent Assembly and the National Assembly established in the 1999 Constitution. Available at: https://www.oas.org/juridico/spanish/cyb_ven_ley_telecomunicaciones.pdf.

²³¹² Article 3 of the LOTEL.

²³¹³ *Official Gazette* no. 38,333 of 12 December 2005.

²³¹⁴ *Ibid.*, art. 1.

²³¹⁵ Report of The Inter-American Commission on Human Rights 2009, Report of the Rapporteur for Freedom of Expression para. 518 and 519. See also para. 520-527. Available at: <https://www.cidh.oas.org/pdf/files/RELEAnual 2009.pdf>.

²³¹⁶ Interview with Luis Carlos Diaz, 7 March 2023.

²³¹⁷ Report of The Inter-American Commission on Human Rights 2009, Report of the Rapporteur for Freedom of Expression para. 518 and 519. See also para. 520-527. Available at: <https://www.cidh.oas.org/pdf%20files/RELEAnual%202009.pdf>.

²³¹⁸ Organic Law of Telecommunications (known as LOTEL), June 2000.

²³¹⁹ IACHR, Press Release R111/11, 21 October 2011. Available at: <https://www.oas.org/es/cidh/expresion/showarticle.asp?artID=872&IID=2;>

1089. The RESORTE Law was modified in 2010,²³²⁰ expanding its scope of application to pay television and electronic media.²³²¹ The reform of the Law toughened the penalties for violations of the prohibitions, imposing new fines.²³²²

(b) Censorship of topics and words

1090. The main form of censorship currently in force in the Bolivarian Republic of Venezuela is the thematic control of content exercised by CONATEL by virtue of the powers attributed to it by the RESORTE Law, which takes the form of the prohibition of dissemination of certain topics (and, in occasions, even of certain words) considered problematic by the authorities.

1091. The sources interviewed by the Mission, including journalists and media personnel, agreed that, at least from 2016 to the present time, there are several topics that cannot be addressed on television or radio, whose contents are controlled by CONATEL.²³²³ Programs that are broadcast solely on the Internet do not face direct regulation by CONATEL over their content, but CONATEL can require Internet providers to block the web pages that transmit them if they do not respect censorship restrictions (see chapter IV, section F.5, *infra*).

1092. CONATEL directives are transmitted to media directors mainly in face-to-face meetings or by telephone calls where they are told what topics can be addressed and what topics cannot. According to people interviewed by the Mission, these calls are made by CONATEL officials,²³²⁴ and in some cases the director of the Commission himself, Jorge Elieser Márquez, personally calls the directors of the media to censor them²³²⁵.

1093. Among the censored topics are allegations of corruption or violations of rights by officials or their families, or other people close to power.²³²⁶ References to international tribunals and human rights mechanisms, such as the International Criminal Court or the Mission itself, are also prohibited, unless it is to question these institutions²³²⁷. According to a journalist interviewed by the Mission, economic sanctions against the Bolivarian Republic of Venezuela are another prohibited topic, unless they are also mentioned to criticize them²³²⁸. According to the same journalist, when a colleague proposed in 2022 to do a research-based program on human rights issues, the directors of the media where he works told him the following: “*Not this topic. It confronts power a lot.*”²³²⁹

1094. Another censored content is anti-government protests, particularly if there are indications that they have been violently repressed by the State.²³³⁰ According to a journalist interviewed by the Mission, in January 2023 the radio station with which he worked received a call from CONATEL in which they were told: “*Zero coverage of the teacher protests.*” This journalist noted that after the call, that and other radio stations based in Venezuela stopped covering the protests, although the digital media continued to do so because they were not subject to CONATEL control.²³³¹

1095. A journalist explained to the Mission that CONATEL is not limited to restricting topics, as it has also asked the media to modify the tone of all their coverage. According to his testimony, in 2021, CONATEL warned the director

²³²⁰ Partial Reform Law of the Law of Social Responsibility in Radio and Television, published in the *Official Gazette* no. 382.136 of 22 December 2010. However, the Partial Reform was published again in *Gazette* 383.264 of 7 February 2011, due to a material error in its previous publication.

²³²¹ RESORTE Law, art. 1.

²³²² Article 29 established fines of up to 10% of the gross income caused in the fiscal year immediately preceding the one in which the infraction was committed and/or suspension of transmissions for 72 hours.

²³²³ Interview OOIV035; Interview PPIV062; Interview with Rafael Uzcategui, 3 March 2023; Interview with Carlos Correa, 17 February 2023; Interview with Luis Carlos Díaz, 20 June 2023; Interview with Manuela Bolívar, 13 February 2023; Interview with Victor Ugas, 5 June 2023; Interview with Roberto Marrero, 5 June 2023; Interview PPIV045; Interview with Edgar Cárdenas, 22 November 2022.

²³²⁴ Interview OOIV035; Interview with Luis Carlos Díaz, 7 March 2023; Interview with Roberto Marrero, 5 June 2023.

²³²⁵ Interview with Carlos Correa, 17 February 2023; Interview with Luis Carlos Díaz, 1 March 2023.

²³²⁶ Interview with Carlos Correa, 17 February 2023; Interview PPIV045; Interview OOIV035; Interview with Jesús Medina, 22 November 2022; Interview PPIV073.

²³²⁷ Interview PPIV062; Interview with Rafael Uzcategui, 3 March 2023; Interview with Luis Carlos Díaz, 7 March 2023; Interview PPIV072; Interview PPIV073; Interview with Martha Tineo, 13 March 2023; Interview OOIV035.

²³²⁸ Interview PPIV073.

²³²⁹ Interview PPIV057.

²³³⁰ Interview PPIV073; Interview OOIV035; Document PPDC029.

²³³¹ Interview OOIV035.

of a group of radio stations that they had to “*be more moderate*,” “*be more positive*”, and “*focus on the good things about the country*.”²³³² Another of the journalists interviewed by the Mission indicated that, in general, one cannot talk about political issues or any potentially sensitive case or event until it appears in a state media, or a government source has commented on the matter²³³³. “*Journalists have to wait for the official line to find out how the information can be presented*.”²³³⁴

1096. Just as there are topics that cannot be addressed by the media, there are also words that should not be uttered in programs and interviews that are broadcast to the public through radio and television controlled by CONATEL. According to sources interviewed by the Mission, in 2019 and 2020 CONATEL communicated the prohibited words in writing to the media. Since 2021, these communications have no longer been sent out and the ban is done verbally through telephone warnings.²³³⁵

1097. According to the journalists interviewed by the Mission, among the words that cannot be used on air include “dictatorship,”²³³⁶ and “regime.”²³³⁷ Other expressions considered sensitive and that have been subject to censorship are: “interim government,”²³³⁸ “usurper,”²³³⁹ “looting,”²³⁴⁰ “riots,”²³⁴¹ “social outbreak,”²³⁴² “political prisoners,”²³⁴³ “human rights,”²³⁴⁴ and “persecution.”²³⁴⁵ In addition, it is prohibited to refer to President Maduro as “illegitimate president” or to the National Assembly elected in 2020 as “illegitimate.”²³⁴⁶ Nor could Juan Guaidó be referred to as “president”, “interim president” or “acting president.”²³⁴⁷

1098. Some broadcasters have posted the list of prohibited words on the wall of their radio booths or in the newsrooms of television networks.²³⁴⁸ If any person interviewed uses a prohibited word during a radio program, the journalist is forced to interrupt it and declare that, according to CONATEL directives, the radio does not support the terms used by the person interviewed.²³⁴⁹ If the person interviewed questions the legitimacy of Maduro’s presidency, or refers to another person as the president of Venezuela, the journalist is instructed to declare on air that “*Maduro is the legitimate president*.”²³⁵⁰

²³³² Interview with Luis Carlos Díaz, 1 March 2023.

²³³³ According to the Human Rights Committee, “[t]he free communication of information and ideas about public and political issues between citizens, candidates, and elected representatives is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion.” Human Rights Committee, General Comment No. 34, CCPR/C/GC/34, para. 20.

²³³⁴ Interview PPIV057.

²³³⁵ Interview with Luis Carlos Díaz, 7 March 2023; Interview with María Corina Machado, 13 July 2023; Interview with Edgar Cárdenas, 22 November 2022.

²³³⁶ Interview with Edgar Cárdenas, 22 November 2022; Interview with Manuela Bolívar, 13 February 2023; Interview with Roberto Marrero, 5 June 2023; Interview OOIV035; Interview with Victor Ugas, 5 June 2023.

²³³⁷ Interview with Edgar Cárdenas, 22 November 2022; Interview PPIV062; Interview with Roberto Marrero, 5 June 2023; Interview OOIV035; Interview with Luis Carlos Díaz, 1 March 2023; Interview with Victor Ugas, 5 June 2023; YouTube Video: Punto de Corte, Punto de Corte journalist, Nurelyin Contreras, gives details of the attack where she was a victim, 11 February 2020. Available at: <https://www.youtube.com/watch?v=Zpk4xSm3YBA>.

²³³⁸ Interview PPIV062, Interview with Manuela Bolívar, 13 February 2023.

²³³⁹ Interview with Luis Carlos Díaz, March 7, 2023; Interview with Manuela Bolívar, 13 February 2023.

²³⁴⁰ Interview with Luis Carlos Díaz, 7 March 2023.

²³⁴¹ *Ibid.*

²³⁴² *Ibid.*

²³⁴³ Interview with Victor Ugas, 5 June 2023.

²³⁴⁴ Interview OOIV035; Interview PPIV062; Interview with Luis Carlos Díaz, 1 March 2023; Interview with Victor Ugas, 5 June 2023.

²³⁴⁵ Interview PPIV073.

²³⁴⁶ Interview with Roberto Marrero, 5 June 2023; Interview with Luis Carlos Díaz, 7 March 2023.

²³⁴⁷ Interview with Luis Carlos Díaz, 7 March 2023; Interview OOIV035; Document PPDC029; YouTube Video: Punto de Corte, Punto de Corte journalist, Nurelyin Contreras, gives details of the attack where she was a victim, 11 February 2020. Available at: <https://www.youtube.com/watch?v=Zpk4xSm3YBA>

²³⁴⁸ Interview OOIV035; Interview with Luis Carlos Díaz, 7 March 2023; Interview with Victor Ugas, 5 June 2023.

²³⁴⁹ Interview OOIV035; Interview with Luis Carlos Díaz, 7 March 2023; Interview with Roberto Marrero, 5 June 2023.

²³⁵⁰ *Ibid.*

(c) Veto of people in the media

1099. Certain people are also excluded from the media, since CONATEL has prohibited interviewing them.²³⁵¹ These include, particularly, members of opposition political parties, but also other people known to express criticism against the government in different roles, such as civil society activists, human rights defenders, jurists, and journalists.

1100. A journalist told the Mission that, before 2016, they could, whether on the radio or television, decide to interview people “*on the go*.” If the opportunity arose, they did it without asking the media where they work for authorization. However, starting that year, they had to start requesting permission from the radio directors because they had been informed that there were people and topics that they could not talk about.²³⁵²

1101. Popular Will party deputy Manuela Bolívar informed the Mission that she was under a kind of “veto” in some radio and open television programs, whose producers had informed her that they could not interview her because she belonged to that opposition party.²³⁵³ A member of another opposition party confirmed to the Mission that she and other members of her political party had also been banned, adding that the censorship had been ordered by CONATEL through a list distributed to the media.²³⁵⁴

1102. Other people interviewed by the Mission who claim to be banned from television channels and radio stations in Venezuela include human rights defenders, such as Mercedes de Freitas,²³⁵⁵ the coordinators of the organization PROVEA,²³⁵⁶ and two other defenders who, due to fear of reprisals, they prefer to remain anonymous.²³⁵⁷ Also banned, as reported to the Mission, are members of opposition political parties Juan Guaidó,²³⁵⁸ Freddy Guevara,²³⁵⁹ María Corina Machado²³⁶⁰ and Roberto Marrero.²³⁶¹

(d) Self-censorship and suspension of programs

1103. The interventions of CONATEL make the media tend to exercise stricter internal control of content before broadcasting it or to self-censor. People who work with the media have indicated to the Mission that broadcasters and journalists usually respect CONATEL directives under the threat of being taken off the air, or having their transmission equipment confiscated by CONATEL.²³⁶²

1104. A journalist explained to the Mission that the producers of the radio station where he works told him that: “*500 jobs depend on you*” thus remembering that, if content control rule is not respected, CONATEL could close the radio, and many people will lose their jobs.²³⁶³ He also explained that journalists have to ask the management of stations where they work before broadcasting content, and that it is the management who determines whether it can be done or not based on the topics and words that may provoke a negative reaction from CONATEL.²³⁶⁴

1105. Several sources have indicated to the Mission that, in recent years, there has been a reduction in incidents of programs being suspended for not respecting censorship, since now both the media and journalists censor themselves.²³⁶⁵ However, the Mission has received information from dozens of radio stations that have received calls from state officials demanding that they take a program off the air, or from stations that were closed by CONATEL

²³⁵¹ Interview with Jesús Medina, 22 November 2022; Interview with Luis Carlos Díaz, 7 March 2023; Interview OOIV035.

²³⁵² Interview PPIV073.

²³⁵³ Interview with Manuela Bolívar, 13 February 2023.

²³⁵⁴ Interview with Delsa Solórzano, 6 February 2023.

²³⁵⁵ Interview with Mercedes de Freitas, 1 March 2023.

²³⁵⁶ Interview with Rafael Uzcategui, 3 March 2023.

²³⁵⁷ Interview PPIV062; Interview PPIV058.

²³⁵⁸ Interview with Juan Guaidó, 24 July 2023.

²³⁵⁹ Interview with Freddy Guevara, 3 July 2023.

²³⁶⁰ Interview with María Corina Machado, 13 July 2023.

²³⁶¹ Interview with Roberto Marrero, 5 June 2023.

²³⁶² Interview OOIV035; Interview with Edgar Cárdenas, 22 November 2022; Interview with Luis Carlos Díaz, 1 March 2023; YouTube video - Robert Alvarado, Extra Última Hora goes off the air from the “Mesa de Análisis” of the Furia 89.9 FM station in Barinas, 12 May 2023. Available at: <https://www.youtube.com/watch?v=L20y7PQFrkk>.

²³⁶³ Interview PPIV073.

²³⁶⁴ *Ibid.*

²³⁶⁵ Interview PPIV045; Interview OOIV035; Interview with Luis Carlos Díaz, 1 March 2023; Interview with Victor Ugas, 5 June 2023; Interview with Miguel Enrique Otero, 25 March 2023.

for covering censored topics or banned people.²³⁶⁶ These cases occurred between January 2021 and June 2023, in the States of Barinas, Bolívar, the Capital District, Lara, Miranda, Portuguesa, Sucre, Trujillo, Vargas, and Zulia.

1106. One of these cases is the suspension of the national program *Punto de Corte*, which was removed from the programming of the stations Radio Fe y Alegría 1390 AM and 105.7 FM on 3 August 2021. Johan Álvarez, journalist and director of the digital portal *Punto de Corte*, reported through a statement on YouTube that the program would no longer be broadcast on Fe y Alegría radio due to “an order by CONATEL to take *Punto de Corte* Radio off the air.”²³⁶⁷ Álvarez stated that, in the month prior to this suspension, the Fe y Alegría radio station had received calls from CONATEL on two occasions insisting that *Punto de Corte* be taken off the air. According to data collected by the IPYS organization, Johan Álvarez reported that on 14 June 2021, the management of Radio Fe y Alegría received the instruction from CONATEL to withdraw the program without providing any details or justifications for the measure. Given the lack of clarity in the reasons, both the radio station and the digital media team chose to moderate the content in order to maintain the program.²³⁶⁸

1107. According to the NGO IPYS Venezuela, on 26 July 2021, CONATEL contacted the station management again to reproach the lack of compliance with the previous censorship order they had issued.²³⁶⁹ Days later, on 3 August 2021, the general director of *Punto de Corte*, Nicmer Evans, announced through his Twitter account that the program was off the air “on instructions from CONATEL.”²³⁷⁰

1108. In other cases, it has not been possible to confirm whether it is the same CONATEL that has made the call to the radio stations to suspend a program, but the latent threat that CONATEL closes any radio station that does not respect censorship leads to radio to censor themselves and make the decision to go off the air. A recent example of this dynamic is that of the *Mesa de Análisis* program, previously broadcast on the radio station Furia 89.9 FM of the

²³⁶⁶ See Case 40: VPItv. Interview with Delsa Solorzano, 6 February 2023; Interview with Victor Ugas, 5 June 2023; Document PPDC026; Interview PPIV073; Interview with Luis Carlos Díaz, 1 March 2023; Interview OOIV035; Document PPDC029; Document PPDC063: Summary of the case prepared by the Public Space Defense Team; Document PPDC102: IPYS Venezuela case registry 2020-2023; tweet from SNTP [@sntpvenezuela], 4 October 2022. Available at:

<https://twitter.com/sntpvenezuela/status/1577320092299366402?s=20&t=FfobMbXopNiBTW2Bv7nysw>; CEPAZ, Seven radio programs were suspended for political reasons during the month of October, 17 November 2021. Available at: <https://cepaz.org/noticias/siete-programas-de-radio-fueron-suspendidos-por-motivos-politicos-durante-el-mes-de-octubre/>; IPYS Venezuela, CONATEL ordered the radio program in Portuguesa to go off the air, 10 October 2022. Available at: <https://ipysvenezuela.org/alerta/alerta-ipysve-conatel-ordeno-salida-del-aire-de-programa-radial-en-portuguesa/>; IPYS Venezuela, Radio program was suspended by orders of the mayor of the Montes municipality in Sucre, 13 October 2022. Available at: <https://ipysvenezuela.org/alerta/alerta-ipysve-programa-radial-fue-suspendido-por-ordenes-del-alcalde-del-municipio-montes-en-sucre/>; Crónica Uno, Radio program in Cumanacoa was suspended due to alleged government order, 26 September 2022. Available at: <https://cronica.uno/alcalde-ordeno-salida-del-aire-de-programa-radial-en-cumanacoa/>; Portuguesa Reporta, At least eight opinion programs leave Galactica FM 100.7 after CONATEL’s decision, 28 March 2020. Available at: <https://portuguesareporta.com/al-menos-ocho-programas-de-opinion-salen-de-galactica-fm-100-7-tras-decision-de-conatel/>; IPYS Venezuela, Three Portuguesa stations affected between 24 and 27 March, 30 March 2023. Available at: <https://ipysvenezuela.org/alerta/alerta-ipysve-tres-emisoras-en-portuguesa-afectadas-entre-el-24-y-el-27-de-marzo/>; Infobae, The Chavista response to a sports critic: attacks against a human rights defender and closure of a radio program, 21 March 2023. Available at: <https://www.infobae.com/venezuela/2023/03/21/la-respuesta-chavista-a-una-critica-deportiva-ataques-contra-una-defensora-de-derechos-humanos-y-cierre-de-un-programa-de-radio/>; Crónica Uno, Radio program in Carúpano was taken off the air due to self-censorship, 14 March 2023. Available at: <https://cronica.uno/sacan-del-aire-programa-de-radio-en-carupano-por-autocensura/>.

²³⁶⁷ YouTube video: Punto de Corte, Attention: CONATEL takes our PDCRadio program broadcast by Fe y Alegría off the air, 3 August 2021. Available at: <https://www.youtube.com/watch?v=lm4KXTMdLPk>; IPYS Venezuela, Alerta IPYSve | Punto de Corte Radio program censored by order of CONATEL, 7 August 2021. Available at: <https://ipysvenezuela.org/alerta/alerta-ipysve-programa-punto-de-corte-radio-censurado-por-orden-de-conatel/>.

²³⁶⁸ IPYS Venezuela, Alerta IPYSve | Punto de Corte Radio program censored by order of CONATEL, 7 August 2021. Available at: <https://ipysvenezuela.org/alerta/alerta-ipysve-programa-punto-de-corte-radio-censurado-por-orden-de-conatel/>.

²³⁶⁹ *Ibid.*

²³⁷⁰ Tweet by Nicmer Evan [@NicmerEvans], 3 August 2021. Available at: <https://twitter.com/NicmerEvans/status/1422562774488596489>.

Barinas State, which went off the air on 12 May 2023.²³⁷¹ The journalist and host of the program, Leonaldi Meza, announced that the board of directors of the radio station had received a call that same day in relation to comments made on his program during the week, addressing the disappearance of 32 thousand gas cylinders in the State of Barinas and the alleged government corruption in these events. In addition to addressing the complaint about the gas cylinders, on 12 May 2023, Leonaldi Meza had interviewed Delsa Solórzano, an opposition politician allegedly banned by CONATEL, on his program (*see* Case 21: Delsa Solórzano Bernal).²³⁷²

1109. Meza stated that the station's management had not told him who made the call, but that its coverage on his program had generated anger on the part of those who called. In his statement, Meza announced that she was making the decision to go off the air “*to avoid harming the station, so that the station does not suffer from a closure, so that CONATEL officials do not come, as it has happened on other occasions, with a Bolivarian National Guard (GNB by its Spanish acronym) to take away transmission equipment.*”²³⁷³

4. Radio station shutdowns

1110. CONATEL not only controls the content of what is transmitted on the radio, but also regulates the granting of permits to use the radiotelephone spectrum. According to the information received by the Mission, CONATEL uses this power arbitrarily, denying permits to telecommunications media that do not comply with the censorship imposed by this entity.

(a) Relevant regulatory framework

1111. The LOTEL²³⁷⁴ of the year 2000 (*see supra*) mandates that telecommunications media, even those that already had permits and concessions previously granted, will have to request administrative authorizations and also concessions for the use of a radio signal, both granted by CONATEL, following a procedure established in the LOTEL itself.²³⁷⁵ Articles 28 and 30 of the law establish that CONATEL will have a period of forty-five days from the receipt of a request for authorization, extendable for fifteen days, only once, through an act, to issue the approval or the rejection of the request²³⁷⁶. However, article 31 of the law also establishes that, if CONATEL does not rule on the request within the established periods, “said silence will be understood as a refusal regarding the request made²³⁷⁷.”

²³⁷¹ Espacio Público, Leonaldi Meza's Program goes off the air due to political pressure in Barinas, 12 May 2023. Available at: <https://espaciopublico.org/programa-de-leonaldi-meza-sale-del-aire-por-presiones-politicas-en-barinas/>; El Nacional, Radio program was taken off the air after interviewing Delsa Solórzano, 12 May 2023. Available at: <https://www.elnacional.com/venezuela/sacaron-del-aire-un-programa-de-radio-tras-entrevistar-a-delsa-solorzano/>.

²³⁷² YouTube video: Robert Alvarado, Extra Última Hora goes off the air from the “Mesa de Análisis” of the Furia 89.9 FM station in Barinas, 12 May 2023. Available at: <https://www.youtube.com/watch?v=L20y7PQFrkk>; Tweet by Delsa Solórzano [@Delsa Solorzano], 12 May 2023. Available at: <https://twitter.com/delsasolorzano/status/1657072646926761991?s=20>; Document HHDC075: Documentation on acts of harassment and harassment 2.

²³⁷³ YouTube video: Robert Alvarado, Extra Última Hora goes off the air from the “Mesa de Análisis” of the Furia 89.9 FM station in Barinas, 12 May 2023. Available at: <https://www.youtube.com/watch?v=L20y7PQFrkk>.

²³⁷⁴ The law was adopted by the National Legislative Commission, which was a transitional body between the National Constituent Assembly and the National Assembly established in the 1999 Constitution. Available at: https://www.oas.org/juridico/spanish/cyb_ven_ley_telecomunicaciones.pdf.

²³⁷⁵ LOTEL, arts. 25 to 33 and 73 to 75. Article 73 establishes that “The concession of use of the radio spectrum is a unilateral administrative act whereby CONATEL grants or renews, for a limited time, to a natural or legal person the status of concessionaire for the use and exploitation of a given portion of the radioelectric spectrum, prior compliance with the requirements established in this Law (...)”.

²³⁷⁶ LOTEL, art. 27, establishes that, if CONATEL determines the application for administrative authorization “obscure, inaccurate or incomplete”, the law establishes that the entity needs to ask the applicant to correct the defects in the application through an act.

²³⁷⁷ LOTEL, art. 31.

1112. In 2010, the LOTEL was modified, reducing the duration of administrative authorizations for radio space from 25 years²³⁷⁸ to 15 years²³⁷⁹, the same as for radio spectrum concessions, whose duration continued to be 15 years.²³⁸⁰ The LOTEL reform also established that applications for the renewal of authorizations and concessions must be submitted 90 days before their expiration, and that being the holder of an authorization does not imply a subjective or preferential right to renew them.²³⁸¹ In both cases, CONATEL has 90 days to respond to renewal requests.²³⁸² Likewise, the law reform reaffirmed that the provision of telecommunications services is an activity of general interest, and therefore may be subject to the limitations and restrictions established in the Constitution and law.²³⁸³ This reform is still in force.²³⁸⁴

1113. On 29 March 2011, through Presidential Decree No. 8122, the power was conferred on the executive vice president of the Government to “grant, revoke, renew, and suspend administrative authorizations and concessions regarding sound radio broadcasting and open television”, among several other regulatory and control powers in telecommunications, including the radioelectric spectrum.²³⁸⁵

1114. On 15 March 2022, through Presidential Decree No. 4652, the Regulation on General Telecommunication Channels was issued, which established the general, technical, and economic conditions for the access and use of telecommunications channels.²³⁸⁶ In its article 27, the regulation requires that applications for authorizations submitted

²³⁷⁸ LOTEL of the year 2000, art. 21. Available at: https://www.oas.org/juridico/spanish/cyb_ven_ley_telecomunicaciones.pdf.

²³⁷⁹ Reform Law of the LOTEL of the year 2010, art. 21 Available at: <http://www.conatel.gob.ve/wp-content/uploads/2014/10/Ley-Organica-de-Telecomunicaciones.pdf>.

²³⁸⁰ Reform Law of the LOTEL of the year 2010, art. 73 Available at: <http://www.conatel.gob.ve/wp-content/uploads/2014/10/Ley-Organica-de-Telecomunicaciones.pdf>.

LOTEL of the year 2010, art. 123. Available at: https://www.oas.org/juridico/spanish/cyb_ven_ley_telecomunicaciones.pdf.

²³⁸¹ Reform Law of the LOTEL of the year 2010, art. 21 Available at: <http://www.conatel.gob.ve/wp-content/uploads/2014/10/Ley-Organica-de-Telecomunicaciones.pdf>;

²³⁸² *Ibid.*

Reform Law of the LOTEL of the year 2010, art. 73 Available at: <http://www.conatel.gob.ve/wp-content/uploads/2014/10/Ley-Organica-de-Telecomunicaciones.pdf>;

²³⁸³ Reform Law of the LOTEL of the year 2010, art. 5 Available at: <http://www.conatel.gob.ve/wp-content/uploads/2014/10/Ley-Organica-de-Telecomunicaciones.pdf>;

²³⁸⁴ In 2016, the National Assembly elected in 2015 adopted another reform to the LOTEL, which contemplated a 20-year term for radioelectric space concessions, the extension of which did not require any administrative authorization. It was enough for the concessionaire to express interest in continuing with the concession 90 days before its expiration. Likewise, this reform contemplated the participation of the legislature in the appointment of CONATEL directors. However, it was declared null and void by the Constitutional Chamber of the Supreme Tribunal of Justice, at the request of President Maduro. Constitutional Chamber of the Supreme Tribunal of Justice, File 16-1027, dated 4 November 2016. Available at: <https://www.accesoaljusticia.org/wp-content/uploads/2016/11/SC-N%C2%BA-938-04-11-2016.pdf>. Transparencia Venezuela, Partial Reform of the Organic Law on Telecommunications. Available at: <https://transparenciave.org/project/reforma-parcial-de-la-ley-organica-de-telecomunicaciones/>; Tele Semana, Venezuela: National Assembly approves reform to the Law on Telecommunications and changes in CONATEL. Available at: <https://www.telesemana.com/blog/2016/09/21/venezuela-asamblea-nacional-aprueba-reforma-a-la-ley-de-telecomunicaciones-y-cambios-en-conatel/>.

²³⁸⁵ *Official Gazette*, no. 39.644, published on 29 March 2011. Available at: <https://www.ojdt.com.ve/archivos/gacetas/2022-02/39644.pdf>; IFEX, Vice President may revoke radio and television concessions, 7 April 2011. Available at: <https://ifex.org/es/vicepresidente-podra-revocar-concesiones-de-radio-y-television/>; IPYS Venezuela, Vice President may revoke radio and television concessions, 28 May 2013. Available at: <https://ipysvenezuela.org/alerta/vicepresidente-podra-revocar-concesiones-de-radio-y-television/>.

²³⁸⁶ The Regulation was published in the *Official Gazette* no. 6,690 Extraordinary of 15 March 2022, http://spgoin.imprentanacional.gob.ve/cgi-win/be_alex.cgi?Documento=T028700038180/0&Nombrebd=spgoin&CodAsocDoc=2852&TipoDoc=GCTOF&Sesion=433220183; Access to Justice, Regulation on General Telecommunication Channels, 18 March 2022. Available at: <https://accesoaljusticia.org/reglamento-vias-generales-de-telecomunicaciones/>;

to CONATEL be accompanied by a detailed technical report, which includes a project for the location of the physical means and a technical demonstration of the quality of its telecommunications services.²³⁸⁷

(b) Irregularities in the shutdowns of radio stations by CONATEL

1115. Between 2003 and 2022, the NGO Espacio Público recorded the closure of 285 radio stations nationwide.²³⁸⁸ The human rights platform Justicia y Verdad published that, between January 2003 and October 2022, at least 259 stations were closed.²³⁸⁹

1116. Four civil society organizations that monitor restrictions on the operation of media in Venezuela reported that 2022 marked the period with the largest number of radio stations closed in the previous two decades, registering between 76 and 108 stations that stopped transmitting under CONATEL.²³⁹⁰ These figures vary between NGO records, and do not reflect the total number of closures in the country, since the media themselves refrain from reporting the closures. Several sources have confirmed to the Mission that, in the majority of the cases of interference and closures by CONATEL, people who work in these media refrain from reporting and have even asked civil society organizations not to intervene in them. Journalists and media directors who have spoken to the Mission and to civil society organizations have indicated that reporting can lead to worse reprisals, such as the confiscation of materials or the imposition of fines by CONATEL, and several estimate that they will be able to return to the air if they do not report and comply with the content restrictions imposed by this entity.²³⁹¹

1117. Information obtained by the Mission on the closures of radio stations in Venezuela between 2020 and 2023 indicates that, in most cases, CONATEL demands the closure of stations because they do not have the proper authorization or concession from the State, requirements established in the LOTEL of 2000 and its reform of 2010 (see *supra*). However, the processes to request these permits have been questioned for being onerous, expensive, and confusing. Likewise, even when broadcasters carry out all the requirements to request a license or concession, sources indicate that the decisions of CONATEL regarding these requests are opaque, and many times they do not respond, leaving the applicants facing Administrative Silence, the consequences of which are explained below.²³⁹²

²³⁸⁷ Decree no. 4654, 15 March 2022, Regulation on General Telecommunication Channels, art. 27, published in the *Official Gazette* no. 6,690. Available at: http://spgoin.imprentanacional.gob.ve/cgi-win/be_alex.cgi?Documento=T028700038180/0&Nombrebd=spgoin&CodAsocDoc=2852&TipoDoc=GCTOF&Sesion=433220183;

²³⁸⁸ Public Space, 2022 Report: Situation of the right to freedom of expression and information in Venezuela, 3 May 2023. Available at: <https://espaciopublico.org/informe-2022-situacion-del-derecho-a-la-libertad-de-expresion-e-informacion-en-venezuela/>;

²³⁸⁹ Justicia y Verdad Venezuela, The radio turns off in Venezuela, 4 November 2022. Available at: <https://www.justiciayverdad.org/se-apaga-la-radio-en-venezuela/>.

²³⁹⁰ Document PPDC102: IPYS Venezuela case registry 2020-2023; Espacio Público, 2022 Report: Situation of the right to freedom of expression and information in Venezuela, 3 May 2023. Available at: <https://espaciopublico.org/informe-2022-situacion-del-derecho-a-la-libertad-de-expresion-e-informacion-en-venezuela/>; IPYS Venezuela, An anarchic soundscape, February 2023. Available at: https://ipysvenezuela.org/wp-content/uploads/2023/02/IPYS_EstudioDeLaRadioEnVenezuela.pdf; CEPAZ, Persecution and Criminalization Monitoring in Venezuela 2022. Available at: <https://cepaz.org/wp-content/uploads/2023/05/Informe-final-persecucion-2022.pdf>; Knight Centre LatAM Journalism Review, Radio closures in Venezuela continue as information deserts grow, 1 August 2023. Available at: <https://latamjournalismreview.org/es/articulos/cierre-de-radios-en-venezuela-continua-mientras-crecen-los-desiertos-informativos/>.

²³⁹¹ Interview with Edgar Cárdenas, 22 November 2022; Interview with Luis Carlos Díaz, 1 March 2023; Interview PPIV062; Interview with Delsa Solórzano, 6 February 2023; Interview with Carlos Correa, 28 March 2023; Document PPDC102: IPYS Venezuela case registry 2020-2023; IPYS, Deteriorating information: six months of arbitrariness and censorship, 15 December 2022. Available at: <https://ipysvenezuela.org/alerta/balance-ipysve-informacion-en-deterioro-seis-meses-de-arbitrariedades-y-censura/>; Correo del Caroní, Radio is silenced in Venezuela, 28 October 2022. Available at: <https://correodelcaroni.com/sociedad/silencian-la-radio-en-venezuela-sntp-registra-79-estaciones-de-radio-cerradas-en-10-meses/>.

²³⁹² Interview with José Luis Rincón, 25 July 2023; Interview with Jaime Nestares, 27 July 2023; Interview with member of IPYS Venezuela, 16 August 2023; Document PPDC102: IPYS Venezuela case registry 2020-2023.

(c) Onerous and arbitrary processes

1118. Civil society in Venezuela has repeatedly denounced publicly that the processes to request authorizations and concessions from CONATEL are onerous, expensive, and arbitrary. On 27 October 2022, 38 NGOs published a statement reporting the problems with the radio regulatory system in Venezuela, and that this system was resulting in arbitrary closures of radio stations, leaving the Venezuelan population without access to information²³⁹³. In this statement, they highlighted their particular concern about the Regulation on General Telecommunications Channels decreed in 2022 (see *supra*), since it unnecessarily increases the requirements to request access to a frequency. The NGOs explain that the obligation established in this regulation to present a technical report, which can cost several thousand dollars, with each authorization request is really part of CONATEL technical mandate established in the LOTEL and therefore should not fall on applicants.²³⁹⁴ The NGO IPYS Venezuela confirms that the documentation that must be presented to CONATEL to request or renew an authorization (which includes a technical feasibility study, an economic study, and legal requirements), is very expensive, especially in the current context where radio stations in Venezuela have important economic challenges.²³⁹⁵

1119. In addition to the onerous requirements, civil society and radio directors denounce that CONATEL operates in an “opaque and arbitrary”²³⁹⁶ manner, and that the processes of granting permits and decisions to close stations are carried out without due process. This includes lack of response to requests and letters presented to CONATEL; incomplete, confusing or contradictory information provided on its website and by its officials; and the imposition of sanctions and closures simply by telephone or without written grounds or the possibility of appealing these decisions.²³⁹⁷

²³⁹³ Espacio Público, CONATEL must guarantee pluralism and diversity, 27 October 2022. Available at: <https://espaciopublico.org/conatel-debe-garantizar-el-pluralismo-y-la-diversidad/>; Infobae, Almost 40 Venezuelan NGOs rejected the arbitrary suspension of radio stations, 28 October 2022. Available at: <https://www.infobae.com/america/venezuela/2022/10/28/casi-40-ong-venezolanas-rechazaron-la-suspension-arbitraria-de-emisoras-de-radio/>.

²³⁹⁴ Espacio Público, CONATEL must guarantee pluralism and diversity, 27 October 2022. Available at: <https://espaciopublico.org/conatel-debe-garantizar-el-pluralismo-y-la-diversidad/>.

²³⁹⁵ IPYS Venezuela, An anarchic soundscape, February 2023. Available at: https://ipysvenezuela.org/wp-content/uploads/2023/02/IPYS_EstudioDeLaRadioEnVenezuela.pdf.

²³⁹⁶ Tweet from Espacio Público [@espaciopublico], 27 October 2022. Available at: <https://twitter.com/espaciopublico/status/1585694324582383631>; Infobae, Almost 40 Venezuelan NGOs rejected the arbitrary suspension of radio stations, 28 October 2022. Available at: <https://www.infobae.com/america/venezuela/2022/10/28/casi-40-ong-venezolanas-rechazaron-la-suspension-arbitraria-de-emisoras-de-radio/>.

²³⁹⁷ See cases of Kalor 101.9 FM, Café 100.9 and Triunfo 99.3 (*infra*). Interview with José Luis Rincón, 25 July 2023; Interview with Jaime Nestares, 27 July 2023; Interview with member of IPYS Venezuela, 16 August 2023; Document PPDC102: IPYS Venezuela case registry 2020-2023; SNTP, Radio is silenced in Venezuela: 79 radio stations closed in 10 months, 28 October 2022. Available at: https://drive.google.com/file/d/1hC6OXjzD4qnyTPumkRP89o_vFsSqYh_M/view; Espacio Público, CONATEL must guarantee pluralism and diversity, 27 October 2022. Available at: <https://espaciopublico.org/conatel-debe-garantizar-el-pluralismo-y-la-diversidad/>; IPYS, CONATEL closed the Topacio 101.5 FM station in Barinas, 26 May 2022. Available at: <https://ipysvenezuela.org/alerta/alerta-ipysve-conatel-cerro-la-emisora-topacio-101-5-fm-en-barinas/>; Infobae, The Nicolas Maduro regime closed 79 radio stations in 16 states of Venezuela so far this year, 28 October 2022. Available at: <https://www.infobae.com/america/venezuela/2022/10/28/el-regimen-de-nicolas-maduro-cerro-79-emisoras-de-radio-en-16-estados-de-venezuela-en-lo-que-va-del-ano/>; ABC Internacional, Maduro silences Venezuela with the closure of one hundred radio stations, 2 November 2022. Available at: <https://www.abc.es/internacional/maduro-silencia-venezuela-cierre-emisoras-radio-20221102145256-nt.html>; CEPAZ, Persecution and Criminalization Monitoring in Venezuela 2022. Available at: <https://cepaz.org/wp-content/uploads/2023/05/Informe-final-persecucion-2022.pdf>.

1120. For example, on 26 February 2021, a joint commission from CONATEL and the Bolivarian National Guard (GNB) went to the headquarters of the radio station VEA 100.7 FM in the State of Falcón, and ordered the transmission signal to be turned off because the station did not have the permits required by the law.²³⁹⁸ According to the owner of the station, José Gregorio López, CONATEL carried out the closure without respecting the legal processes and without presenting written letters justifying the procedure.²³⁹⁹ López stated that he was taken off the air for having spread criticism of the Government and used language and some opinions that “the Government does not like.”²⁴⁰⁰

1121. Another case documented by the Mission is that of the Radio Selecta 102.7 FM station, located in the State of Zulia, which was closed by CONATEL officials on 5 March 2021.²⁴⁰¹ According to the testimony of the station’s president, Pedro Enrique Márquez Briceño, CONATEL officials showed up at the station’s headquarters and announced that they were going to carry out a routine inspection, but proceeded to confiscate the transmission equipment, leave the station off the air, and open an administrative procedure against it.²⁴⁰² Márquez stated that the closure was carried out to silence the opinions broadcasted on the station,²⁴⁰³ since a few days before the closure opposition leaders participated in an opinion program broadcast by the station.²⁴⁰⁴ Two years after the closure, the NGO Espacio Público, which has provided legal support to the Selecta FM team, reported that the station’s lawyers had filed a petition for annulment of CONATEL act and had carried out numerous procedures to find out its status, but that they had not received any response from the authorities.²⁴⁰⁵

(d) Administrative silence

1122. Radio directors in Venezuela denounce that the LOTEL itself enshrines arbitrariness and lacks of transparency, mainly in Article 31 (see *supra*).²⁴⁰⁶ Said article prescribes that a lack of response from CONATEL is equivalent to a negative response to requests for authorizations and concessions.²⁴⁰⁷ According to the information received by the Mission, many media outlets do not receive any response to their requests, including authorization and concession, which generates administrative silence. According to the domestic legal system,²⁴⁰⁸ if they do not receive a response

²³⁹⁸ Tweet by Jose Gregorio Lopez [@elpiojolopez], 27 February 2021. Available at: <https://twitter.com/elpiojolopez/status/1365679206361931779>; IPYS Venezuela, Three traditional media victims of crime and actions carried out by CONATEL in less than four days, 8 March 2021. Available at: <https://ipysvenezuela.org/alerta/alerta-ipysve-tres-medios-tradicionales-victimas-de-la-delincuencia-y-de-acciones-ejecutadas-por-conatel-en-menos-de-cuatro-dias/>; Efecto Cocuyo, Venezuelan radio remained between closures and suspensions in 2021, 31 December 2021. Available at: <https://efectococuyo.com/la-humanidad/entre-cierres-y-suspensiones-se-mantuvo-la-radio-venezolana-en-2021/>.

²³⁹⁹ DunaDigital’s Facebook post, José Gregorio López’s audio talking about the closure of his program, 20 October 2021. Available at: <https://www.facebook.com/watch/?v=4378455002219736>.

²⁴⁰⁰ *Ibid.*; El Pitazo, CONATEL turns off the radio signal of VEA 100.7 FM, 26 February 2021. Available at: <https://elpitazo.net/occidente/falcon-conatel-apaga-senal-radiofonica-de-emisora-vea-100-7-fm/>; Tweet from IPYS Venezuela [@ipysvenezuela], 27 February 2021. Available at: <https://twitter.com/ipysvenezuela/status/1365791309538205699>.

²⁴⁰¹ Espacio Público, Normalized censorship on Venezuelan radio, 3 May 2023. Available at: <https://espaciopublico.org/la-censura-normalizada-en-la-radio-venezolana/>; El Carabobeno, SNTP invoices confiscation of equipment from a radio station in Zulia, 7 March 2021. Available at: <https://www.el-carabobeno.com/sntp-un-pase-de-factura-cofiscacion-de-equipos-a-emisora-de-radio-en-el-zulia/>.

²⁴⁰² YouTube Video: Selecta FM La Radio Chévere, Message Licdo. Pedro Márquez: Closure of SelectaFM, 6 March 2021. Available at: <https://youtu.be/tAKGK5suU-U>; Espacio Público, Normalized censorship on Venezuelan radio, 3 May 2023. Available at: <https://espaciopublico.org/la-censura-normalizada-en-la-radio-venezolana/>.

²⁴⁰³ YouTube Video: Selecta FM La Radio Chévere, Message Licdo. Pedro Márquez: Closure of SelectaFM, 6 March 2021. Available at: <https://youtu.be/tAKGK5suU-U>

²⁴⁰⁴ Espacio Público, Normalized censorship on Venezuelan radio, 3 May 2023. Available at: <https://espaciopublico.org/la-censura-normalizada-en-la-radio-venezolana/>.

²⁴⁰⁵ *Ibid.*

²⁴⁰⁶ Article 31, Reform Law of the Organic Law on Telecommunications of the year 2010. Available at: <http://www.conatel.gob.ve/wp-content/uploads/2014/10/Ley-Orgánica-de-Telecomunicaciones.pdf>.

²⁴⁰⁷ Article 31 states the following: “If the governing body or the National Telecommunications Commission does not take a decision within the legally established periods on the admissibility or not of the requests related to obtaining administrative authorizations and concessions, as well as any other request made in accordance with the provisions of the this Law, said silence will be understood as a refusal regarding the request made.” Available at: <http://www.conatel.gob.ve/wp-content/uploads/2014/10/Ley-Orgánica-de-Telecomunicaciones.pdf>.

²⁴⁰⁸ Organic Law of Administrative Procedures, Official Gazette of the Bolivarian Republic of Venezuela No. 2,818 Extraordinary of 1 July 1981, article 5 (negative administrative silence). According to the jurisprudence of the

within the established periods, applicants would have the right to recourse to the contentious-administrative court so that it can take a decision on their requests. However, given the high cost of legal fees, the lack of clarity of the procedures, the lack of independence of the tribunals, and the fear that the media will be closed, sources indicated that it was less burdensome to continue going on air waiting that CONATEL response would arrive one day, instead of initiating a time-consuming legal process.²⁴⁰⁹ The Mission has received numerous complaints that CONATEL manipulates this legal vulnerability to exert pressure and censorship on radio stations.²⁴¹⁰

1123. In a survey carried out by the NGO IPYS Venezuela in 2022, in which they documented information from 261 stations in the 23 states and the Capital District of Venezuela, 16% of the stations declared that they had submitted applications for authorizations or concessions to CONATEL and that the latter had not provided a response within the periods established by law (see *supra*).²⁴¹¹

1124. The NGO IPYS Venezuela also investigated nine cases of radio stations that were closed by CONATEL in 2022,²⁴¹² whose directors claim to have submitted applications for permits years ago, but they never received a response. These cases occurred in the States of Cojedes, Guárico, Falcón, Nueva Esparta, Portuguesa, Sucre, and Zulia.²⁴¹³ The director of one of these stations that was closed after 10 years on the air explained to IPYS Venezuela that, to work in the radio in Venezuela, “*you have to assume positions of prudence and a low profile to avoid conflicts of political interests.*”²⁴¹⁴ Several media and civil society organizations also reported the shutdown of four Christian stations²⁴¹⁵ in the State of Zulia in October 2022, whose directors reported having introduced authorization projects before CONATEL between 2004 and 2014, but that they never received a response until the order to close operations.²⁴¹⁶

1125. The Mission documented the case of the Aragua Mágica 88.1 FM station, located in the State of Aragua, which was closed by CONATEL on 19 March 2021. The record presented by CONATEL on the day of the closing order the initiation of an Administrative Procedure for using the radioelectric spectrum without having the proper administrative

Supreme Tribunal of Justice, the appeal for abstention or deficiency before contentious-administrative tribunal is the ordinary remedy that must be used in relation to omissions of the Public Administration, including the so-called “generic omissions”, resulting from the lack of adequate and timely response to administrative requests. See, for example, Supreme Tribunal of Justice, Constitutional Chamber, Exp. No. 12-0355, 18 June 2012.

²⁴⁰⁹ Interview with a member of IPYS Venezuela, 16 August 2023; Document PPDC102: IPYS Venezuela case registry 2020-2023.

²⁴¹⁰ Interview with NGO IPYS Venezuela, 20 July 2023; Interview with José Luis Rincón, 25 July 2023; Interview with member of IPYS Venezuela, 16 August 2023; Infobae, Nicolás Maduro’s regime closed 79 radio stations in 16 states of Venezuela so far this year, 28 October 2022. Available at: <https://www.infobae.com/america/venezuela/2022/10/28/el-regimen-de-nicolas-maduro-cerro-79-emisoras-de-radio-en-16-estados-de-venezuela-en-lo-que-va-del-ano/>; IPYS Venezuela, Deteriorating information: six months of arbitrariness and censorship, 15 December 2022. Available at: <https://ipysvenezuela.org/alerta/balance-ipysve-informacion-en-deterioro-seis-meses-de-arbitrariedades-y-censura/>; CEPAZ, Persecution and Criminalization Monitoring Report in Venezuela”, March 2023. Available at: <https://cepaz.org/wp-content/uploads/2023/05/Informe-persecucion-Marzo-2023-1.pdf>; Espacio Público, 2022 Report: Situation of the right to freedom of expression and information in Venezuela, 3 May 2023. Available at: https://ipysvenezuela.org/wp-content/uploads/2023/02/IPYS_EstudioDeLaRadioEnVenezuela.pdf; IPYS Venezuela, An anarchic soundscape, February 2023. Available at: https://ipysvenezuela.org/wp-content/uploads/2023/02/IPYS_EstudioDeLaRadioEnVenezuela.pdf; ; Espacio Público, CONATEL must guarantee pluralism and diversity, 27 October 2022. Available at: <https://espaciopublico.org/conatel-debe-garantizar-el-pluralismo-y-la-diversidad/>.

²⁴¹¹ IPYS Venezuela, An anarchic soundscape, February 2023. Available at: https://ipysvenezuela.org/wp-content/uploads/2023/02/IPYS_EstudioDeLaRadioEnVenezuela.pdf.

²⁴¹² Triunfo 99.3 FM in Portuguesa, Éxitos 90.5 FM in Guárico, Candela 92.8 FM in Cojedes, and six other stations whose directors do not want to publicly denounce.

²⁴¹³ Interview with a member of IPYS Venezuela, 16 August 2023; Document PPDC102: IPYS Venezuela case registry 2020-2023.

²⁴¹⁴ Document PPDC102: IPYS Venezuela case registry 2020-2023.

²⁴¹⁵ Renuevo 89.5 FM, Celestial 96.9 FM, Jerusalén Estéreo 98.5 FM, and Gilgal Estéreo 102.7 FM

²⁴¹⁶ Document PPDC102: IPYS Venezuela case registry 2020-2023; Tal Cual, CONATEL orders two Unión Radio stations in Carabobo to go off the air, 14 October 2022. Available at: <https://talcualdigital.com/conatel-ordena-salida-del-aire-de-dos-emisoras-de-union-radio-en-carabobo/>; Inter-American Press Association, Report on Venezuela before its 78th General Assembly, October 2022. Available at: <https://www.sipiapa.org/notas/1215445-venezuela>; Tweet from Espacio Público [@espaciopublico], 13 October 2022. Available at: <https://twitter.com/espaciopublico/status/1580622198360113152>.

authorization and concession. However, in this record it is indicated that the request for authorization and concession of Aragua Mágica was received by CONATEL on 21 August 2013.²⁴¹⁷ According to the case report published by the IPYS organization, the station was dedicated to presenting complaints from the Aragua community regarding deficiencies in public services.²⁴¹⁸

(e) Correlation between shutdowns and diffusion of information critical with the Government

1126. Due to the onerous and arbitrary processes denounced above, several directors of radio stations in the Bolivarian Republic of Venezuela have made the decision not to request the corresponding permits from CONATEL.²⁴¹⁹ In the survey of radio stations carried out by IPYS Venezuela in 2022, 5% of the stations admitted not having requested the required permits from CONATEL due to lack of advice and/or for economic reasons.²⁴²⁰ Among the 108 cases recorded by IPYS Venezuela of radio stations closed by CONATEL in 2022, the NGO documented at least seven cases in which the directors admitted not having requested the necessary permits from CONATEL due to the high costs associated with the required procedures, particularly for the technical project to introduce the authorization application.²⁴²¹ As a result of this, sources indicate that a significant percentage of radio stations in Venezuela do not have the proper permits to use the radioelectric spectrum.²⁴²² Despite the prevalence of stations operating without proper permits, sources interviewed by the Mission affirm that the majority of closures recorded between 2020 and 2022 were only carried out after the station disseminated information perceived as critical to the Government, when links were identified between the station and an opposition political party, or in pre-election times when there is an increase in campaigns by opposition parties, as occurred in 2022.²⁴²³

1127. Several NGOs and media outlets denounced the correlation between the dissemination of critical information from the Government and the closure of stations that had been transmitting for years without permits, but without interference from CONATEL until the moment of their closure. Some examples include the closure of Zeta 103.5 FM in the State of Miranda on 28 May 2021, days after it had spread criticism about public services in the municipality;²⁴²⁴ the shutdown of Monumental 94.1 FM in the Barinas State on 27 November 2021, six days after Nelson García Mora, owner of the station and member of the opposition COMPA party, was elected mayor of the municipality;²⁴²⁵ and the

²⁴¹⁷ Document PPDC104: CONATEL initiative.

²⁴¹⁸ Efecto Cocuyo, Venezuelan radio remained between closures and suspensions in 2021, 31 December 2021. Available at: <https://efectococuyo.com/la-humanidad/entre-cierres-y-suspensiones-se-mantuvo-la-radio-venezolana-en-2021/>; IPYS Venezuela, CONATEL closes community station Aragua Mágica 88.1 FM, 31 March 2021. Available at: <https://ipysvenezuela.org/alerta/alerta-ipysve-conatel-cierra-emisora-comunitaria-aragua-magica-88-1-fm/>.

²⁴¹⁹ See, for example, the case of Radio Éxtasis 97.7, *infra*. Document PPDC102: IPYS Venezuela case registry 2020-2023.

²⁴²⁰ IPYS Venezuela, An anarchic soundscape, February 2023. Available at: https://ipysvenezuela.org/wp-content/uploads/2023/02/IPYS_EstudioDeLaRadioEnVenezuela.pdf.

²⁴²¹ Document PPDC102: IPYS Venezuela case registry 2020-2023. See also IPYS Venezuela, CONATEL closes three more stations in Cojedes, 21 July 2022. Available at: <https://ipysvenezuela.org/alerta/alerta-ipysve-conatel-cierra-tres-emisoras-mas-en-cojedes/>.

²⁴²² Interview with José Luis Rincón, 25 July 2023; Interview with member of IPYS Venezuela, 16 August 2023; IPYS Venezuela, An anarchic soundscape, February 2023. Available at: https://ipysvenezuela.org/wp-content/uploads/2023/02/IPYS_EstudioDeLaRadioEnVenezuela.pdf. In a survey carried out to 261 radio stations by IPYS Venezuela in 2022, only 54% of the radio stations consulted claimed to have concession and authorization permits.

²⁴²³ Interview OOIV035; Interview with Edgar Cárdenas, 22 November 2022; Interview with Jaime Nestares, 27 July 2023; Interview with a member of IPYS Venezuela, 16 August 2023.

²⁴²⁴ IPYS Venezuela, CONATEL closed the Zeta 103.5 FM station and confiscated its equipment, 2 June 2021. Available at: <https://ipysvenezuela.org/alerta/alerta-ipysve-conatel-cerro-la-emisora-zeta-103-5-fm-y-decomiso-sus-equipos/>; Efecto Cocuyo, Venezuelan radio remained between closures and suspensions in 2021, 31 December 2021. Available at: <https://efectococuyo.com/la-humanidad/entre-cierres-y-suspensiones-se-mantuvo-la-radio-venezolana-en-2021/>.

²⁴²⁵ Efecto Cocuyo, Venezuelan radio remained between closures and suspensions in 2021, 31 December 2021. Available at: <https://efectococuyo.com/la-humanidad/entre-cierres-y-suspensiones-se-mantuvo-la-radio-venezolana-en-2021/>; Tal Cual, Due to lack of technical permits, CONATEL closed the station in Barinas of the elected mayor in Zamora, 28 November 2021. Available at: <https://talcualdigital.com/por-falta-de-permisos-tecnicos-conatel-cerro-emisora-en-barinas-de-alcalde-electo-en-zamora/>.

closure of Moda 105.1 FM in the State of Cojedes on 15 July 2022, a few weeks after having aired information and opinion programs starring opposition leaders.²⁴²⁶

1128. On 28 December 2021, the Kalor 101.9 FM station, located in the State of Portuguesa, was closed by CONATEL.²⁴²⁷ According to Carlos Barrios, owner of the station and member of the opposition, an agency of CONATEL appeared at the radio headquarters and ordered the transmitter to be turned off because there was an “error in the project” that had been submitted with the request to obtain concession and authorization. Barrios told the NGO IPYS Venezuela that he asked CONATEL commission for more information about the alleged errors in the project presented, but that the officials did not give him more details. Barrios also stated that the reason for the closure would be his victory in the municipal elections²⁴²⁸ a month before the closure of his station.²⁴²⁹ The day before the closure of Kalor 101.9 FM, the station Astro 97.7 FM, also based in the State of Portuguesa and owned by Barrios, was closed by CONATEL due to the expiration of its concession.²⁴³⁰ Two months later, on 25 February 2022, CONATEL closed Triunfo 99.3, a third station in the State of Portuguesa managed by Barrios.²⁴³¹ According to what Barrios said in an interview conducted by the NGO IPYS Venezuela, CONATEL officials did not present him with grounds to support the closure of Triunfo 99.3, and simply told him that “they were complying with superior orders.”²⁴³²

1129. Radio Éxtasis 97.7 FM, based in the State of Táchira, was closed by CONATEL on 21 July 2023. The director of the station, José Luis Rincón, explained to the Mission that the radio station’s concession had expired in 2020, but that because CONATEL decisions were perceived as arbitrary and selective, and situations of other radio stations had been reported in those whose concession renewal was not granted despite the applications submitted, chose not to request renewal.²⁴³³ Despite this situation, Radio Éxtasis 97.7 FM continued broadcasting between 2020 and 2023, offering a wide variety of content, including interviews with interlocutors of different political tendencies and opinions, representing all political parties. In the week before the closure, Radio Éxtasis 97.7 FM conducted some interviews that presented critical positions towards the Government, including an interview on 14 July 2023 with opposition politician Delsa Solórzano, who is known for being banned by CONATEL (see Case 21: Delsa Solórzano Bernal).²⁴³⁴

²⁴²⁶ Document PPDC102: IPYS Venezuela case registry 2020-2023; Tweet from SNTF [@sntfvenezuela], 15 July 2022. Available at:

https://twitter.com/sntfvenezuela/status/1548139568225865730?s=20&t=kZcOItRHaa8zy8Mi_PvqeQ; IPYS Venezuela, CONATEL closes three more stations in Cojedes, 21 July 2022. Available at:

<https://ipysvenezuela.org/alerta/alerta-ipysve-conatel-cierra-tres-emisoras-mas-en-cojedes/>.

²⁴²⁷ Tweet from IPYS Venezuela [@IPYSVenezuela], 28 December 2021. Available at:

<https://twitter.com/ipysvenezuela/status/1475931799566049292>; IPYS Venezuela, Three stations in Portuguesa and Trujillo were affected on 27 and 28 December, 29 December 2021 Available at: <https://ipysvenezuela.org/alerta/alerta-ipysve-tres-emisoras-en-portuguesa-y-trujillo-afectadas-el-27-y-28-de-diciembre/>; Tweet from CNP Portuguesa [@CNPPortuguesa1], 28 December 2021. Available at:

<https://twitter.com/CNPPortuguesa1/status/1475838417158254594>.

²⁴²⁸ Runrun.es, in Portuguesa, the PSUV won the governorship and lost four mayoralities, 25 November 2021.

Available at: <https://runrun.es/noticias/461367/en-portuguesa-el-psuv-gano-la-gobernacion-y-perdio-cuatro-alcaldias/>.

²⁴²⁹ IPYS Venezuela, Three stations in Portuguesa and Trujillo were affected on 27 and 28 December, 29 December 2021. Available at: <https://ipysvenezuela.org/alerta/alerta-ipysve-tres-emisoras-en-portuguesa-y-trujillo-afectadas-el-27-y-28-de-diciembre/>; Tweet from CNP Portuguesa [@CNPPortuguesa1], 28 December 2021.

Available at: <https://twitter.com/CNPPortuguesa1/status/1475838417158254594>.

²⁴³⁰ Tweet from CNP Portuguesa [@CNPPortuguesa1], 27 December 2021. Available at:

<https://twitter.com/CNPPortuguesa1/status/1475631721492193289>.

²⁴³¹ Espacio Público, CONATEL closed the Triunfo 99.3 FM station in the Portuguesa state, 1 March 2022. Available at: <https://espaciopublico.org/conatel-cerro-emisora-triunfo-99-3-fm-en-el-estado-portuguesa/>; Instagram post by Fundehullan [@fundehullanvzla], 25 February 2022. Available at: https://www.instagram.com/tv/Caa-TjmA2_3/.

²⁴³² Document PPDC102: PYS Venezuela case registry 2020-2023; IPYS Venezuela, CONATEL closed the Triunfo 99.3 FM station in Portuguesa, 2 March 2022. Available at: <https://ipysvenezuela.org/alerta/alerta-ipysve-conatel-cerro-la-emisora-triunfo-99-3-fm-en-portuguesa/>.

²⁴³³ Interview with José Luis Rincón, 25 July 2023.

²⁴³⁴ TikTok post by Yamile Jimenez [@yamilejimenez], 14 July 2023. Available

at: https://www.tiktok.com/@yamilejimenez/video/7255884617356446982?_r=1&_t=8eBNrplWFAD.

YouTube video: Eduardo Garcia, Interview with Delsa Solórzano on Éxtasis 97.7 about releasing political prisoners, 14 July 2023. Available at: <https://www.youtube.com/watch?v=mpcTJ8wpvY>.

1130. Seven days after the interview with Solórzano was broadcast, CONATEL officials appeared at the station and delivered a letter from the Ministry of People's Power for Communication and Information,²⁴³⁵ in which they proceeded to terminate the concession and the authorization of the station's frequency for not having sent the renewal request to CONATEL, and ordered the transmission equipment²⁴³⁶ to be turned off. Given that the station had been broadcasting without a concession for two years and was only closed after the interview with a politician banned by CONATEL, the station director explained to the Mission that the radio's critical editorial line could have been the reason behind its closure.²⁴³⁷

1131. Other cases of radio closures investigated by the Mission have similar characteristics and resemble a type of cancellation in retaliation for the dissemination of critical messages from the Government, for example, Selecta 102.7 FM and Aragua Mágica 88.1 FM, both closed in 2021 (see *supra*).

5. Website Blocking

1132. With the disappearance of print media and the censorship and closure of traditional radio stations, the Internet is one of the only spaces where uncensored information from independent sources can be shared and accessed. As highlighted above, restrictions against print media led most newspapers and other media to cease printing their publications and transition to the digital realm.²⁴³⁸ For example, in 2014 and 2015, digital media, such as Armando.info, Effect Cocuyo, and El Pitazo were founded by Venezuelan journalists.²⁴³⁹ Several traditional newspapers that had to abandon their print editions, such as El Nacional²⁴⁴⁰ and Tal Cual,²⁴⁴¹ also transformed into exclusively digital offerings. Facing censorship and arbitrary closures, radio stations in Venezuela have also migrated from the radioelectric spectrum to digital platforms. However, this area is also subject to state censorship. The Mission has received information that numerous websites cannot be accessed through Internet providers in Venezuela, particularly those belonging to media and organizations critical of the Government of President Maduro.²⁴⁴²

²⁴³⁵ Document SSDC001: Official letter from the Ministry of People's Power for Communication and Information.

²⁴³⁶ Interview with José Luis Rincón, 25 July 2023; Tal Cual, CONATEL drags a new radio victim by removing the concession from Éxtasis 97.7 FM, 21 July 2023. Available at: <https://talcualdigital.com/conatel-arrastra-a-nueva-victima-radial-al-quitara-concesion-a-extasis-97-7-fm/>; La Nación, Éxtasis 97.7FM station received an order to close, 22 July 2023. Available at: <https://lanacionweb.com/regional/ordenan-cierre-de-emisora-extasis-97-7fm/>; El Informador, Government orders immediate closure of the Éxtasis 97.7 FM station in San Cristobal, 22 July 2023. Available at: <https://www.elinformadorve.com/22/07/2023/venezuela/gobierno-ordena-cierre-inmediato-de-la-emisora-extasis-97-7-fm-de-san-cristobal/>; Espacio Público, CONATEL closes Éxtasis 97.7 FM after 29 years on the air, 24 July 2023. Available at: <https://espaciopublico.org/conatel-cierra-extasis-97-7-fm-despues-de-29-anos-al-aire/>.

²⁴³⁷ Interview with José Luis Rincón, 25 July 2023.

²⁴³⁸ France24, In Venezuela, it is becoming increasingly difficult to defend the right to information, 1 May, 2022. Available at: <https://www.france24.com/es/programas/enlace/20220501-venezuela-libertad-prensa-informacion-periodistas-medios>; El Nacional, Newspapers in Venezuela stop circulating due to lack of paper, 16 September 2018. Available at: https://www.elnacional.com/sociedad/periodicos-venezuela-dejan-circular-por-falta-papel_251968/; Efecto Cocuyo, 11 newspapers closed and 14 went digital in 2018, 31 December 2018. Available at: <https://efectococuyo.com/la-humanidad/11-periodicos-cerraron-y-14-pasaron-a-plataforma-digital-en-2018-segun-ipys-venezuela/>.

²⁴³⁹ Gretel Kahn, This is how independent digital media challenge censorship in Venezuela, 15 March 2023. Available at: <https://reutersinstitute.politics.ox.ac.uk/es/news/asi-desafian-la-censura-en-venezuela-los-medios-independientes-en-internet>.

²⁴⁴⁰ ABC Internacional, *El Nacional*, the last independent newspaper in Venezuela, stops printing, 12 December 2018. Available at: https://www.abc.es/internacional/abci-deja-imprimirse-nacional-ultimo-periodico-independiente-venezuela-201812122139_noticia.html.

²⁴⁴¹ Tal Cual, Maduro: we continue on the web, 19 April 2018. Available at: <https://talcualdigital.com/el-futuro-de-talcual-esta-aqui/>.

²⁴⁴² The Mission received complaints of blocks from the following digital platforms: (1) Runrunes, blockades in 2020; (2) Armando.info, blockades in 2021; (3) La Patilla, blockades in 2021; (4) Cocuyo Effect, blockades started in 2022; (5) El Pitazo, blockades between 2017 and 2022; (6) El Nacional, blockades started in 2022; and (7) Chronicle One, blockades in 2022.

1133. Article 27 of the RESORTE Law of the year 2004 (see *supra*), supported by article 5 of the LOTEL of the year 2010²⁴⁴³, confers CONATEL the authority to require internet service providers to impose restrictions on access to websites.

1134. According to the NGO IPYS Venezuela, this provision generated the phenomenon of “digital blockade” as a direct censorship mechanism, since electronic media providers were empowered to take measures to restrict, without delay, the dissemination of messages that contravene the prohibitions established by the State.²⁴⁴⁴

1135. In 2021, the Spanish multinational telecommunications company Telefónica, one of the most important electronic media providers in Venezuela, published a report indicating that requests for website blockades in Venezuela by CONATEL have been demonstrated to be a systematic practice.²⁴⁴⁵ According to Telefónica’s report, between 2016 and 2021, CONATEL asked Movistar (Telefónica’s operator in Venezuela) to block 1,389 websites.²⁴⁴⁶ However, the study does not provide information on the type of websites blocked.

1136. *Ve sin Filtro*, a program of the Venezuela Inteligente organization dedicated to monitoring and documenting Internet censorship and other threats to the exercise of human rights, conducted a report in 2021 on censorship, blockades, connectivity, and internet access in Venezuela.²⁴⁴⁷ This report indicates that, in 2021, at least 68 Internet domains were blocked in Venezuela. In this figure, 45 domains associated with media were identified.²⁴⁴⁸ According to the NGO IPYS Venezuela, at least 40 cases of selective blockades of news websites were recorded in 2022.²⁴⁴⁹ These restrictions on digital media, mostly independent and private, were applied by the main Internet providers in the country, such as Cantv, Movistar, and Digitel.²⁴⁵⁰

1137. On 12 March 2023, on the occasion of World Day Against Cyber Censorship, the Ve Sin Filtro platform reported on its social networks the existence of 97 online domains blocked in Venezuela, affected by various public and private operators. Of the blocked sites, 62 belonged to media outlets.²⁴⁵¹

6. Illustrative Cases

Case 39: Miguel Henrique Otero

Background

1138. Miguel Henrique Otero Castillo is the president and editor of the newspaper El Nacional, a Venezuelan newspaper founded by his father and his grandfather.²⁴⁵² Since at least 2014, Otero and people associated with El

²⁴⁴³ Article 05, Reform Law of the Organic Law on Telecommunications of the year 2010. Available at: <http://www.conatel.gob.ve/wp-content/uploads/2014/10/Ley-Organica-de-Telecomunicaciones.pdf>.

²⁴⁴⁴ IPYS Venezuela, Laws designed to silence: the IPYS Venezuela report that shows how censorship has become the norm, 15 August 2022, page 9. Available at: <https://ipysvenezuela.org/2022/08/15/leyes-para-silenciar-el-reporte-de-ipys-venezuela-que-muestra-como-la-censura-se-ha-hecho-norma/>.

²⁴⁴⁵ Telefónica, Communications Transparency Report, 2021. Available at: <https://www.telefonica.com/es/wp-content/uploads/sites/4/2021/08/Informe-de-Transparencia-en-las-Comunicaciones-2021.pdf>.

²⁴⁴⁶ *Ibid.*

²⁴⁴⁷ Ve sin Filtro, Without rights on Internetve, 2021 Report, 2021. Available at: https://vesinfiltro.com/noticias/2021_informe_anual/.

²⁴⁴⁸ *Ibid.*

²⁴⁴⁹ IPYS Venezuela, off line rights, 2022. Available at: <https://ipysvenezuela.org/2023/05/24/derechos-digitales-estuvieron-desconectados-en-venezuela-durante-2022/>.

²⁴⁵⁰ *Ibid.*

²⁴⁵¹ Expreso, In Venezuela, there are 62 online media outlets blocked, 13 March 2023. Available at: <https://www.expreso.ec/actualidad/mundo/venezuela-hay-62-medios-comunicacion-linea-bloqueados-153534.html>; La Estrella de Panamá, Venezuela: 62 online media outlets are blocked, NGO denounces, 13 March 2023. Available at: <https://www.laestrella.com.pa/internacional/america/230313/venezuela-62-medios-comunicacion-linea>.

²⁴⁵² Interview with Miguel Henrique Otero, 25 March 2023.

Nacional have been the subject of defamation and discrediting statements by Diosdado Cabello and President Maduro for their critical publications of the Government.²⁴⁵³

1139. In 2014, Diosdado Cabello publicly declared that the Government, which controls access to foreign currency to import newsprint into Venezuela, would not support the newspaper El Nacional to obtain this input, because it was a medium that published “negative information.”²⁴⁵⁴ The Government prevented this newspaper from accessing newsprint, so it had to suspend its print edition in December 2018. El Nacional was the last newspaper of national circulation that maintained a printed edition²⁴⁵⁵; and since 2019, it is only published on its website. In 2022, it reported several blocks to its website from the state operator CanTV and the main private internet providers in Venezuela.²⁴⁵⁶

Criminalization

1140. On 21 April 2015, Diosdado Cabello, then president of the National Assembly, filed a criminal lawsuit for “continued aggravated defamation²⁴⁵⁷” against Miguel Otero and 21 other executives of the media outlets El Nacional, La Patilla, and Tal Cual.²⁴⁵⁸ Cabello’s legal action was based on the reproduction in El Nacional, La Patilla, and Tal Cual (among other national and foreign media) of the information published by the Spanish newspaper ABC on 25 January 2015, according to which, Cabello’s former security chief, Leamsy Salazar, accused him of being involved in international drug trafficking.²⁴⁵⁹

²⁴⁵³ IACHR, resolution 43/15 of 9 November 2015. Available at:

<https://www.oas.org/es/cidh/decisiones/pdf/2015/MC43-2015-es.pdf>. See also La Patilla, Diosdado mocks El Nacional and calls Miguel Henrique Otero a “parasite”, 10 February 2014. Available at: https://www.lapatilla.com/2014/02/10/diosdado-se-mofa-de-el-nacional-y-tilda-de-parasito-a-miguel-henrique-otero/?fb_comment_id=221340891386081_396600.

²⁴⁵⁴ IACHR, resolution 43/15 of 9 November 2015. Available at:

<https://www.oas.org/es/cidh/decisiones/pdf/2015/MC43-2015-es.pdf>.

²⁴⁵⁵ El Nacional, El Nacional will cease to circulate in its printed edition, 13 December 2018. Available at:

https://www.elnacional.com/noticias/mundo/nacional-dejara-circular-edicion-impresa_263218/.

²⁴⁵⁶ IPYS Venezuela, Alerta IPYSve | Journalist José Gregorio Meza was questioned for work published in El Nacional, 27 January 2023. Available at: <https://ipysvenezuela.org/alerta/alerta-ipysve-periodista-jose-gregorio-meza-fue-interrogado-por-trabajo-publicado-en-el-nacional/>. See also Infobae, El Nacional blocked after handing over headquarters to Chavismo’s number two, 12 February 2022. Available at:

<https://www.infobae.com/america/agencias/2022/02/12/denuncian-bloqueo-a-el-nacional-tras-entrega-de-sede-a-numero-dos-de-chavismo/>.

²⁴⁵⁷ 2005 Penal Code, art. 442. According to the lawsuit filed by Cabello, the crime is “continuous,” in accordance with article 99 of the 2005 Penal Code, since according to him, the alleged attacks have been multiple and prolonged over time.

²⁴⁵⁸ According to information published by El Nacional on 12 May 2015, the people named in Cabello’s lawsuit and affected by the measures imposed by Judge Núñez are: Miguel Henrique Otero, Mariana Otero, Argenis Rafael Martínez Mota, José Simón Elarba Haddad, Oswaldo Karam Macía, Luis Carlos Serra Carmona, Juan Andrés Wallis Brandt, Omar José Delgado Lugo, Jorge Papatzikos Gianopulos, Vivianne de Lourdes Font Fernández, Ramón José Medina Simancas, Beatriz Cecilia De Majo de Algisi, Carmen Elena Macía Fortique, Leopoldo Eduardo López Mendoza, Teodoro Petkoff Malec, Juan Antonio Rafael Golia Amodio, Francisco Layrisse, Manuel Antonio Puyana Santander, Alberto Federico Ravell Arreaza, Isabel Cristina Ravell Nolck, and David Alberto Morán Bohórquez. Document PPDC100: case summary prepared by Miguel Otero; El Nacional, 22 media executives are banned from leaving the country, 12 May 2015. Available at:

https://web.archive.org/web/20160811092844/http://www.el-nacional.com/politica/Imponen-prohibicion-salida-directivos-medios_0_626937459.html; IPYS Venezuela, IPYS Venezuela, Alerta IPYSve | El Nacional headquarters was handed over to Diosdado Cabello, 8 February 2022. Available at: <https://ipysvenezuela.org/alerta/alerta-ipysve-entregan-sede-de-el-nacional-a-diosdado-cabello/>.

²⁴⁵⁹ Document PPDC100: case summary prepared by Miguel Otero; IACHR, resolution 43/15 of 9 November 2015. Available at: <https://www.oas.org/es/cidh/decisiones/pdf/2015/MC43-2015-es.pdf>; El Nacional, 22 media executives are banned from leaving the country, 12 May 2015. Available at:

https://web.archive.org/web/20160811092844/http://www.el-nacional.com/politica/Imponen-prohibicion-salida-directivos-medios_0_626937459.html; IPYS Venezuela, Alerta IPYSve | El Nacional headquarters was handed over to Diosdado Cabello, 8 February 2022. Available at: <https://ipysvenezuela.org/alerta/alerta-ipysve-entregan-sede-de-el-nacional-a-diosdado-cabello/>; El Mundo, The Venezuelan regime intensifies its harassment of opposition media, 24 April 2014 Available at:

<https://www.elmundo.es/internacional/2015/04/24/553aac86268e3eb26f8b456f.html>.

1141. The criminal complaint was admitted and sent on 25 April 2015 to the 12th Court of First Instance of the Criminal Judicial Circuit of the Metropolitan Area of Caracas (hereinafter “12th Criminal Judicial Circuit”).²⁴⁶⁰ On 5 May 2015, the 12th Criminal Judicial Circuit ratified the admission of the lawsuit, and imposed as substitute precautionary measures, the prohibition of the defendants from leaving the country, in addition to a regime of presentation every eight days before the Office of Presentation of Defendants of the Criminal Circuit.²⁴⁶¹ Those affected were not formally notified of either the lawsuit or the precautionary measures, and they found out about this because the information emerged unofficially.²⁴⁶²

1142. Cabello’s lawsuit, together with the acts of harassment and stigmatization that he suffered continuously from senior government officials, led Otero, who was outside Venezuela at the time the court order was reported, to make the decision not to return to the country for fear of being detained.²⁴⁶³

1143. In November 2015, the Inter-American Commission on Human Rights granted precautionary measures to Otero and three other people²⁴⁶⁴ accused by Cabello in his defamation lawsuit, based on “i) the alleged attacks on journalists and media outlets in Venezuela; ii) the restriction of newsprint; and iii) administrative and criminal proceedings against media outlets, their journalists and managers.”²⁴⁶⁵ These precautionary measures remain in force.

1144. In addition to the criminal complaint, Diosdado Cabello civilly sued the newspaper El Nacional for “the moral damages and loss of his honour and reputation,” which would have been caused by the same journalistic publications.²⁴⁶⁶ On 31 May 2018, almost three years after the lawsuit was filed, the Third Court of First Instance in Civil, Commercial, Transit and Banking Matters of Caracas (hereinafter the “Third Civil Court”) declared in favour of the sued and sentenced El Nacional to pay compensation to Cabello of one billion bolivars (at that time approximately USD 12,500 at the official Central Bank of Venezuela rate)²⁴⁶⁷. The representatives of El Nacional going to face a prolonged and arbitrary litigation. Therefore, on 14 November 2018, the appeal tribunal confirmed the sentence.²⁴⁶⁸

1145. On 29 January 2021, Cabello presented a petition for certiorari²⁴⁶⁹ to the Civil Cassation Chamber to review the initial amount of compensation, because it had become “minuscule” due to the hyperinflation of the Venezuelan currency.²⁴⁷⁰ On 16 April 2021, the Civil Cassation Chamber increased the sentence against El Nacional to 237,000

²⁴⁶⁰ Document PPDC100: case summary prepared by Miguel Otero.

²⁴⁶¹ Article 242(4) and 242(3) of the Organic Code of Criminal Procedure. Document PPDC100: case summary prepared by Miguel Otero.

²⁴⁶² Document PPDC100: case summary prepared by Miguel Otero; El Nacional, 22 media executives are banned from leaving the country, 12 May 2015. Available at: https://web.archive.org/web/20160811092844/http://www.el-nacional.com/politica/Imponen-prohibicion-salida-directivos-medios_0_626937459.html; DW, Venezuela prohibits defendant publishers from leaving the country, 13 May 2015. Available at: <https://www.dw.com/es/venezuela-proh%C3%ADbe-salida-del-pa%C3%ADs-a-editores-demandados/a-18449452>.

²⁴⁶³ Interview with Miguel Henrique Otero, 25 March 2023.

²⁴⁶⁴ Alberto Federico Ravell, co-founder of Globovision; Isabel Cristina Ravell, daughter of Alberto Federico Ravell and member of the Board of Directors of La Patilla; and Teodoro Petkoff, director of Tal Cual.

²⁴⁶⁵ IACHR, resolution 43/15 of 9 November 2015. Available at: <https://www.oas.org/es/cidh/decisiones/pdf/2015/MC43-2015-es.pdf>.

²⁴⁶⁶ Document PPDC100: case summary prepared by Miguel Otero.

²⁴⁶⁷ Access to Justice, Crime of Opinion: New sentence against El Nacional by the Supreme Tribunal of Justice, 5 June 2018. Available at: <https://www.facebook.com/accesojusticia/posts/4023792527715220>.

²⁴⁶⁸ Document PPDC100: case summary prepared by Miguel Otero.

²⁴⁶⁹ Process established in the Organic Law of the Supreme Tribunal of Justice (Official Gazette of the Bolivarian Republic of Venezuela No. 5991 Extraordinary of 11 May 2010), Articles 106 and 107, according to which, the Supreme Tribunal of Justice has the possibility, at the request of a party or at its own initiative, to obtain any file from any tribunal, in order to decide whether to invoke it and assume knowledge of the matter, or assign it to another tribunal. This jurisdiction can be exercised if the Supreme Tribunal of Justice considers that there are “”.

²⁴⁷⁰ Document PPDC100: case summary prepared by Miguel Otero, Supreme Tribunal of Justice. Civil Cassation Chamber. Exp. AA20-C-2021-000008, ruling of 1 March 2021. Available at: <http://historico.tsj.gob.ve/decisiones/scc/marzo/311329-AVOC.000001-1321-2021-21-008.HTML>; IPYS Venezuela, Alerta IPYSve | El Nacional headquarters was handed over to Diosdado Cabello, 8 February 2022. Available at: <https://ipysvenezuela.org/alerta/alerta-ipysve-entregan-sede-de-el-nacional-a-diosdado-cabello/>.

“petros”²⁴⁷¹ (equivalent to USD 13,366,800).²⁴⁷² On 14 May 2021, the Fourth Municipal Ordinary Court of the Judicial District and Enforcer of Ancillary Relief for the Metropolitan Area of Caracas ordered the seizure of the property of El Nacional, according to Otero, with the alleged purpose of ensuring payment of the pecuniary penalty imposed on the newspaper.²⁴⁷³ That same afternoon, armed officials from the GNB and the judicial officers up at the newspaper building with the seizure order to take possession of the property.²⁴⁷⁴

1146. In 2023, El Nacional published three reports on its website, on the 10, 11, and 12 January, about the brothers Santiago and Ricardo Morón Hernández and their connection, along with President Maduro’s son, Nicolás Maduro Guerra, with activities of illicit mining.²⁴⁷⁵ On 17 January 2023, Otero was summoned by the Public Prosecutor’s Office to appear as a defendant in a new case.²⁴⁷⁶ Although the summons received by Otero did not indicate the charges against him, Otero presumes that it could be related to a new defamation lawsuit for the aforementioned press articles.²⁴⁷⁷

1147. On 25 January 2023, a prosecutor and a commission of the Scientific, Criminal and Forensic Investigations Corps (CICPC) arrived at the homes of two members of the El Nacional team residing in Venezuela and took them to one of the Scientific, Criminal and Forensic Investigations Corps (CICPC) delegations in Caracas to interrogate them about an investigation opened under the law against hate.²⁴⁷⁸

Conclusions

1148. The Mission has reasonable grounds to believe that Miguel Henrike Otero has been subject to criminalization by the authorities of the Bolivarian Republic of Venezuela due to the exercise of his freedom of expression through the newspaper El Nacional, of which he is the owner, whose line is critical of the Government.²⁴⁷⁹

1149. The Mission observes that, as a result of a petition for certiorari made by Diosdado Cabello, the Supreme Tribunal of Justice imposed an exorbitant fine on the newspaper, which resulted in the seizure of its assets. The Mission recalls that, in a democratic society, although freedom of expression may be subject to restrictions, the State must demonstrate that the measure is necessary and proportionate.²⁴⁸⁰ Compensation like the one imposed on the

²⁴⁷¹ The petro is equivalent to approximately USD 56.40.

²⁴⁷² Supreme Tribunal of Justice, Civil Cassation Chamber. Judgment AVOC.000081 dated 16 April 2021. Available at: <http://historico.tsj.gob.ve/decisiones/scc/abril/311793-AVOC.000008-16421-2021-21-008.HTML>.

²⁴⁷³ Document PPDC100: case summary prepared by Miguel Otero; El Nacional, Miguel Henrike Otero on the embargo on the headquarters of El Nacional: It is an outrage that we must denounce to the world, 14 May 2021. Available at: <https://www.elnacional.com/venezuela/miguel-henrique-otero-sobre-embargo-a-la-sede-de-el-nacional-es-un-atropello-que-debemos-denunciar-al-mundo/>.

²⁴⁷⁴ Tweet by Miguel Otero [@miguelhotero], 14 May 2020. Available at: <https://twitter.com/miguelhotero/status/1393341760982630400>; Document PPDC100: case summary prepared by Miguel Otero.

²⁴⁷⁵ Miguel Henrike Otero, Against El Nacional: the attacks of the Venezuelan regime continue, 31 January 2023. Available at: https://www.eldebate.com/internacional/latinoamerica/20230131/contra-nacional-ataques-continuan_90142.html; El Nacional, The “homonyms” of the Morón brothers and their relations with Nicolás Maduro Guerra, 11 January 2023. Available at: <https://www.elnacional.com/venezuela/los-homonimos-de-paja-de-los-hermanos-moron-y-las-relaciones-con-nicolas-maduro-guerra/>.

²⁴⁷⁶ Document PPDC099: summons call slip.

²⁴⁷⁷ Interview with Miguel Henrike Otero, 25 March 2023; Miguel Henrike Otero, Against El Nacional: the attacks of the Venezuelan regime continue, 31 January 2023. Available at: https://www.eldebate.com/internacional/latinoamerica/20230131/contra-nacional-ataques-continuan_90142.html; IPYS Venezuela, Alerta IPYSve | Journalist José Gregorio Meza was questioned for work published in El Nacional, 27 January 2023. Available at: <https://ipysvenezuela.org/alerta/alerta-ipysve-periodista-jose-gregorio-meza-fue-interrogado-por-trabajo-publicado-en-el-nacional/>.

²⁴⁷⁸ Interview with Miguel Henrike Otero, 25 March 2023; Miguel Henrike Otero, Against El Nacional: the attacks of the Venezuelan regime continue, 31 January 2023. Available at: https://www.eldebate.com/internacional/latinoamerica/20230131/contra-nacional-ataques-continuan_90142.html; IPYS Venezuela, Alerta IPYSve | Journalist José Gregorio Meza was questioned for work published in El Nacional, 27 January 2023. Available at: <https://ipysvenezuela.org/alerta/alerta-ipysve-periodista-jose-gregorio-meza-fue-interrogado-por-trabajo-publicado-en-el-nacional/>.

²⁴⁷⁹ The Human Rights Committee has indicated that media owners exercise their right to freedom of expression by owning them.

²⁴⁸⁰ See Chapter IV, Section F.3, *supra*.

newspaper El Nacional does not seem to meet these requirements. The Mission also observes with concern that the certification procedure regulated in the Organic Law of the Supreme Tribunal of Justice (TSJ) contains broad and ambiguous expressions, such as “scandalous violations of the legal system that ostensibly harm the image of the Judicial Power, public peace or democratic institutions,” granting the Tribunal a wide margin of discretion when choosing which processes it takes on. The above is even more worrying in a context like the Venezuelan one, in which the independence of the Judicial Power has been progressively harmed.²⁴⁸¹ In this regard, the Mission recalls that it has reasonable grounds to believe that the justice system has played a prominent role in the State’s repression against people perceived as opponents of the Government.²⁴⁸²

Case 40: VPItv

Background

1150. VPItv is a digital news medium founded in 2015 in Miami by three Venezuelan people. In 2021, it had correspondents in 20 of the 23 states of Venezuela and through its main headquarters in the United States it transmitted reports and news broadcasts online, on its website, social networks, and other digital platforms.²⁴⁸³

1151. Within the framework of widespread attacks against journalists documented by the Mission in its 2020 report,²⁴⁸⁴ several people working for VPItv in different parts of Venezuela, including Caracas, Zulia and Táchira, have been victims of harassment, violence, surveillance, and stigmatization since 2017. According to testimony received by the Mission, at least three VPItv journalists, two men and one woman, were attacked and detained between 2017 and 2019 while documenting social protests; the homes of two journalists, a woman and a man, were subject to surveillance and raids in 2021; and a reporter was threatened with arrest by the Bolivarian National Intelligence Service (SEBIN by its Spanish acronym) in 2023.²⁴⁸⁵

Arbitrary closure

1152. In December 2020, several VPItv workers reported to the media’s directors that they had been monitored in their homes. In addition, the workers observed that, for several days, a white vehicle without license plates remained parked in front of the VPItv offices, located in the Los Dos Caminos urbanization in Caracas, and that unknown people had taken photos of the offices and staff that entered the building.²⁴⁸⁶ That same month, the security personnel of the building where the VPItv offices were located in Caracas told the media that some people, who identified themselves as officials from SUDEBAN had asked if any media outlet had its headquarters in that building.²⁴⁸⁷

1153. On 8 January 2021, a joint commission from the National Integrated Service of Customs and Taxes Administration (SENIAT by its Spanish acronym) and the National Telecommunications Commission (CONATEL by its Spanish acronym) appeared at the VPItv offices in Los Dos Caminos. At least 13 officials from these two entities entered the offices and approached the VPItv personnel who were on the premises, without presenting an inspection order, registration or a similar document issued by an administrative or judicial authority.²⁴⁸⁸

1154. According to a VPItv staff member who was present during the inspection, three joint commission officials asked who the VPItv bosses were at the site. These officials identified themselves, without presenting any

²⁴⁸¹ A/HRC/48/CRP.5, para.472.

²⁴⁸² A/HRC/48/CRP.5, para. 487.

²⁴⁸³ Interview PPIV079; CPJ, Venezuelan authorities search and close digital television channel VPITV, 12 January 2021. Available at: <https://cpj.org/es/2021/01/las-autoridades-venezolanas-allanan-y-cierran-el-canal-televisivo-digital-vpity/>.

²⁴⁸⁴ A/HRC/45/CRP.11, para. 68, 244, 1408, and 1765.

²⁴⁸⁵ Interview PPIV079.

²⁴⁸⁶ Interview PPIV078; Interview PPIV079.

²⁴⁸⁷ *Ibid.*

²⁴⁸⁸ Interview PPIV078; Interview PPIV079; CPJ, Venezuelan authorities search and close digital television channel VPITV, 12 January 2021. Available at: <https://cpj.org/es/2021/01/las-autoridades-venezolanas-allanan-y-cierran-el-canal-televisivo-digital-vpity/>; NTN24, Officials of the Venezuelan regime take away the equipment of the digital media VPITV, 8 January 2021. Available at: <https://www.ntn24.com/programas/la-tarde/funcionarios-del-regimen-venezolano-le-quitan-los-equipos-al-medio-digital-vpi-tv/>; Tweet from SNTP [@sntpvenezuela], 8 January 2021. Available at: <https://twitter.com/sntpvenezuela/status/1347620389216804868>; Fe y Alegría radio, Equipment was confiscated from VPItv, 8 January 2021. Available at: <https://www.radiofeyalegrianoticias.com/confiscaron-equipos-a-vpity/>; Fe y Alegría radio, CONATEL and Seniat visited VPItv headquarters for “inventory”, 8 January 2021. Available at: <https://www.radiofeyalegrianoticias.com/conatel-y-el-seniat-visitaron-sedes-de-vpity-por-inventario/>.

documentation, as the head of SENIAT in Caracas, a lawyer of SENIAT and the Director of the Office of the Presidency of CONATEL.²⁴⁸⁹ Witnesses informed the Mission that the joint commission officials had with them a thick folder with a list of the names and personal information of several members of the VPItv staff, including journalists who were not in the offices in Caracas.²⁴⁹⁰

1155. Commission members questioned staff, inspected facilities and work equipment, took photos of the contents of workers' computers, and requested documents and operational and administrative information. They even requested keys to the transmission processes and reviewed emails related to the VPItv operation.²⁴⁹¹ They also seized transmission equipment, cameras and computers, among other work implements.²⁴⁹²

1156. According to a VPItv staff member who was present during the events, one of the members of the joint commission announced: "*We have opened an administrative investigation. As of today, this media stops working. Close the computers.*" This same official indicated that VPItv had published news that "*violated the regulations.*" When one of the heads of VPItv asked what violations had been committed, the officials told her that "*they will take care about that later.*"²⁴⁹³

1157. Some members of the VPItv staff who were present informed the media directors that when CONATEL officials questioned them, they threatened them by saying "*you know that the Law against Hate is a criminal offense, but a criminal offense cannot be applied to a company. So, if you do not cooperate and tell us who your boss is, they are going to accuse you of a crime against the Law against Hate.*"²⁴⁹⁴

1158. According to a VPItv staff member who was present during the raid, after a few hours of interrogation and inspection of the offices in Los Dos Caminos, a joint commission official showed on his cell phone a video of VPItv that was broadcasting live, and asked where that signal was generated from. Other commission officials demanded that three VPItv staff members take them to the VPItv facilities located in the La Florida urbanization in Caracas, from where the signal was being transmitted.²⁴⁹⁵ Upon arriving at the facilities in La Florida, officials questioned the staff, inspected the premises and work equipment, and seized materials and equipment that they transported in a commission van.²⁴⁹⁶

1159. After several hours, officials returned with the three VPItv staff members to the offices in Los Dos Caminos. A CONATEL official asked them questions about the operation of the media and entered their answers into a computer. When finished, CONATEL and officials of the SENIAT printed a CONATEL Inspection Record,²⁴⁹⁷ a SENIAT Preventive Withholding Record,²⁴⁹⁸ and three SENIAT Certificates,²⁴⁹⁹ and insisted that they should be

²⁴⁸⁹ Interview PPIV078.

²⁴⁹⁰ Interview PPIV078; Interview PPIV079.

²⁴⁹¹ Interview PPIV078; Interview PPIV079; NTN24, Officials of the Venezuelan regime take away the equipment of the digital media VPITV, 8 January 2021. Available at: <https://www.ntn24.com/programas/la-tarde/funcionarios-del-regimen-venezolano-le-quitan-los-equipos-al-medio-digital-vpi-tv>; Tweet from SNTP [@sntpvenezuela], 8 January 2021. Available at: <https://twitter.com/sntpvenezuela/status/1347620389216804868>.

²⁴⁹² Interview PPIV078; Interview PPIV079; NTN24, Officials of the Venezuelan regime take away the equipment of the digital media VPITV, 8 January 2021. Available at: <https://www.ntn24.com/programas/la-tarde/funcionarios-del-regimen-venezolano-le-quitan-los-equipos-al-medio-digital-vpi-tv>; Tweet from SNTP [@sntpvenezuela], 8 January 2021. Available at: <https://twitter.com/sntpvenezuela/status/1347620389216804868>.

²⁴⁹³ Interview PPIV078.

²⁴⁹⁴ Interview PPIV079.

²⁴⁹⁵ Interview PPIV078.

²⁴⁹⁶ *Ibid.*; NTN24, Officials of the Venezuelan regime take away the equipment of the digital media VPITV, 8 January 2021. Available at:

<https://www.ntn24.com/programas/la-tarde/funcionarios-del-regimen-venezolano-le-quitan-los-equipos-al-medio-digital-vpi-tv>; Tweet from SNTP [@sntpvenezuela], 8 January 2021. Available at:

<https://twitter.com/sntpvenezuela/status/1347620389216804868>; Tweet from IPYS Venezuela [@ipysvenezuela], 8 January 2021. Available at: <https://twitter.com/ipysvenezuela/status/1347646246002057217>.

²⁴⁹⁷ Document PPDC093.

²⁴⁹⁸ Document PPDC094.

²⁴⁹⁹ Documents PPDC095, PPDC096, PPDC097.

signed by the three VPItv members who had identified themselves as the bosses present. These three people signed the documents out of fear of the consequences if they refused.²⁵⁰⁰

1160. According to a person present during the inspection, the head of CONATEL commission introduced himself as Stalin Da Silva Betancourt, the Director of the Office of the Presidency of CONATEL, and addressed the present bosses of VPItv in a threatening manner, telling them “*Be thankful that this has been cordial, and that you collaborated, because, on the contrary, this could end worse.*”²⁵⁰¹ When presenting the record to the present bosses of VPItv, Stalin Da Silva Betancourt told them “*I do not want to see a VPItv microphone or a journalist’s camera again.*”²⁵⁰²

1161. The Administrative Ruling of CONATEL accused VPItv of disseminating messages on its website and social networks that violate article 27 of the RESORTE law and that could violate the Law against Hate.²⁵⁰³ As evidence of this, in the record, four examples were cited of computer notes published by VPItv in 2020, one on teacher protests on Teacher’s Day, and three on protests due to lack of fuel. The act establishes that these computer notes violated the RESORTE law because “*they promote misinformation*” and “*could generate anxiety among citizens.*”²⁵⁰⁴ Additionally, it is cited that in one of the notes it refers to Juan Guaidó as “*President in Charge*” of Venezuela, and it is indicated that this is a violation of article 27(5) of the RESORTE law.²⁵⁰⁵ Based on this, CONATEL ordered “*the cessation of [VPItv’s] operations and immediate suspension of the creation and dissemination of audio-visual content generated within the territory of the Bolivarian Republic of Venezuela,*”²⁵⁰⁶ as a precautionary measure to avoid irreparable damage. in accordance with article 33 of the RESORTE law.²⁵⁰⁷

1162. The VPItv bosses present in the offices were also forced to sign a SENIAT Preventive Withholding Act indicating that they were seizing materials due to lack of tax documentation.²⁵⁰⁸ According to the management of VPItv, the record does not record items that were seized that day, including cameras.²⁵⁰⁹

1163. At the end of the inspection, which ended at approximately 10:30 p.m., a witness informed the Mission that some officials dressed in civilian clothes, armed with pistols, arrived to take more equipment. The heads of the joint commission of CONATEL and SENIAT let them enter and take the materials, but they never identified themselves to the VPItv staff.²⁵¹⁰

1164. In the days that followed, several VPItv staff members chose to stop working on the newscast, for fear of being subject to retaliation; and the outlet even had to hire a psychologist to support staff who were traumatized by the inspection. Two members of VPItv management in Venezuela left the country for fear of being detained under the Law against Hate and for their work. Those same people who are members of the management had to leave their families and their property, and they have not felt safe to return to the country.²⁵¹¹ One of these people told the Mission that through harassment, the authorities “*took away my freedom of expression and my right to work.*”²⁵¹²

1165. To date, VPItv remains subject to the restrictions imposed by CONATEL. The offices they rented in Caracas remain closed and they were never able to recover their seized assets, despite presenting several appeals to the SENIAT.²⁵¹³

²⁵⁰⁰ Interview PPIV078; Interview PPIV079.

²⁵⁰¹ Interview PPIV078.

²⁵⁰² *Ibid.*

²⁵⁰³ *Ibid.*; Interview PPIV079; Document PPDC029.

²⁵⁰⁴ Document PPDC029.

²⁵⁰⁵ Said article indicates that the dissemination of messages that “disregard the legitimately constituted authorities” is prohibited. Document PPDC029.

²⁵⁰⁶ *Ibid.*

²⁵⁰⁷ Precautionary measure that was issued in the same act of opening of the administrative sanctioning procedure, as article 33 allows.

²⁵⁰⁸ Interview PPIV079; Interview PPIV078; Document PPDC094.

²⁵⁰⁹ Interview PPIV079; Interview PPIV085.

²⁵¹⁰ Interview PPIV078.

²⁵¹¹ *Ibid.*; Interview PPIV079.

²⁵¹² Interview PPIV078.

²⁵¹³ *Ibid.*; Interview PPIV079.

Conclusions

1166. Based on the above, the Mission has reasonable grounds to believe that the actions of SENIAT and CONATEL on 8 January 2021 against VIPtv, in particular CONATEL determination to suspend the media's operations within Venezuelan territory due to the publications mentioned in the administrative ruling of that date, in exercise of a precautionary measure, constitute an arbitrary application of the RESORTE law.²⁵¹⁴ This considering that the aforementioned ruling, by applying the broad and ambiguous terms of article 27 (4) and (5) of said norm, does not adequately substantiate to what extent the messages transmitted by VIPtv could be framed in the conducts prohibited by article 27 of the RESORTE law.

1167. CONATEL limits itself to indicating that the messages in question “could incite, promote hatred and intolerance for political reasons, foster anxiety among citizens, alter public order and ignore legitimately constituted authorities (...), which could trigger the execution of illegal conduct by the recipients of such news and the realization of imminent damage to vulnerable subjects (...)”, without specifically explaining how the aforementioned news could generate that effect. Likewise, the Mission has reasonable grounds to conclude that the measures taken against VIPtv are disproportionate, especially considering that it is a precautionary measure imposed at the time of opening the administrative procedure, of prolonged duration since they have been in force for more than two years and without leaving room for the media to exercise its defence.

1168. In this regard, the Mission observes that the decision to seize VIPtv's assets was taken by SENIAT as a precautionary measure in application of the Organic Tax Code, which indicates in its article 239 that this is possible when there is a risk to “the perception of credits for taxes, accessories, and fines (...)”. However, the Mission confirms that in the preventive retention of assets document issued by SENIAT on 8 January 2021 against VIPtv, no reason is stated indicating that said media outlet would be creating a tax risk or the reasons for which it is decided to preventively seize the assets. This, combined with the arbitrary application of the RESORTE law described above, is indicative that the actions taken by CONATEL and SENIAT against VIPtv were intended to sanction this medium for legitimately exercising the right to freedom of expression, constituting a form of indirect censorship.

Case 41: EP Media

Background

1169. EP Media is an independent journalism company, based in Caracas, founded in 2013 by two Venezuelan journalists.²⁵¹⁵ One of the founders and directors of EP Media, Pedro Luis Flores, worked as a reporter and then as a presenter for more than a decade on Globovisión, a Venezuelan television channel known, until its sale in 2013²⁵¹⁶, for publishing opinions critical of the Government.²⁵¹⁷ Following the sale of Globovisión in 2013 and allegations that the outlet was starting to censor itself,²⁵¹⁸ Flores resigned from his job with Globovisión²⁵¹⁹ and founded EP Media.²⁵²⁰ Since 2009, Flores has also been very active on social media, particularly on Twitter, where he has more than 1,269,000 followers, and regularly publishes tweets denouncing human rights violations and failures in the country's public services.²⁵²¹

1170. EP Media provided advice and communication services to various groups, reported for media based outside the country, and produced documentaries for human rights organizations in Venezuela. He also rented studios and equipment to other media outlets, including foreign correspondents in Venezuela.²⁵²²

²⁵¹⁴ See Section F: Limitations on media, *infra*. *Official Gazette* no. 38,333 of 12 December 2005.

²⁵¹⁵ EP Media is legally registered in Venezuela under the name *EP Noticias y Programas*.

²⁵¹⁶ El País, The sale of the Venezuelan news channel Globovisión is agreed, 13 May 2013. Available at: https://elpais.com/economia/2013/05/14/agencias/1368496359_492018.html.

²⁵¹⁷ Evan Romero-Castillo, Will Globovisión disappear?, 13 April 2013. Available at: <https://www.dw.com/es/venezuela-desaparecer%C3%A1-la-%C3%BAltima-televisora-opositora/a-16736994>.

²⁵¹⁸ ABC, Globovisión: they denounce self-censorship after the change of their administration, 27 May 2013. Available at: <https://www.abc.com.py/edicion-impresa/internacionales/globovision-denuncian-autocensura-tras-el-cambio-de-su-administracion-577459.html>.

²⁵¹⁹ Diario República, Carla Angola y Pedro Luis Flores also leave Globovisión, 27 May 2013. Available at: <https://www.diariorepublica.com/periodismo/carla-angola-y-pedro-luis-flores-tambien-se-van-de-globovision>.

²⁵²⁰ Interview PPIV077; Interview PPIV085.

²⁵²¹ Pedro Luis Flores' account on Twitter: <https://twitter.com/pedroluisflores?lang=en>.

²⁵²² Interview PPIV077.

1171. Between 2014 and 2015, EP Media was hired by the coalition of opposition political parties, the Democratic Unity Roundtable (MUD by its Spanish acronym), to form a press team and develop the coalition's media plan for the parliamentary elections in 2015.²⁵²³ In April and May 2020, EP Media published several videos of the demonstrations linked to the lack of gasoline in Venezuela on its Twitter account.²⁵²⁴ That same year, Pedro Luis Flores also made hundreds of publications on his Twitter account about human rights violations committed by State agents²⁵²⁵ protests over the shortage of gas, water, and fuel in the country,²⁵²⁶ and the repression thereof.²⁵²⁷

Arbitrary Inspection

1172. According to a source, in 2020 EP Media received a request from digital outlet VPItv to rent a recording studio and workspaces for its staff in the country. In December 2020, EP Media allowed VPItv to begin using these spaces in its offices, located in the Alta Florida urbanization in Caracas, under the understanding that they would sign a formal sublease agreement in January 2021.²⁵²⁸

1173. On 8 January 2021, a joint commission of SENIAT and CONATEL searched the offices of EP Media in Caracas. The manager of VPItv called the directors of EP Media to notify them that officials from CONATEL and SENIAT were in their offices and were asking about the owners of the premises, so the co-director of EP Media went to the place together with her lawyer to clarify what was happening. Upon arrival at the offices, the co-director spoke with an official who introduced herself as Marisela Estrada La Riva, in charge of SENIAT commission.²⁵²⁹ The co-director of EP Media tried to explain that her company only rented equipment and workspaces to VPItv, and that if the latter was subject to a tax inspection, this should not affect EP Media.²⁵³⁰ According to a person present during the inspection, SENIAT official insisted on seeing the constituent documents of EP Media and the invoices for its equipment. According to the same source, the co-director of EP Media provided all the requested information, with the exception of two invoices for televisions that the co-director did not have with her at the time.²⁵³¹

1174. SENIAT commission seized almost all of the equipment that belonged to EP Media, including equipment for which they had submitted invoices, such as televisions, computers, lighting equipment, cables, telephones, routers,²⁵³² and two hard drives with audio-visual material on them. human rights in Venezuela that EP Media had produced.²⁵³³ Estrada, the head of SENIAT commission, informed the co-director of EP Media that she was going to close the store, but, if she showed up at SENIAT offices on Monday, 11 January to submit the two missing invoices, “*everything will be sorted out*” and they would return the goods and access to the premises²⁵³⁴.

²⁵²³ Interview PPIV085.

²⁵²⁴ Some examples of these publications include: Tweet from EP Media [@EPMediaVzla], 14 April 2020. Available at: <https://twitter.com/EPMediaVzla/status/1250154870637834240>. Tweet from EP Media [@EPMediaVzla], 15 April 2020. Available at: <https://twitter.com/EPMediaVzla/status/1250475460238233600>, and Tweet from EP Media [@EPMediaVzla], 27 April 2020. Available at: <https://twitter.com/EPMediaVzla/status/1254827904447504385>.

²⁵²⁵ Some examples include: Tweet by Pedro Luis Flores [@pedroluisflores], 25 April 2020. Available at: <https://twitter.com/pedroluisflores/status/1254090077862592514>; and Tweet by Pedro Luis Flores [@pedroluisflores], 5 June 2020. Available at: <https://twitter.com/pedroluisflores/status/1268914750274109451>.

²⁵²⁶ Some examples include: Tweet by Pedro Luis Flores [@pedroluisflores], 29 September 2020. Available at: <https://twitter.com/pedroluisflores/status/1311012094549127168>; y Tweet by Pedro Luis Flores [@pedroluisflores], 24 August 2020. Available at: <https://twitter.com/pedroluisflores/status/1297930440783925249>

²⁵²⁷ Some examples include: Tweet by Pedro Luis Flores [@pedroluisflores], 23 September 2020. Available at: <https://twitter.com/pedroluisflores/status/1308897995950350337>; Tweet by Pedro Luis Flores [@pedroluisflores], 5 June 2020. Available at: <https://twitter.com/pedroluisflores/status/1269076756562087936>; Tweet by Pedro Luis Flores [@pedroluisflores], 23 May 2020. Available at: <https://twitter.com/pedroluisflores/status/1264290831613276166>.

²⁵²⁸ Interview PPIV077.

²⁵²⁹ Document PPDC062; Interview PPIV085.

²⁵³⁰ Interview PPIV085; Interview PPIV077.

²⁵³¹ Interview PPIV085.

²⁵³² *Ibid.*; Interview PPIV077.

²⁵³³ Interview PPIV077.

²⁵³⁴ *Ibid.*; Interview PPIV085.

1175. On 11 January 2021, a lawyer representing EP Media showed up at SENIAT offices in Caracas with the missing invoices, but SENIAT representative who assisted him informed him that “*EP Media had fallen on the map,*” and that he could not resolve the case “*on orders from her superiors.*”²⁵³⁵

1176. EP Media’s lawyers explained to the Mission that, as a result of the raid on 8 January, the Division of Subsequent Tax Control of the General Management of Customs and Tax Control of SENIAT opened an inspection process against the company,²⁵³⁶ despite the fact that said division does not have the authority to carry out this procedure in accordance with Administrative Ruling SNAT/2009-0011.²⁵³⁷ To resolve the process, SENIAT demanded 17 documents and accounting files that are in the offices closed by SENIAT commission on 8 January 2021.²⁵³⁸

1177. On 14 January 2021, the co-director of EP Media and her lawyers submitted a letter to the manager of the Division of Subsequent Tax Control of SENIAT explaining that EP Media was subject to closure and retention of its assets without having been previously notified of the decision to open a tax control process against EP Media, and without having been previously notified of the list of documents that they had to present within the framework of said process²⁵³⁹. In light of these facts, EP Media requested access to its offices in order to recover the documents that it had to present within the framework of the tax process. SENIAT rejected this request on the grounds that the closure seals of the premises were already in place and there was no possibility of entry.²⁵⁴⁰ Since EP Media could not present the requested documentation because it was inside the offices closed by SENIAT commission, SENIAT imposed sanctions against the company, including a fine of EUR 300.²⁵⁴¹

1178. Due to these events, EP Media’s lawyers filed an appeal denouncing the violation of the right to freedom of expression, due process and private property before the Supreme Tribunal of Justice. According to EP Media’s legal team, Judge Orlando Lagos of said Tribunal declared the appeal inadmissible under the argument that the ordinary route had not been exhausted before filing this extraordinary action.²⁵⁴² Likewise, the lawyers filed an appeal for annulment before the tax litigation body, challenging the sanctioning procedure. Currently, the appeal is pending resolution before the Fifth Contentious Tax Tribunal.²⁵⁴³ At the time of completing this report, EP Media’s offices remained closed.²⁵⁴⁴

1179. The closure of the offices and the seizure of its equipment bankrupted EP Media financially. The directors had to sell their personal assets in order to pay the fees of the lawyers hired to handle the case.²⁵⁴⁵ The loss of their business and income has also had a negative impact on the physical and mental health of the directors, who now suffer from anxiety.²⁵⁴⁶

Conclusions

1180. Based on the facts described, the Mission has reasonable grounds to believe that the closure and confiscation of EP Media’s assets by SENIAT were arbitrary, taking into account that SENIAT did not notify EP Media that it was initiating an administrative process in against him, and also prevented him from entering its offices in order to recover the documents that the same entity was requesting from him within the framework of said process, which had the consequence that the media remained closed with its assets confiscated, and that a fine would be imposed.

²⁵³⁵ *Ibid.*

²⁵³⁶ Document PPDC063: Summary of the case prepared by the Public Space Defense Team;

²⁵³⁷ Administrative Ruling SNAT/2009-0011. Available at:

<https://www.tradex.com.ve/wp-content/uploads/Providencia-0015-Gerencia-General-de-Control-Aduanero-y-Tributario.pdf>.

²⁵³⁸ Interview PPIV085; Interview PPIV077; Document PPDC063: Summary of the case prepared by the Public Space Defense Team; Document PPDC061: SENIAT entry.

²⁵³⁹ Document PPDC060: Writing presented to SENIAT, page 2.

²⁵⁴⁰ Document PPDC063: Summary of the case prepared by the Public Space Defense Team; Interview PPIV085; Interview PPIV077.

²⁵⁴¹ Document PPDC063: Summary of the case prepared by the Public Space Defense Team; Interview PPIV085; Interview PPIV077.

²⁵⁴² Document PPDC063: Summary of the case prepared by the Public Space Defense Team;

²⁵⁴³ Document PPDC063: Summary of the case prepared by the Public Space Defense Team;

²⁵⁴⁴ Interview PPIV077; Interview PPIV085; Document PPIV079; Interview PPIV078.

²⁵⁴⁵ Interview PPIV077; Interview PPIV085.

²⁵⁴⁶ *Ibid.*

G. Limitations on the creation and operation of civil society organizations and political parties

1181. The Mission has identified a series of legal and practical restrictions that affect the freedom of association, through limitations on the establishment or internal functioning of non-governmental organizations, unions, political parties, and other entities. These limitations affect entities that play a key role in the civic and democratic space, and have a cumulative impact on the right to freedom of association, including the right to freedom of association, the right to participate in public affairs, and other related rights that are part of political rights.

1182. Among the ways in which the functioning of the various associative forms is limited include interference by the Judicial Power through decisions that affect the composition of its members through the appointment of *ad hoc* boards of directors; and bureaucratic and onerous procedures that restrict their registration in public registries to obtain their legal personality. In this sense, in recent years, laws and administrative regulations have been adopted and/or modified that affect key aspects of the functioning of organizations.

1. Limitations on NGOs and related organizations

(a) Legal framework applicable to associations

1183. The Bolivarian Republic of Venezuela has adopted a series of regulations that may imply a restriction on freedom of association. These measures have imposed strict requirements on civil society organizations that wish to access foreign financing, as well as more bureaucratic procedures, such as the inclusion of multiple registrations. The fight against terrorism has also been one of the arguments used by the Government to impose new requirements on the operation of associations. In the Mission's analysis, the approval of new legislative projects, currently under discussion in the National Assembly, would imply new restrictions in this regard.

1184. Starting in 2009, a series of laws known as "People's Power laws" were approved.²⁵⁴⁷ According to several NGOs, these laws created a new system of power, based on community-based structures and other organizations linked to the ruling party that are responsible for public functions, for example, the distribution of social aid from the State. According to these NGOs,²⁵⁴⁸ this results in the elimination of any other type of association that has an ideological orientation different from that of the government and in addition, the transfer of powers from the State to these "official"²⁵⁴⁹ associations, also generating discrimination in the distribution of State aid, since in many cases these are only given to people related to the Government.²⁵⁵⁰ In this way, according to the aforementioned sources, the "People's Power laws" imposed a supposedly associative model, the only one recognized as such, that results in the impairment of other forms of exercise of the right of association.²⁵⁵¹ The implementation of the "People's Power laws" is seen by a sector of civil and academic society as a way to launch the "Communal State" that was intended to

²⁵⁴⁷ Open sources refer to the following laws: Law for the Defense of Political Sovereignty and National Self-Determination (*Official Gazette* no. 6,013 Extraordinary of December 22, 2010); People's Power Organic Law (*Official Gazette* no. 6,011 Extraordinary of 21 December 2010); Organic Law of the Municipal Councils (*Official Gazette* no. 39,335 of 28 December 2009); Law of the Municipalities (*Official Gazette* no. 6,011 Extraordinary of 21 December 2010); Law of the Municipal Economic System (*Official Gazette* no. 6,011 Extraordinary of 21 December 2010); Organic Law of Social Comptrollership (*Official Gazette* no. 6,013 of 23 December 2010) and Law of the Federal Government Council and its Regulations (*Official Gazette* no. 393,548 of 17 May 2012).

²⁵⁴⁸ Access to Justice, Regulatory Siege on Freedom of Association in Venezuela, December 2022, page. 9. Available at: <https://accesoaljusticia.org/wp-content/uploads/securepdfs/2022/12/Cerco-normativo-a-la-libertad-de-asociacion-en-Venezuela.pdf>; Document WWDC013: Information prepared by CIVILIS Human Rights.

²⁵⁴⁹ Access to Justice, Regulatory Siege on Freedom of Association in Venezuela, December 2022, page. 9. Available at: <https://accesoaljusticia.org/wp-content/uploads/securepdfs/2022/12/Cerco-normativo-a-la-libertad-de-asociacion-en-Venezuela.pdf>.

²⁵⁵⁰ For example, in the distribution of CLAP boxes. Document WWDC013: Information prepared by CIVILIS Human Rights.

²⁵⁵¹ Document WWDC013: Information prepared by CIVILIS Human Rights; Access to Justice. Regulatory Siege on Freedom of Association in Venezuela, December 2022, page. 11. Available at: <https://accesoaljusticia.org/wp-content/uploads/securepdfs/2022/12/Cerco-normativo-a-la-libertad-de-asociacion-en-Venezuela.pdf>.

implement the reforms proposed in the referendum proposed by the government of President Chávez in 2007, but it was rejected.²⁵⁵²

1185. Another series of laws and decrees simultaneous with or subsequent to the “People’s Power laws” have been responsible for regulating the exercise of the right of association, despite the fact that it was already regulated by civil law, in particular by article 19(3) of the Civil Code. This article indicates that private law associations, corporations and foundations are legal persons and, therefore, capable of obligations and rights. The same provision also establishes that legal personality will be acquired with the formalization of its articles of incorporation in the Subaltern Registry Office of the Department or District where they were created, where an authentic copy of its Statutes will be deposited.²⁵⁵³

1186. The Mission will briefly analyse some of these laws and decrees whose application has restricted freedom of association in a progressive and increasingly profound manner.

(i) *Rules applicable to the control of foreign financing*

a. The Law for the Defence of Sovereignty and National Self-Determination

1187. The Law for the Defence of Sovereignty and National Self-Determination (“Sovereignty Law”)²⁵⁵⁴, approved in December 2010, aims to “protect the exercise of political sovereignty and national self-determination from foreign interference, which through economic aid or financial contributions intended for organizations with political purposes, organizations for the defence of political rights or natural persons who carry out political activities (...), which under the sponsorship of these organizations may threaten the stability and functioning of the institutions of the Republic.”²⁵⁵⁵ According to article 5, these organizations “may only receive donations or contributions that come from national natural or legal persons within the country.”²⁵⁵⁶

1188. The Sovereignty Law sanctions natural or legal persons who violate its provisions with a fine “equivalent to double the amount received”, without prejudice to other sanctions provided for in the legislation.²⁵⁵⁷ Likewise, sanctions are foreseen against those responsible for organizations that receive international financing or that invite foreigners who “issue opinions that offend the institutions of the State, its senior officials, or threaten the exercise of sovereignty.” These behaviours are punished with penalties of disqualification from holding public office.²⁵⁵⁸

1189. In 2015, in its final observations on the country, the Human Rights Committee regretted the “lack of clarity” of the notion of “organizations for the defence of political rights²⁵⁵⁹” that defines the scope of application of the Sovereignty Law. The Committee also expressed concern about the potential impact of restrictions on foreign funding on the work of human rights organizations.²⁵⁶⁰

²⁵⁵² The referendum proposed in 2007 by President Chávez and the National Assembly sought to reform the Constitution. It was carried out in December of that year, asking whether or not they agreed with the proposed reform. The NO won by a very narrow difference (around 1% of the votes). See for example Edgardo Lander, The referendum for the reform of the constitution, the Venezuelan Political Process enters a critical crossroad, *Revista Venezolana de Economía y Ciencias Sociales*, v.14 n.2m August, 2008; Allan Brewer-Carías, About the People’s Power and the communal state in Venezuela, 31 December 2010. Available at: <https://allanbrewercarias.com/wp-content/uploads/2011/01/78.-Brewer-Car%C3%ADas.-Sobre-el-Estado-Comunal...opular-en-Venezuela-31-12-2010.doc.pdf>. According to the NGO CIVILIS Human Rights, between 2007 and 2012, 80% of the regulations that the 2007 referendum sought to implement were introduced into the legal system through different forms, including: laws (66), bills awaiting approval (7) and other regulations issued by the National Public Power, mainly the Executive (18). Document WWDC013: Information prepared by CIVILIS Human Rights.

²⁵⁵³ The Civil Code adds that “The articles of incorporation will express: the name, address, purpose of the association, corporation and foundation, and the way in which it will be administered and directed. Any change in its Statutes will also be protocolized within a period of fifteen (15) days (...) civil and commercial companies are governed by the legal provisions that concern them.”

²⁵⁵⁴ Law for the Defense of Sovereignty and National Self-Determination of 2010, *Official Gazette* no. 6013, 23 December 2010 (hereinafter, the “Sovereignty Law”).

²⁵⁵⁵ Law of Sovereignty, art. 1

²⁵⁵⁶ *Ibid.*, art. 5.

²⁵⁵⁷ *Ibid.*, arts. 6-7.

²⁵⁵⁸ *Ibid.*, arts. 8 and 9.

²⁵⁵⁹ CCPR/C/VEN/CO/4, para. 20.

²⁵⁶⁰ CCPR/C/VEN/CO/4, para. 20.

1190. In 2021, four thematic mandates of the United Nations special procedures²⁵⁶¹ commented on various regulations related to the registration, control, and financing of NGOs, including the Sovereignty Law²⁵⁶². The rapporteurs considered worrying the restrictions on access to financing to which NGOs could be subject, based on the Sovereignty Law, given the danger of it being interpreted and included as “organizations with political purposes” and “organizations for the defence of political rights” to any type of NGO dedicated to the defence of human rights and control of government acts.²⁵⁶³ The special rapporteurs also referred to the planned sanctions and said that these and others that may be included in the future must be proportionate to a legitimate objective and be absolutely necessary.²⁵⁶⁴

1191. The IACHR also expressed its concern about the approval of the Sovereignty Law, pointing out that the natural or legal persons referred to in the law may be penalized for receiving economic aid or financial contributions from foreign natural or legal persons.²⁵⁶⁵ The Commission has also criticized the lack of predictability of the sanctioning regime included in the Law, which does not define the administrative body competent to supervise it, nor the entity in charge of applying the sanctions or the applicable procedure.²⁵⁶⁶

b. Decree No. 2323 of Declaration of State of Exception and Economic Emergency

1192. As noted in the first report of the Mission, since 2016, confronted with a National Assembly controlled by the opposition political parties, the Government issued a series of decrees declaring states of emergency alleging the situation of the “economic emergency” that the country was going through. The Mission concluded that these decrees, later validated by the Supreme Tribunal of Justice, in fact served to expand the prerogatives of the Executive by authorizing the president to adopt broad economic, social, and security measures to address a series of issues²⁵⁶⁷. The Mission also pointed out that several of these decrees contemplated a clause enabling the restriction of non-derogable rights, this in contrast to what is established by international human rights law.²⁵⁶⁸

1193. On 13 May 2016, the President of the Government declared a new state of emergency in which exceptional powers were attributed to the Executive (Decree 2323).²⁵⁶⁹ The Decree empowered the Ministry of Foreign Affairs to audit the “agreements signed by national natural or legal persons with foreign entities or organizations for the execution of projects in the country, and order the suspension of financing related to said agreements when their use is presumed. for political purposes or destabilization of the Republic.”²⁵⁷⁰

(ii) *Rules relating to the fight against the financing of terrorism*

a. Law against Organized Crime and Terrorism.²⁵⁷¹

1194. Various regulations related to terrorism, including this Law, have been used to monitor, investigate and prosecute “suspicious” financial operations of all types of organizations, including foundations, non-profit organizations, voter groups, and citizen groups²⁵⁷². Article 13 of this Law establishes a series of obligations in relation to suspicious activities, including, among others, reporting these to the National Financial Intelligence Unit, which transmits a report to the Public Prosecutor’s Office. In accordance with article 32 of the Law, sanctions are established for legal entities that incur punishable acts related to organized crime and financing of terrorism, including closure, prohibition of carrying out commercial, industrial, technical or scientific activities, the confiscation or confiscation of the instruments that were used to commit the crime and the referral of the proceedings to the corresponding bodies for

²⁵⁶¹ Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; of the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders.

²⁵⁶² OL VEN 8/2021, 19 November 2019.

²⁵⁶³ *Ibid.*, page 13.

²⁵⁶⁴ *Ibid.*, page 4.

²⁵⁶⁵ IACHR, Annual Report 2013, para. 512.

²⁵⁶⁶ *Ibid.*, para. 416.

²⁵⁶⁷ A/HRC/45/CRP.11, para. 75-77, 137-140, Table 1.

²⁵⁶⁸ A/HRC/45/CRP.11, para. 139

²⁵⁶⁹ Decree no. 2323 that declares the State of Exception and Economic Emergency, *Official Gazette* no. 6227 Extraordinary of 13 May 2016.

²⁵⁷⁰ *Ibid.*, art. 2(18).

²⁵⁷¹ Partial Reform Law of Decree no. 6243, with *Official Gazette* Rank no. 393,057 of 30 April 2012

²⁵⁷² Document WWDC013: Information prepared by CIVILIS Human Rights.

the purposes of deciding the revocation of the concessions, authorizations and administrative authorizations granted by the State, among others.

b. FATF Recommendation No. 8

1195. The Financial Action Task Force (FATF) is a multilateral body, not linked to the United Nations, that promotes the fight against money laundering and terrorist financing.²⁵⁷³ Although the Bolivarian Republic of Venezuela is not one of the Caribbean FATF Member States, it is part of the Caribbean FATF, one of the regional bodies that make up the Caribbean FATF global network.²⁵⁷⁴

1196. The Caribbean FATF action is based on 40 recommendations,²⁵⁷⁵ which are completed by nine special recommendations, which constitute the global standard in relation to anti-money laundering and terrorist financing²⁵⁷⁶. According to the Caribbean FATF, non-profit organizations (NPOs) are susceptible to terrorist abuse due to factors such as public trust, access to substantial funds, and cash-intensive operations²⁵⁷⁷. Global NPOs often operate in areas prone to terrorist activities, allowing them to facilitate financial transactions²⁵⁷⁸.

1197. Likewise, the Caribbean FATF Recommendation No. 8 states that “[c]ountries should review the adequacy of laws and regulations that relate to entities that can be abused for the financing of terrorism.”²⁵⁷⁹ Its objective is to ensure that NPOs, which include NGOs, are not misused by terrorist organizations²⁵⁸⁰.

1198. In accordance with the Caribbean FATF Interpretative Note²⁵⁸¹ in relation to recommendation 8, the measures adopted by the State must be “targeted and proportional”, in line with the risk-based approach,²⁵⁸² in order that measures to prevent or mitigate financing of terrorism are proportional to the identified risks²⁵⁸³. Furthermore, as interpreted by the Caribbean FATF, measures implemented pursuant to Recommendation 8 must respect the obligations of States under the Charter of the United Nations and international law.²⁵⁸⁴

c. SUDEBAN circular SIB-DSB-CJ-OD-06524

1199. On 20 November 2020, the Superintendency of Banking Sector Institutions (SUDEBAN by its Spanish acronym) of the Bolivarian Republic of Venezuela approved this Circular, instructing national banks to monitor financial operations carried out specifically by non-profit organizations.²⁵⁸⁵ The Superintendency of Banking Sector

²⁵⁷³ The FATF is the global watchdog against money laundering and terrorist financing. The FATF is made up of 39 member countries and nine Caribbean FATF regional bodies (FSRB, FATF-Style Regional Body). To date, the global network brings together more than 200 governments and 20 international observer organizations. Available at: <https://www.fatf-gafi.org/>.

²⁵⁷⁴ CFATF, Member countries. Available at: <https://www.cfatf-gafic.org/es/paises-miembros>

²⁵⁷⁵ The Caribbean FATF standards include the recommendations and their Interpretative Notes, together with applicable definitions from the Glossary (unofficial translation), page 8. Available at: <https://www.fatf-gafi.org/content/dam/fatf-gafi/recommendations/FATF%20Recommendations%202012.pdf.coredownload.inline.pdf>). Available at: <https://www.fatf-gafi.org/content/dam/fatf-gafi/recommendations/FATF%20Recommendations%202012.pdf.coredownload.inline.pdf>.

²⁵⁷⁶ *Ibid.*, page 7.

²⁵⁷⁷ CFATF. Recommendation 8: Nonprofit organizations. Available at: <https://www.cfatf-gafic.org/index.php/es/documentos/gafi40-recomendaciones/414-recomendacion-8-organizaciones-sin-fines-de-lucro>.

²⁵⁷⁸ *Ibid.*

²⁵⁷⁹ *Ibid.*

²⁵⁸⁰ *Ibid.*

²⁵⁸¹ *Ibid.*

²⁵⁸² *Ibid.*

²⁵⁸³ International standards on combating money laundering and the financing of terrorism and proliferation. The Caribbean FATF recommendations, page 10. (Unofficial translation)

²⁵⁸⁴ CFATF, Recommendation 8: Nonprofit organizations. Available at: <https://www.cfatf-gafic.org/index.php/es/documentos/gafi40-recomendaciones/414-recomendacion-8-organizaciones-sin-fines-de-lucro>.

²⁵⁸⁵ Ministry of People’s Power for Economy, Finance and Foreign Trade, the Superintendency of Banking Sector Institutions (SUDEBAN) instructs monitoring of financial operations through non-profit organizations, 21 November 2020. Available at: <http://www.mppcf.gob.ve/sudeban-instruye-monitoreo-de-operaciones-financieras-a-traves-de-organizaciones-sin-fines-de-lucro/>.

Institutions (SUDEBAN) circular seeks to discover abnormal transactions or suspicious activities related to money laundering, the financing of terrorism, and the proliferation of weapons of mass destruction.²⁵⁸⁶

1200. In his 2022 report, the Special Rapporteur on the rights to freedom of peaceful assembly and association described as a “restrictive measure” the instruction by the SUDEBAN to institutions in the banking sector to strengthen the supervision of financial operations carried out by the NGOs.²⁵⁸⁷ The Special Rapporteur noted that the regulation was adopted a year before the country assessment scheduled by the Caribbean Financial Action Task Force (CFATF), a period in which many States rush to implement control measures, often through decrees. or regulations.²⁵⁸⁸

d. Administrative Ruling No. ONCDOFT 001

1201. In March 2021, the National Office against Organized Crime and Financing of Terrorism (ONCDOFT) issued Ruling number 001-2021, through which it established the obligation for civil society organizations to register in the Unified Registry for Reporting Entities (RUSO by its Spanish acronym) before the National Office Against Organized Crime and Financing of Terrorism (ONCDOFT by its Spanish acronym).²⁵⁸⁹

1202. The administrative ruling established as part of the requirements to register in the Unified Registry for Reporting Entities (RUSO) “the identification of the beneficiaries of the non-profit organization”, whether they are natural persons or groups of natural persons who receive assistance from the organization.²⁵⁹⁰ The rule also established that, in the event of non-compliance by NGOs with the requirements established in the Organic Law against Organized Crime and Financing of Terrorism, they would be sanctioned in accordance with the applicable legal regulations.²⁵⁹¹ In addition, the administrative ruling established 1 May 2021 as the maximum deadline for registration in the registry²⁵⁹².

1203. After issuing the ruling, the IACHR indicated that the requirement to identify the beneficiaries and donors of civil society organizations had the potential to promote the stigmatization of human rights defender organizations and individuals.²⁵⁹³ According to the IACHR, the application of the rule could increase the vulnerability of these organizations and the risk of being victims of retaliation.²⁵⁹⁴ The IACHR also recalled that it is not legitimate for anti-terrorism legislation to repress the activities of human rights defence organizations and urged the Administrative Ruling to be abolished.²⁵⁹⁵

1204. On 20 April 2021, 663 civil society organizations issued a joint statement in which they requested the revocation of the administrative ruling considering that it “fits into the patterns of criminalization.”²⁵⁹⁶ According to the statement, Providence No. 001 required NGOs to prove that their activities are not related to terrorist activities, and therefore violated the presumption of innocence²⁵⁹⁷.

²⁵⁸⁶ *Ibid.*

²⁵⁸⁷ A/HRC/50/23, para 44.

²⁵⁸⁸ *Ibid.*

²⁵⁸⁹ Administrative Ruling 001-2021. *Official Gazette* N. 453,054 of 30 March 2021, art. 6. Available at: <http://historico.tsj.gob.ve/gaceta/marzo/3032021/3032021-6134.pdf#page=2>.

²⁵⁹⁰ *Ibid.*, art. 6 (5).

²⁵⁹¹ *Ibid.*, art. 16.

²⁵⁹² *Ibid.* According to article 17, “the control bodies and entities must send to the governing body the information of the registered reporting entities or in the process of registration, in accordance with the provisions of this Regulation within a period of (30) continuous days from of its implementation.”

²⁵⁹³ IACHR, Press Release 108/2021: The IACHR and its RELE reject the registration of non-profit organizations with the National Office against Organized Crime and Financing of Terrorism of Venezuela, 30 April 2021. Available at: <https://www.oas.org/es/CIDH/jsForm/?File=/es/cidh/prensa/comunicados/2021/108.asp>.

²⁵⁹⁴ *Ibid.*

²⁵⁹⁵ *Ibid.*

²⁵⁹⁶ PROVEA, Civil society organizations declare their rejection and demand the repeal of the new registration order for terrorism and other crimes in Venezuela, 20 April 2021. Available at: <https://provea.org/comunicados/organizaciones-de-la-sociedad-civil-declaran-su-rechazo-y-exigen-la-derogacion-de-la-nueva-providencia-de-registro-por-terrorismo-y-otros-delitos-en-venezuela/>.

²⁵⁹⁷ *Ibid.*

e. Administrative Ruling No. ONCDOFT 002

1205. On 3 May 2021, after criticism from civil society, the National Office against Organized Crime and Financing of Terrorism issued Ruling No. 002²⁵⁹⁸ to replace Ruling No. 001.²⁵⁹⁹

1206. The new regulations maintain the creation of the Unified Registry for Reporting Entities (RUSO by its Spanish acronym) before the National Office against Organized Crime and Financing of Terrorism (ONCDOFT by its Spanish acronym),²⁶⁰⁰ as well as the obligation of non-profit organizations to register therein.²⁶⁰¹ The possibility of receiving on-site visits by the governing body also remains in force, when it deems it appropriate, in order to verify the information received.²⁶⁰² Likewise, the new ruling maintains the issuance of a certificate after the requirements for registration are met, which enables the legal representative of the organization to carry out their duties.²⁶⁰³

1207. The new ruling eliminates the need to identify the beneficiaries of non-profit organizations,²⁶⁰⁴ and eliminated the period of 30 continuous days at the beginning of the organization's operations to begin the registration process in the Unified Registry.²⁶⁰⁵ The new version does not contemplate that, in the event of non-compliance with the administrative ruling, the corresponding sanctions would be applied as stipulated in the Organic Law on Organized Crime and Financing of Terrorism.²⁶⁰⁶

1208. In May 2021, 326 civil society organizations requested the revocation of the new ruling.²⁶⁰⁷ The organizations expressed in a joint statement that the rule still violated international human rights standards²⁶⁰⁸. According to the information received by the Mission, the creation of the new registry requests information from NGOs that has already been submitted to other registries, such as the Autonomous Registry and Notary Service (SAREN) public registries, creating an additional procedure to be completed by the organizations.²⁶⁰⁹

1209. In November 2021, four thematic mandates of the United Nations special procedures²⁶¹⁰ indicated that it is an excessive burden for the ruling to apply to all non-profit organizations without any distinction.²⁶¹¹ The Rapporteurs recommended that the State analyse the information it already has and carry out a risk analysis before creating a new registry, in accordance with the FATF instructions.²⁶¹²

f. The Special Automated Registry of Non-Domiciled Non-Governmental Organizations (REGONG)

1210. The Special Automated Registry of Non-Domiciled Non-Governmental Organizations (REGONG by its Spanish acronym) was adopted in October 2020, through a joint resolution of the Ministry of People's Power for

²⁵⁹⁸ Administrative Ruling 002-2021. *Official Gazette* No. 42,118 of 3 May 2021.

²⁵⁹⁹ Publication on Facebook by Foreign Affairs Venezuela. See part of what Rafael Uzcátegui, director of Provea, said in our forum "The challenge of NGOs in Venezuela: providencia 001", 11 May 2021. Available at: <https://www.facebook.com/watch/?v=390144852103118>;

²⁶⁰⁰ Administrative Ruling 002-2021, art. 1.

²⁶⁰¹ *Ibid.*, art. 6.

²⁶⁰² *Ibid.*, art. 9.

²⁶⁰³ *Ibid.*, art. 11.

²⁶⁰⁴ *Ibid.*, art. 6 (5).

²⁶⁰⁵ Administrative Ruling No. 001-2021., article 8; Access to Justice. Regulatory Siege on Freedom of Association in Venezuela. Page 23. Available at: <https://accesoaljusticia.org/wp-content/uploads/securepdfs/2022/12/Cercornormativo-a-la-libertad-de-asociacion-en-Venezuela.pdf>

²⁶⁰⁶ Administrative Ruling No. 001-2021, article 16; Access to Justice. Regulatory Siege on Freedom of Association in Venezuela, page 23. Available at: <https://accesoaljusticia.org/wp-content/uploads/securepdfs/2022/12/Cercornormativo-a-la-libertad-de-asociacion-en-Venezuela.pdf>

²⁶⁰⁷ CEPAZ, We reiterate our demand to revoke Administrative Ruling 002 and any other measure aimed at criminalizing and closing civic space in Venezuela, 20 May 2021. Available at: https://cepaz.org/documentos_informes/reiteramos-nuestra-exigencia-de-revocar-la-providencia-administrativa-002-y-cualquier-otra-medida-dirigida-a-criminalizar-y-cerrar-el-espacio-civico-en-venezuela/.

²⁶⁰⁸ *Ibid.*

²⁶⁰⁹ Conversation organized by the Mission with civil society organizations, 25 July 2023.

²⁶¹⁰ Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; of the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders.

²⁶¹¹ OL VEN 8/2021, 19 November 2019.

²⁶¹² OL VEN 8/2021, 19 November 2019.

Interior, Justice and Peace and the Ministry of People's Power for Foreign Affairs.²⁶¹³ According to the resolution, organizations not domiciled in Venezuela are required to register in a special registry called the Special Automated Registry of Non-Domiciled Non-Governmental Organizations (REGONG by its Spanish acronym).²⁶¹⁴

1211. For the purposes of registration, organizations not domiciled in the Bolivarian Republic of Venezuela are considered to be those of a private nature that are not for profit, are not operated directly or indirectly by a State, do not have domicile in the country and are formally incorporated in another country; therefore, their existence, capacity, operation, and extinction are regulated by the legal system of the place in which they were established.²⁶¹⁵

1212. The resolution establishes several conditions so that these organizations can operate in the Bolivarian Republic of Venezuela. Among others, to establish a headquarters in the country or designate a representative, and to inform the Registry about their purpose and the functions they intend to carry out in Venezuela as well as data on its internal governance mechanism, including the natural and natural persons that comprise it and the data of its representative.²⁶¹⁶ The resolution indicates that registration in the Registry of Non-Domiciled NGOs (REGONG) may be denied "for reasons of public order and sovereignty evidenced by the information provided."²⁶¹⁷ Likewise, according to the resolution, the administrative authorities are allowed to carry out "visits" to the headquarters and the houses of representatives "for the purposes of on-site verification of the consistency of the facts reported to the registry."²⁶¹⁸

1213. In May 2021, the Foreign Ministry announced that the Registry of Non-Domiciled NGOs (REGONG) was activated,²⁶¹⁹ and, according to official information provided by the Bolivarian Government of Venezuela within the framework of the Caribbean Financial Action Task Force (CFATF) Mutual Evaluation, twenty-eight NGOs are registered in the Registry of Non-Domiciled NGOs (REGONG).²⁶²⁰

g. The Mutual Evaluation Report of CFATF

1214. Within the framework of the mechanisms established by the Caribbean Financial Action Task Force (CFATF), member states are subjected to mutual evaluations (peer reviews) on a periodic basis. The Bolivarian Republic of Venezuela was subject to its last mutual evaluation in 2022. In this evaluation, the country reported on the measures implemented for the Prevention of Money Laundering (PLC by its Spanish acronym) and Counter-Terrorist Financing (CFT by its Spanish acronym).²⁶²¹ As a result of the evaluation, the Caribbean Financial Action Task Force (CFATF) plenary adopted the Mutual Evaluation Report of the Bolivarian Republic of Venezuela in November 2022.²⁶²² This

²⁶¹³ Joint resolutions 82 and 320 of the Ministry of People's Power for Interior, Justice and Peace and the Ministry of People's Power for Foreign Affairs, *Official Gazette* No. 451,581 of 27 October 2020 (hereinafter, Joint Resolutions 82 and 320)

²⁶¹⁴ Joint resolutions 082 and 320 of the Ministry of People's Power for Interior, Justice and Peace and the Ministry of People's Power for Foreign Affairs. *Official Gazette* in October 2020, art. 4.

²⁶¹⁵ Access to Justice. Regulatory Siege on Freedom of Association in Venezuela, December 2022, page. 21.

²⁶¹⁶ See Joint Communication of the United Nations Special Rapporteurs on the promotion and protection of human rights and fundamental freedoms while countering terrorism; promotion and protection of the right to freedom of opinion and expression; on the rights to freedom of peaceful assembly and association and on the human rights situation in the Bolivarian Republic of Venezuela, 19 November 2021, OL VEN 8/2021, page. 2.

²⁶¹⁷ Joint resolutions 82 and 320, art. 8.

²⁶¹⁸ *Ibid.*, art. 12.

²⁶¹⁹ Ministry of People's Power for Foreign Affairs. Venezuelan Chancellery activates registration of International NGOs, 21 May 2021. Available at: <https://mppre.gob.ve/2021/05/21/cancilleria-activa-registro-ongs-internacionales/>

²⁶²⁰ CFATF, Anti-Money Laundering and Counter-Terrorist Financing Measures. Bolivarian Republic of Venezuela. Mutual Evaluation Report, 31 March 2023, para. 239. Available at: <https://www.cfatf-gafic.org/es/documentos-2/informes-4-ronda-eval/20171-4a-rda-informe-de-evaluaci%C3%B3n-mutua-iem-de-la-rep%C3%BAblica-bolivariana-de-venezuela-1>

²⁶²¹ *Ibid.*, para. 239.

²⁶²² This assessment summarizes the Prevention of Money Laundering (PLC) and Counter-Terrorist Financing (CFT) measures in force in Venezuela as of the date of the on-site visit carried out from 17 to 28 January 2022. See <https://www.cfatf-gafic.org/es/home-2/2015-08-11-13-42-51/noticias-del-gafic-2/780-informe-de-la-cuarta-ronda-de-evaluaciones-mutuas-de-la-rep%C3%BAblica-bolivariana-de-venezuela>

report analysed the level of compliance with the 40 FATF Recommendations, including the level of implementation of Recommendation No. 8.²⁶²³

1215. The Mutual Evaluation Report noted that the Bolivarian Republic of Venezuela did not demonstrate how the multiple registries created for the registration of NGOs²⁶²⁴ can prevent their abuse for terrorist financing purposes.²⁶²⁵ The report stated that in the case of the Unified Registry for Reporting Entities (RUSO) and Registry of Non-Domiciled NGOs (REGONG), the surveillance powers that appear to be conferred on the National Office against Organized Crime and Financing of Terrorism (ONCDOFT) and the Foreign Ministry, respectively, are not considered justified from the point of view of the prevention of terrorist financing, in the case of those non-profit organizations that are not classified as “high risk.”²⁶²⁶

1216. The evaluation team indicated that it does not share the opinion of the Venezuelan authorities regarding the high level of risk of terrorist financing assigned to non-profit organizations, which is supported by the fact that the country has not prosecuted or sentenced NPOs for the crime of terrorist financing.²⁶²⁷ The Caribbean Financial Action Task Force (CFATF) evaluation team also referred to the excessive attention paid to the NPO sector and considered that the measures that the country is trying to implement are not justified under Caribbean Financial Action Task Force (CFATF) standards.²⁶²⁸ Likewise, he indicated that beyond the creation of various registries, which implies an additional burden for organizations, particularly for those that do not present any risk, the excessive emphasis placed by the authorities on this issue is not justified by the risk and is detrimental to other activities.²⁶²⁹ In this sense, the Caribbean Financial Action Task Force (CFATF) considered that the measures adopted by the Government are disproportionate and that they should be reviewed through a risk assessment and that the understanding of the scope of Caribbean Financial Action Task Force (CFATF) Recommendation No. 8 should be improved.²⁶³⁰

(iii) *Draft legislation*

1217. Along with the roles analysed above, the Mission also identified two draft legislation that has been debated in recent years in the National Assembly that has caused concern to civil society at the national and international level, which seek to close civic space, leaving to any association in a situation of legal uncertainty.

a. Draft Law on “International Cooperation”

1218. In March 2021, the National Assembly unanimously approved the national legislative plan, which included the International Cooperation Law among the 35 laws that were expected to be discussed that year.²⁶³¹ In May 2022, the

²⁶²³ CFATF, Anti-Money Laundering and Counter-Terrorist Financing Measures. Bolivarian Republic of Venezuela. Mutual Evaluation Report, 31 March 2023, para. 239. Available at: <https://www.cfatf-gafic.org/es/documentos-2/informes-4-ronda-aval/20171-4a-rda-informe-de-evaluaci%C3%B3n-mutua-iem-de-la-rep%C3%BAblica-bolivariana-de-venezuela-1>

²⁶²⁴ According to what was reported by the Government of Venezuela, at the time of their creation, NPOs must register in the public registry in accordance with the Civil Code, and must complete a document on the origin and destination of resources. In addition to this registry, as stated in the report, NPOs must also register in other registries: the registry of religious associations that is administered by the Ministry of People’s Power for Interior, Justice and Peace (MPPRIJP), the Unified Registry for Reporting Entities (RUSO by its Spanish acronym), dependent on the National Office against Organized Crime and Financing of Terrorism (ONCDOFT), whose regulations were published in 2021 and which is currently not operational, in which all non-profit organizations and the Registry of Non-Domiciled NGOs (REGONG) must register. (Unofficial translation) See it in: GAFIC. Anti-Money Laundering and Counter-Terrorist Financing Measures. Bolivarian Republic of Venezuela. Mutual Evaluation Report. March 2023 para.239.

²⁶²⁵ CFATF, Recommendation 8: Nonprofit organizations. Available at: <https://www.cfatf-gafic.org/es/documentos/gafi40-recomendaciones/414-recomendacion-8-organizaciones-sin-%20fines-de-lucro>

²⁶²⁶ *Ibid.* párr. 240.

²⁶²⁷ *Ibid.* párr. 211.

²⁶²⁸ *Ibid.* párr. 243.

²⁶²⁹ *Ibid.*

²⁶³⁰ CFATF, Anti-Money Laundering and Counter-Terrorist Financing Measures. Bolivarian Republic of Venezuela. Mutual Evaluation Report, 31 March 2023, para. 247. Available at: <https://www.cfatf-gafic.org/es/documentos-2/informes-4-ronda-aval/20171-4a-rda-informe-de-evaluaci%C3%B3n-mutua-iem-de-la-rep%C3%BAblica-bolivariana-de-venezuela-1>

²⁶³¹ National Assembly, National Assembly approved National Legislative Plan 2021 that includes 35 proposals, 2 March 2021. Available at: <https://www.asambleanacional.gov.ve/noticias/an-aprobo-plan-legislativo-nacional-2021-que-incluye-35-propuesta>

Permanent Commission on Foreign Policy, Sovereignty and Integration of the National Assembly released the draft law on International Cooperation.²⁶³² In March 2023, the Commission approved the bill and it was transmitted to the Board of the National Assembly for its revision.²⁶³³ According to several sources, this is not the first international cooperation project, since there were attempts to approve similar standards in 2006²⁶³⁴, 2010, and 2015.²⁶³⁵

1219. The Draft Law on “International Cooperation” provides for the creation of an “Integrated Registration System” of mandatory nature for non-governmental organizations,²⁶³⁶ so that the State can consider them as capable of carrying out cooperation activities.²⁶³⁷ According to the project, in order for organizations to complete their registration in the registry, they must comply with the requirements established in the regulations of the law that the Executive Power would approve.²⁶³⁸ Additionally, anyone could request information about the registered organizations, including detailed information on their financing sources.²⁶³⁹

1220. The project raised concerns among civil society organizations and the international community, due to the new restrictions that its approval would entail for the operation of civil society organizations.²⁶⁴⁰ In 2021, four thematic mandates of the United Nations special procedures²⁶⁴¹ indicated that the project constitutes a way to limit access to funds, since organizations would have to be subject to registration in the aforementioned registry.²⁶⁴²

1221. The IACHR warned that the eventual approval and implementation of the Cooperation Law could generate arbitrary restrictions on the work carried out by human rights organizations and urged the Venezuelan authorities not to approve this legislative proposal. In particular, the IACHR referred to the provision according to which NGOs would be obliged to provide detailed information to anyone who requests it, including in relation to their sources of financing, which could affect the confidentiality that organizations require in relation to the causes they promote.²⁶⁴³

²⁶³² National Assembly, Foreign Policy Commission debating the Draft Law on “International Cooperation”, 7 July 2023. Available at: <https://www.asambleanacional.gov.ve/noticias/comision-de-politica-exterior-debate-proyecto-de-ley-de-cooperacion-internacional>

²⁶³³ *Ibid*; National Assembly. Organic Regulations of the Internal Regime of the National Assembly, Official Gazette No. 6700 of 6 April 2022, art 14 (5).

²⁶³⁴ IACHR, Press Release No. 26/06: Inter-American Commission on Human Rights is concerned about Venezuela’s Draft Law on “International Cooperation”, 19 July 2006.

²⁶³⁵ IACHR, Press Release No. 036/2023: IACHR and RELE express concern about a bill that limits citizen participation in Venezuela, 6 March 2023.

²⁶³⁶ PROVEA. New Draft Law on “International Cooperation”: Persecution and Consequences, 12 May 2022. Available at: <https://provea.org/multimedia/audios/son-derechos/nuevo-proyecto-de-ley-de-cooperacion-internacional-persecucion-y-consecuencias/>; Access to Justice. Legal analysis on the Draft Law on “International Cooperation”, 18 May 2022. Available at: <https://accesoaljusticia.org/wp-content/uploads/2022/05/Analisis-juridico-del-proyecto-de-Ley-de-cooperacion-internacional.pdf>

²⁶³⁷ Access to Justice, Legal Analysis on the Draft Law on “International Cooperation”, May 18, 2022.

²⁶³⁸ Draft Law on “International Cooperation”, arts. 17 and 20. Available at: <https://www.civilisac.org/civilis/wp-content/uploads/proyecto-de-ley-cooperacion-internacional-1.pdf>; Access to Justice. Legal analysis about the Draft Law on “International Cooperation”, 18 May 2022.

²⁶³⁹ Draft Law on “International Cooperation”, arts. 23.

²⁶⁴⁰ OHCHR, Situation of human rights in the Bolivarian Republic of Venezuela. Report of the United Nations High Commissioner for Human Rights, A/HRC/50/59 (June 2022); IACHR. Press release no. 130/22: The IACHR and the RELE urge Venezuela not to approve the Draft Law on “International Cooperation”, 8 June 2022; PROVEA. New Draft Law on “International Cooperation”: Persecution and Consequences. Available at: <https://provea.org/multimedia/audios/son-derechos/nuevo-proyecto-de-ley-de-cooperacion-internacional-persecucion-y-consecuencias/>; Access to Justice. Legal analysis about the Draft Law on “International Cooperation”, 18 May 2022. Available at: <https://www.civilisac.org/civilis/wp-content/uploads/proyecto-de-ley-cooperacion-internacional-1.pdf>;

²⁶⁴¹ Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; of the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders.

²⁶⁴² OL VEN 8/2021, 19 November 2019.

²⁶⁴³ OL VEN 8/2021, 19 November 2019.

²⁶⁴³ IACHR, Press Release No. 130/22: The IACHR and the RELE urge Venezuela not to approve the Draft Law on “International Cooperation”, 8 June 2022.

1222. In 2022, the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Venezuela, in its annual report, observed the aforementioned legislative project with concern and described it as a regulatory proposal that could hinder humanitarian and civil society activities. The report notes that its approval would entail new “undue restrictions” and “new regulations for civil society organizations.”²⁶⁴⁴

b. Draft “Law on Control, Regularization, Operations and Financing of NGOs”

1223. The draft “Law on Control, Regularization, Operations and Financing of Non-Governmental and Related Organisations” was adopted in first reading by the National Assembly on 24 January 2023, pending a second vote with no date yet defined.²⁶⁴⁵ During the ordinary session of the Assembly, they referred to 62 civil society organizations, which were described as “enemies”, “traitors to the country” and “party fronts.”²⁶⁴⁶ Furthermore, congressperson Diosdado Cabello tabled the legislative project saying that “Non-Governmental Organizations (...) are appendages or organizations in the world that operate to guarantee imperialism its operation.”²⁶⁴⁷ Cabello also pointed out that currently the NGOs operating in the country almost all have to do with the political sphere with “the precise purpose of generating destabilization in the country.”²⁶⁴⁸

1224. According to the project²⁶⁴⁹, the Executive will have the power to implement control mechanisms that allow supervising and sanctioning “deviations of subjects that compromise national sovereignty.”²⁶⁵⁰ In January 2023, the Mission noted that this would expose organizations to permanent surveillance, including through possible police or intelligence control.²⁶⁵¹

1225. Under the proposal, NGOs will be prohibited from “carrying out political activities” or “promoting or allowing actions that threaten national stability and the institutions of the Republic.”²⁶⁵² The Mission also expressed concern, in early 2023, about the lack of definition of the term “political activities”, since it could cover all types of activities of documentation, analysis and dissemination of information on government policies and practices, including those concerning human rights.²⁶⁵³

1226. The IACHR has indicated that the project “limits citizen participation and the defence of human rights in Venezuela”²⁶⁵⁴ and called on the State to prevent it from being approved and to guarantee the right to freedom of association of civil society organizations.²⁶⁵⁵ For its part, in 2022, the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Venezuela, in its annual report, noted that like the draft law on “International Cooperation, this new proposal could hinder humanitarian and civil society activities, adding to a series of pre-existing registration procedures promoted by the Government.”²⁶⁵⁶

(iv) *Conclusions*

1227. As noted above, the right to freedom of association may be subject to restrictions under the provisions of article 22.2 of the International Covenant on Civil and Political Rights (ICCPR), including “national security,” “public

²⁶⁴⁴ A/HRC/53/54, para. 68.

²⁶⁴⁵ National Assembly, The NA approves law to regulate NGOs in first discussion, 24 January 2023. Available at: <https://www.asambleanacional.gob.ve/noticias/an-aprueba-en-primera-discusion-ley-para-regular-las-ong>

²⁶⁴⁶ IACHR, Press Release No. 036/23: IACHR and RELE express concern about a bill that limits citizen participation in Venezuela, 6 March 2023.

²⁶⁴⁷ YouTube video: ANTV Venezuela, Sesión Asamblea Nacional de Venezuela, 24 January 2023. Available at: https://www.youtube.com/watch?v=HHs_-d8GO8

²⁶⁴⁸ *Ibid.*

²⁶⁴⁹ The Mission did not have access to the official document, so it based its analysis on the draft “Law on Control, Regularization, Operations and Financing of Non-Governmental Organisations” available at: <https://provea.org/wp-content/uploads/2021/05/LEY-DE-FISCALIZACION-REGULARIZACION-ACTUACION-Y-FINANCIAMIENTO-DE-LAS-ORGANIZACIONES-NO-GUBERNAMENTALES-Y-AFINES-v24.01h2.00-2.pdf>

²⁶⁵⁰ Draft “Law on Control, Regularization, Operations and Financing of Non-Governmental Organisations, art. 13.

²⁶⁵¹ Mission Press Release, 30 January 2023.

²⁶⁵² Draft “Law on Control, Regularization, Operations and Financing of Non-Governmental Organisations, art. 15.

²⁶⁵³ Mission Press Release, 30 January 2023.

²⁶⁵⁴ IACHR, Press release dated 6 March 2023. Available at:

<https://www.oas.org/es/CIDH/jsForm/?File=/es/cidh/prensa/comunicados/2023/036.asp>.

²⁶⁵⁵ *Ibid.*

²⁶⁵⁶ A/HRC/53/54, para. 68.

safety” or “public order.” However, States do not have a margin of discretion to impose these restrictions, since they must meet the requirement of being prescribed by law and must be proportional and necessary in a democratic society.

1228. The Mission recalls that the right to access financing is an essential component of the right of association²⁶⁵⁷. As the Human Rights Committee has noted, “the right to freedom of association is not only related to the right to form associations, but also guarantees their right to freely carry out the activities provided for in their statutes,”²⁶⁵⁸ which includes the use of material received as help from abroad.²⁶⁵⁹ In this sense, the Human Rights Committee has shown its concern about countries that create difficulties for the functioning of associations, particularly NGOs, by imposing excessive regulation to obtain foreign financing.²⁶⁶⁰

1229. The Mission notes that the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association and on the Promotion and Protection of Human Rights and Fundamental Freedoms while countering terrorism have also noted that, while States have the responsibility to implement measures to fight against money laundering and terrorist financing, this objective should not be invoked as a justification for creating regulations that hinder the work of NGOs.²⁶⁶¹ In this regard, the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while fighting against terrorism has added that, “to respond to the requirements of recommendation 8 of the FATF, many States have passed laws that create a complex legal environment that has the effect of limiting, restricting and controlling civil society,” including the imposition of registration obligations and “burdensome, complicated and invasive procedures and regulations.”²⁶⁶² In 2002, the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association cited the Bolivarian Republic of Venezuela among the list of countries that had adopted normative instruments in follow-up to Recommendation No. 8 that were not proportional to the identified risk, and that they had been used to create restrictions on freedom of association.²⁶⁶³

1230. Based on the regulations and practices described above, the Mission has reasonable grounds to believe that the Government of Venezuela has exploited reasons of national security or public order, such as the fight against terrorism or the fight against money laundering, to impose requirements bureaucratic and onerous to civil society organizations, which particularly affect their access to financing, essential for the performance of their activities.

(b) Limitations on the registration of organizations and bookkeeping of their records

1231. The Autonomous Registry and Notary Service (SAREN by its Spanish acronym) is the government entity in charge of providing registry and notarial services in the Bolivarian Republic of Venezuela. The Service was created in 2006,²⁶⁶⁴ and since 2020 it has been attached to the Executive Vice Presidency of the Republic.²⁶⁶⁵ It has several registries and public notaries distributed nationwide.²⁶⁶⁶

1232. In recent years, NGOs, associations and foundations have reported the existence of impediments to carrying out regular procedures before the Autonomous Registry and Notary Service (SAREN) offices, which hinders their normal functioning.²⁶⁶⁷ On 7 October 2019, the mandates of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association and the Special Rapporteur on the situation of human rights defenders of the

²⁶⁵⁷ Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, A/HRC/20/27, para. 67.

²⁶⁵⁸ Belyatsky et al. v. Belarus (CCPR/C/90/D/1296/2004).

²⁶⁵⁹ *Korneenko v. Belarus* (CCPR/C/105/D/1226/2003) and *Korneenko et al. v. Belarus* (CCPR/C/88/D/1274/2004).

²⁶⁶⁰ Concluding observations of the Human Rights Committee: Azerbaijan, CCPR/C/AZE/CO/4 (2016), para. 40; Concluding observations of the Human Rights Committee: Israel; CCPR/C/ISR/CO/4 (2014), para. 22.

²⁶⁶¹ A/HRC/50/23, para. 33 to 36

²⁶⁶² A/HRC/40/52, para 42.

²⁶⁶³ A/HRC/50/23, para 37.

²⁶⁶⁴ Law of Registries and Public Notaries No. 5,833, 22 December 2006. The aforementioned Law was later repealed by Decree No. 1,422, by which the Decree with Rank, Value and Force of Law of Registries and Public Notaries No. 6,156 Extraordinary, 19 November 2014.

²⁶⁶⁵ Decree No. 4,395, by which the Autonomous Registry and Notary Service (SAREN) is assigned to the Executive Vice Presidency of the Bolivarian Republic of Venezuela, Official Gazette no. 6605 of 24 December 2020. Available at: <https://www.traviesoevans.com/wp-content/uploads/gacetas/2020/12-diciembre/2020-12-24-6605-extraordinario.pdf>

²⁶⁶⁶ The Registries are divided into Main, Public or Real Estate and Commercial. Law of Registries and Public Notaries. (2021) Available at: https://www.saren.gob.ve/wp-content/uploads/2022/04/2.-LeyRegistrosYNotarias-2021-GOE6668_pdf

²⁶⁶⁷ Conversation organized by the Mission with civil society organizations, 25 July 2023.

United Nations sent a communication to the Government of Venezuela expressing their concern by this situation.²⁶⁶⁸ According to the communication from the Special Rapporteurs, on 5 September 2019, official posters appeared in the Autonomous Registry and Notary Service (SAREN) offices in the State of Miranda, communicating the suspension of registration activities of constitutive, ordinary and extraordinary acts of NGOs, associations and foundations “until new notice.”²⁶⁶⁹ According to the Special Rapporteurs, the suspension of the registration of minutes had also been reported in the States of Barinas, Bolívar, Cojedes, Guárico, Sucre, Táchira and Zulia.²⁶⁷⁰ In November 2019, the Government of Venezuela responded to the communication of 7 October 2019, reporting that there was no decision or instruction by the Autonomous Registry and Notary Service (SAREN), or any other authority, to suspend or prevent the protocolization or registration of records.²⁶⁷¹

1233. One year later, on 28 April 2020, the holders of seven thematic mandates of the United Nations special procedures addressed a new communication to the Government of the Bolivarian Republic of Venezuela.²⁶⁷² In this communication, the Special Rapporteurs once again expressed their concern about the “operational difficulties” imposed on civil society organizations, which, according to the Rapporteurs, would expose them to “de facto illegalization.”²⁶⁷³

1234. A report by the NGO PROMEDEHUM, published in March 2023, indicated that civil society organizations continued to encounter difficulties in accessing the SAREN²⁶⁷⁴. According to the data in this report, 28.3% of the organizations that work in the Bolivarian Republic of Venezuela would not be properly registered, while 54.7% of those that managed to do so faced obstacles in the main Autonomous Registry and Notary Service (SAREN) office.²⁶⁷⁵ The report identified that one of the obstacles to the registration of acts of constitution or updates of organizations was the founding object of the organizations, such as when said object is related to “human rights” or to the LGTBIQ+ population.²⁶⁷⁶

1235. The Mission received information from the CIVILIS organization that 60 non-governmental organizations, over the last two years, have faced obstacles in carrying out procedures with the public registries that make up the Autonomous Registry and Notary Service (SAREN). According to data from this NGO, 55% of the cases had to do with difficulties in obtaining legal personality, while 45% of the remaining cases had to do with the registration of assembly minutes with the Public Registries that make up the SAREN.²⁶⁷⁷

²⁶⁶⁸ VEN 6/2019, page 1-4.

²⁶⁶⁹ AL VEN 5/2020, 28 April 2020, page 8

²⁶⁷⁰ *Ibid.*

²⁶⁷¹ Document II. 2.S.20.D. UNO.1 no. 0333. Available at:

<https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=34948>

²⁶⁷² Mandates of the Special Rapporteur on the situation of human rights defenders; of the Working Group on Arbitrary Detention; of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; of the Special Rapporteur on the rights to freedom of peaceful assembly and of association; of the Right of everyone to the enjoyment of the highest attainable standard of physical and mental health; of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while fighting against terrorism; and of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

²⁶⁷³ AL VEN 5/2020, 28 April 2020, page 1.

²⁶⁷⁴ PROMEDEHUM. Situation of Freedom of Association in Venezuela (2023), page 5. Available at: <https://prolibertades.com/wp-content/uploads/2023/04/2do-informe-libertad-asociacion-venezuela-promedehum-marzo-2023-4.pdf>

²⁶⁷⁵ *Ibid.*

²⁶⁷⁶ *Ibid.* According to the report, obstacles include, among others, presidential bans on organizational registrations; prohibition of registrations of organizations outside the capital of the Republic; registration of organizations exclusively in a supposed anti-terrorism office in the capital of the Republic; suspension of registration of new organizations; suspension of registration of “non-profit organizations”, taking into account that in Venezuela the legal entities permitted are non-profit civil associations or foundations; outside the law requirements for registration of non-profit civil associations; statements about an alleged circular received by the registry office expressing the suspension of registrations for organizations; temporary suspension of organization registrations; prohibition of registration of organizations in border areas of the country; long delays in the process, including in requesting certified copies with 5-day enablement payments; placing stamps and making copies in both cases that are illegible to make the continuity of the process impossible.

²⁶⁷⁷ Document WWDC006. Report prepared by CIVILIS Human Rights.

1236. In a study presented by a group of civil society organizations before the Committee on the Elimination of Discrimination against Women in 2023, 16 feminist groups interviewed revealed the barriers they face to registering.²⁶⁷⁸ Through the study, restrictions on the registration of organizations whose purpose focused on human rights and the LGTBQ+ community were identified, including temporary suspensions of registrations, limitations on organizations outside the capital or in border regions, requirements outside the law for non-profit associations, as well as long processing times that extend or up to three years.²⁶⁷⁹

1237. The Mission received testimonies from several Venezuelan civil society organizations that confirmed the obstacles they encountered when registering or updating their assembly minutes in the Autonomous Registry and Notary Service (SAREN) records.²⁶⁸⁰ A source told the Mission that ten organizations indicated that it was impossible for them to include the term “human rights” in the record of their constitutive acts, as part of the organization’s purpose.²⁶⁸¹ Likewise, the NGO Caleidoscopio Humano told the Mission that on several occasions the officials of the Registries to which they have consulted suggested not to include any reference to human rights in the purpose of the organization so that the procedure would be accepted.²⁶⁸² Thus, although this is not a restriction provided for by law, in practice it has become an arbitrary limitation.²⁶⁸³

1238. The Mission has also received information that officials of the Autonomous Registry and Notary Service (SAREN) public registries verbally inform the organizations that the delay in the registration of their constituent or assembly minutes requires approval from the Autonomous Registry and Notary Service (SAREN) central office in Caracas, which slows down the process and, consequently, prevents organizations from operating.²⁶⁸⁴

1239. According to what they told the Mission, the NGOs Provea and Transparencia Venezuela have gone to different Autonomous Registry and Notary Service (SAREN) registries to register their assembly minutes, where they have been informed that their process cannot be concluded, given that the Registry is awaiting approval from the headquarters of the Autonomous Registry and Notary Service (SAREN).²⁶⁸⁵ In the case of the organization Citizen Action against AIDS (ACCSI by its Spanish acronym), according to a source, its process for registering the assembly minutes lasted from September 2021 to December 2022. The delay was also justified because the procedure had to receive approval from the Autonomous Registry and Notary Service (SAREN) at the headquarters level, in Caracas, despite the fact that this approval is not a requirement established by legislation.²⁶⁸⁶

1240. The Mission observes that, in accordance with international standards, States have a margin of discretion to choose the procedure by which associations will obtain their legal personality.²⁶⁸⁷ However, this does not justify excessive delays in implementing this procedure. In this regard, the Human Rights Council has urged States to implement NGO registration procedures that are “transparent, accessible, non-discriminatory, expeditious and inexpensive, allow for the possibility to appeal and avoid requiring re-registration, in accordance with national legislation.”²⁶⁸⁸ For his part, the Special Rapporteur on the rights to freedom of peaceful assembly and of association has indicated that the authorities empowered to register in the corresponding register “are bound to act immediately.”²⁶⁸⁹

1241. In light of the cases analysed above, the Mission has reasonable grounds to believe that the Bolivarian Republic of Venezuela has failed to comply with its international obligation enshrined in the Covenant on Civil and Political Rights, to which it is a party, to provide NGOs and other associations that operate in the country, the necessary conditions to carry out their activities freely and without undue interference to participate in public affairs. In order to provide favourable conditions for associations to carry out their activities autonomously and adequately, the State

²⁶⁷⁸ CEPAZ 9 of the Bolivarian Republic of Venezuela. Available at: https://cepaz.org/documentos_informes/informes-presentados-en-el-marco-de-la-revision-de-venezuela-en-el-85-periodo-de-sesiones-del-comite-cesdaw/.

²⁶⁷⁹ *Ibid.*

²⁶⁸⁰ Conversation organized by the Mission with civil society organizations, 25 July 2023.

²⁶⁸¹ Document WWDC006. Report prepared by CIVILIS Human Rights.

²⁶⁸² Interview with Gabriela Buada, 5 July 2023.

²⁶⁸³ Conversation organized by the Mission with civil society organizations, 25 July 2023.

²⁶⁸⁴ Document WWDC006. Report prepared by CIVILIS Human Rights.

²⁶⁸⁵ Interview with Marino Alvarado, 24 August 2023; Interview WWIV014.

²⁶⁸⁶ Interview with ACCSI, 31 July 2023.

²⁶⁸⁷ Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, A/HRC/20/27 (2012), para. 53-62.

²⁶⁸⁸ A/HRC/RES/22/6, para. 8.

²⁶⁸⁹ A/HRC/20/27, para 60.

must implement expeditious and simplified procedures for the processing of their administrative acts, including the creation of new organizations and all those acts that facilitate their activities, for example, changes in its legal representatives or boards of directors, bylaws, etc. Likewise, the Mission considers that the administrative authorities have arbitrarily hindered the registration procedures and those that make up the normal functioning of civil society organizations whose activities are considered potentially contrary to the Government or its policies.

(c) Judicial intervention of organizations

1242. As in the case of political parties (*infra*), the Mission identified a widespread practice of judicial intervention of organizations and other associative structures through the appointment of internal authorities on an ad hoc basis.

1243. The Mission received information about 23 rulings issued between August 2021 and February 2023, in which association authorities were appointed by the tribunals.²⁶⁹⁰ Between August 2021 and August 2022, the Supreme Tribunal of Justice issued 19 rulings related to elections of the boards of directors of different forms or associative structures in the country, which implied the replacement of their authorities with others designated by the Supreme Tribunal of Justice (TSJ).²⁶⁹¹ Of these 19 decisions, 17 were issued by the Electoral Chamber and two by the Constitutional Chamber of the TSJ. The sentences affected, among others, the bar associations of Carabobo, Delta Amacuro and Zulia; savings banks, sports federations and the Venezuelan Olympic Committee.²⁶⁹²

1244. Likewise, the Mission received information that, between 15 September 2022 and 15 February 2023, the Electoral Chamber of the Supreme Tribunal of Justice issued four decisions related to elections on the boards of directors of various associative structures in the country, which served, in some cases, to declare judicial intervention and the replacement of boards of directors with others appointed by the TSJ.²⁶⁹³ One of the associations affected in this way was the State Bar Association of Lara.²⁶⁹⁴

1245. A recent case of judicial intervention is that of the Venezuelan Red Cross. On 2 August 2023, the Attorney General of the Bolivarian Republic of Venezuela, Tarek William Saab, filed a lawsuit for the protection of diffuse and collective interests before the Constitutional Chamber of the Supreme Tribunal of Justice. The lawsuit was based on the receipt of eight complaints referring to alleged irregularities attributed to the President and the National Steering Committee of the Venezuelan Red Cross.²⁶⁹⁵ The complaints referred to “acts of intimidation, threats, coercion and workplace harassment (...); concealment of irregular events, alleged violations of the right to vote, as well as anomalous acts regarding the administration of material resources (...).”²⁶⁹⁶

1246. Two days later, on 4 August 2023, the Supreme Tribunal of Justice ordered, as a precautionary measure, the “broad and diverse restructuring of the Venezuelan Red Cross with the participation of sectors of Venezuelan society” until the depth determination of the demand of the Public Ministry. In the same decision, the Tribunal ordered the immediate dismissal of the president and the other members who made up the National Steering Committee of the Venezuelan Red Cross²⁶⁹⁷. To replace it, the Tribunal established an ad hoc restructuring board.²⁶⁹⁸

1247. Approximately two weeks before the ruling of the Supreme Tribunal of Justice was issued, Diosdado Cabello made a series of accusations against the organization and its director, in his program *Con El Mazo Dando*. Diosdado Cabello accused the president of the Red Cross of “*abuse of power*” and stated that he had been in office for “*more than 40 years without elections and without any type of renewal within the Red Cross and had manipulated many people in the world*”²⁶⁹⁹.

²⁶⁹⁰ Document WWDC004: Report prepared by Access to Justice; Document WWDC005: Document prepared by Access to Justice.

²⁶⁹¹ Document WWDC04: Report prepared by Access to Justice.

²⁶⁹² *Ibid.*

²⁶⁹³ Document WWDC005: Report prepared by Access to Justice.

²⁶⁹⁴ *Ibid.*

²⁶⁹⁵ Supreme Tribunal of Justice (Constitutional Chamber), Sentence no. 1057 of 4 August 2023.

²⁶⁹⁶ *Ibid.*

²⁶⁹⁷ *Ibid.*

²⁶⁹⁸ *Ibid.*

²⁶⁹⁹ El País, Nicolás Maduro interviene with the Red Cross in Venezuela, 5 August 2023. Available at: <https://elpais.com/internacional/2023-08-05/nicolas-maduro-interviene-la-cruz-roja-en-venezuela.html>.

1248. On 9 August 2023, the International Federation of Red Cross and Red Crescent Societies (IFRC)²⁷⁰⁰ issued a statement noting that “any State intervention [regarding national societies] raises serious concerns regarding their independence and principled-based humanitarian work (...) and will be treated with the utmost importance.”²⁷⁰¹ The International Federation of Red Cross and Red Crescent Societies (IFRC) statement recalled that the federation has internal mechanisms to process complaints about its operation²⁷⁰².

1249. In August 2023, the IACHR referred to said decision of the Supreme Tribunal of Justice (TSJ) in relation to the Venezuelan Red Cross, pointing out that it was taken against freedom of association and that it is not the first time that said Tribunal has adopted such decisions.²⁷⁰³ For example, in June 2020, the same tribunal appointed boards of directors for two opposition parties: Democratic Action and Justice First Movement.²⁷⁰⁴ These decisions not only undermine freedom of association and impartial political participation, but they also worsen distrust in the electoral system. For the IACHR, the most worrying part is that they add more challenges to resolve the institutional crisis in a country that already lacks the rule of law.

1250. The Mission observes that the Judicial Power improperly intervenes in the functioning of different types of associative figures, appointing ad hoc boards of directors. This creates serious limitations on the right of association and does not appear to be justified by any legitimate reason, in violation of international regulations on the matter. The Mission observes that these interventions are aimed at interfering in the activities of these organizations, generating serious restrictions on civic space, since the independence of the associations is severely limited. The Mission also observes that these judicial interferences have been occurring gradually, and highlights that they are especially relevant in view of the presidential elections scheduled for 2024.

2. Limitations on the operation of unions

1251. As mentioned above, the right to establish and join associations is part of the right to freedom of association and includes the right to establish and join trade unions in order to protect one’s interests, as enshrined in the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights.²⁷⁰⁵ Likewise, associations must be free to select their members or accept all applicants.²⁷⁰⁶ This aspect is crucial so that unions or political parties do not see their independence compromised.²⁷⁰⁷

(a) National legal framework applicable to trade-union freedom

1252. In accordance with article 95 of the Constitution of the Bolivarian Republic of Venezuela, trade-union organizations are not subject to intervention, suspension or administrative dissolution²⁷⁰⁸. For its part, article 293 of the Constitution establishes that one of the functions of the Electoral Power, exercised by the National Electoral Council (CNE by its Spanish acronym), is to “organize the elections of trade unions, professional unions and organizations with political purposes in the terms indicated by the law.”²⁷⁰⁹ Furthermore, article 293 establishes that the electoral power “may organize electoral processes of other civil society organizations at their request, or by order of the Electoral Chamber of the Supreme Tribunal of Justice.”²⁷¹⁰

²⁷⁰⁰ The International Federation of Red Cross and Red Crescent Societies (IFRC) is the largest humanitarian network in the world, supporting the local action of the Red Cross and Red Crescent in more than 191 countries, including Venezuela. The International Federation of Red Cross and Red Crescent Societies (IFRC) has ruled on the recent court order that affects the Venezuelan Red Cross Society. See: <https://www.ifrc.org/article/update-venezuelan-red-cross>

²⁷⁰¹ IFRC, Update on the Venezuelan Red Cross, 9 August 2023. Available at: <https://www.ifrc.org/article/update-venezuelan-red-cross>;

²⁷⁰² *Ibid.*

²⁷⁰³ IACHR, Press Release No. 189/23: IACHR and RELE reject attacks on freedom of association in Venezuela, 21 August 2023.

²⁷⁰⁴ *Ibid.*

²⁷⁰⁵ See Chapter IV, Section A.3.

²⁷⁰⁶ Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, A/HRC/20/27, para. 55.

²⁷⁰⁷ *Ibid.*

²⁷⁰⁸ Constitution of the Bolivarian Republic of Venezuela, art. 95.

²⁷⁰⁹ Constitution of the Bolivarian Republic of Venezuela, art. 293, subsection 6.

²⁷¹⁰ *Ibid.*

1253. In the opinion of the IACHR, article 293 is contradictory with the provisions of article 95²⁷¹¹. For its part, the ILO Committee of Experts on the Application of Conventions and Recommendations considers that article 293 should be modified in order to eliminate the power granted to the Electoral Power, through the CNE, to organize trade union elections²⁷¹².

1254. The Organic Law of the Electoral Power²⁷¹³ complements the Constitution on the matter and establishes the powers of the National Electoral Council (CNE)²⁷¹⁴, including “organizing trade union elections, respecting their autonomy and independence, with observance of the International Treaties signed by Venezuela, providing the correspondent technical and logistical support. Likewise, the elections of professional unions, organizations with political purposes and civil society²⁷¹⁵.” In this regard, the IACHR has indicated that the powers attributed to the Electoral Power, through the CNE, constitute an administrative interference in the trade union activities of workers, which represents a violation of the right to trade-union freedom enshrined in the aforementioned article 95 of the Constitution²⁷¹⁶.

1255. The Decree with Rank, Value and Force of Law by which the Organic Law on Labour and Workers²⁷¹⁷ (LOTTT by its Spanish acronym) was approved, enshrines trade-union freedom²⁷¹⁸ and trade-union autonomy²⁷¹⁹. The Organic Law on Labour and Workers (LOTTT) also regulates the convocation of the boards of directors of the trade-unions, which can exercise their functions for up to a period of three years²⁷²⁰. Regarding the calls for elections, the Law establishes that union organizations “if required, will request technical advice and logistical support for the organization of the electoral process²⁷²¹.” Furthermore, according to the Organic Law on Labour and Workers (LOTTT), unions must notify the Electoral Power of the call for elections and this, in turn, will publish in the Electoral Gazette, within eight days following the notification, the call presented by the trade union²⁷²². Once the voting process is completed, the trade-union electoral commission, the highest authority of the trade union organization with regard to the electoral process, must deliver to the Electoral Power (CNE) the documentation related to the process carried out for the publication of the corresponding results²⁷²³.

1256. The Organic Law on Labour and Workers (LOTTT) establishes that the trade unions “will notify the National Electoral Council (CNE) of the call for the election process”²⁷²⁴, and that members may request “technical advice and logistical support for the organization of the electoral process” to safeguard their rights and interests²⁷²⁵. Likewise, at their request, the National Electoral Council (CNE) may “intervene with the (trade union) Electoral Commission to resolve situations that could affect the process”²⁷²⁶.

²⁷¹¹ IACHR, Report on the Situation of Human Rights in Venezuela, OEA/Ser.L/V/II.118, Doc.4 rev.1, 24 October 2003.

²⁷¹² ILO, Report of the Committee of Experts on the Application of Conventions and Recommendations. Report III. General report and observations referring to certain countries, page 124.

²⁷¹³ Organic Law of the Electoral Power, *Official Gazette* No. 37573 of 19 November 2002.

²⁷¹⁴ *Ibid.*, art. 33

²⁷¹⁵ *Ibid.*, art. 33 (2).

²⁷¹⁶ IACHR, Report on the Situation of Human Rights in Venezuela, OEA/Ser.L/V/II.118, Doc.4 rev.1, 24 October 2003. 499.

²⁷¹⁷ Organic Law on Labour and Workers, *Official Gazette* no. 6076 of 7 May 2012 (hereinafter, Organic Law on Labour)

²⁷¹⁸ Organic Law on Labour of the year 2000, art. 353.

²⁷¹⁹ *Ibid.*, art. 354

²⁷²⁰ *Ibid.*, art. 401

²⁷²¹ *Ibid.*, art. 405.

²⁷²² *Ibid.*

²⁷²³ *Ibid.*, art. 407.

²⁷²⁴ *Ibid.*, art. 405.

²⁷²⁵ *Ibid.*

²⁷²⁶ *Ibid.*, art. 407.

1257. The ILO Committee of Experts on the Application of Conventions and Recommendations has issued repeated recommendations to the Bolivarian Republic of Venezuela in order to reform the Organic Law on Labour and Workers (LOTTT), in light of international standards²⁷²⁷. Among other aspects, the Committee has recommended that the obligation to notify the CNE of the call for elections as a condition for recognition be eliminated and the mandate that imposes specific voting systems on trade unions be eliminated²⁷²⁸.

(b) Interference with freedom of association and unions' independence

1258. In 2018, the ILO Governing Body established a Commission of Inquiry to examine a complaint presented by 33 employer delegates to the International Labour Conference (ILC) regarding the Bolivarian Republic of Venezuela.²⁷²⁹ The complaint denounced the non-observance of ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organize, among other conventions, as well as the interference of the authorities in relation to the creation and operation of organizations, in addition to other issues related to the harassment and criminalization of trade union members.

1259. A year later, in 2019, the Commission of Inquiry adopted its report²⁷³⁰ in which it examined allegations regarding the creation of parallel trade union organizations, favouritism to organizations related to the government, and obstacles in the functioning of non-related organizations.²⁷³¹ The allegations examined indicated that the government had implemented “institutional mechanisms of favouritism, discrimination and state interference to control trade union activity and influence the configuration of the trade union map in the country.”²⁷³² These practices of interference dated back to 1999 and were evident, above all, in the registration of trade unions and in trade union elections, which impacted the right of workers to establish trade unions according to their convenience and to freely join them, as well as the right of trade unions to organize themselves, to formulate their programs of action, and to conduct their administration and activities.²⁷³³

1260. The Commission of Inquiry established its conclusions, based on the allegations about the freedom and independence of trade unions in Venezuela, that the “evolution of trade unionism linked to the Government [...] resulted in a non-autonomous trade union model, with the most representative trade union centre (Bolivarian Socialist Central of Workers of Venezuela [CBST by its Spanish acronym]) closely linked to the Government and its political program.”²⁷³⁴ According to the Commission, the State authorities favoured the creation and operation of unions close to the Government and the Unified Socialist Party of Venezuela (PSUV), to the detriment of non-related trade unions, which were even annulled.²⁷³⁵

²⁷²⁷ ILO, Report of the Commission of Inquiry established under article 26 of the Constitution of the International Labour Organization to examine the observance by the Government of the Bolivarian Republic of Venezuela of the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26), the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), 2019, (hereinafter “Report of the Commission of Inquiry”), 2019, para. 47.

²⁷²⁸ ILO, Report of the Commission of Inquiry, para. 47.

²⁷²⁹ ILO, Decision on the complaint concerning non-observance by the Bolivarian Republic of Venezuela with the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26), and the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), under Article 26 of the ILO Constitution, 21 March 2018. Available at: https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_622634/lang--es/index.htm

²⁷³⁰ In 2019, the Report of the Commission of Inquiry established under article 26 of the Constitution of the International Labour Organization to examine the observance by the Government of the Bolivarian Republic of Venezuela of the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26), the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) was issued.

²⁷³¹ ILO, Report of the Commission of Inquiry, para. 132.

²⁷³² *Ibid.*, para. 159.

²⁷³³ *Ibid.*

²⁷³⁴ *Ibid.*, para. 484 and 485.

²⁷³⁵ *Ibid.*

1261. The Commission of Inquiry also concluded that the regulations and practices relating to electoral procedures and trade union registration violated freedom of association by violating “the independence that organizations should enjoy” and by “favouring pro-government options.” According to the Commission of Inquiry, this set of rules and practices contributed to “undermining the independent trade union movement.”²⁷³⁶

(c) Limitations on union elections

1262. The Commission of Inquiry also examined allegations from various organizations that state that trade unions, especially those that are not related to the government, see their ability to act limited by the application of the figure of electoral default.²⁷³⁷ This figure obliges trade unions to hold elections at least every three years.²⁷³⁸ Furthermore, the organizations argued before the Commission that, although current regulations establish that the intervention of the National Electoral Council (CNE) is optional in union elections, in practice, it is not conceivable that they be held without the full participation of the National Electoral Council (CNE).²⁷³⁹

1263. Likewise, the Commission received complaints stating that it was a practice for the CNE to not normally carry out electoral processes, requests for recognition and publication of results, once the terms of the boards of directors had expired, especially when they foresaw that a pro-government option would not win.²⁷⁴⁰ Consequently, the boards of directors fell into the so-called electoral default, without being able to “carry out, celebrate or represent the trade union organization in legal acts that exceed simple administration,” in accordance with the provisions of the Organic Law on Labour and Workers (LOTTT).²⁷⁴¹

1264. Likewise, the Commission of Inquiry received numerous testimonies in which it was highlighted that the actions of interference in the electoral processes of the unions are carried out with the support of the CNE and the Supreme Tribunal of Justice (TSJ), which, according to the arguments of the complainants, lack real independence from the Government.²⁷⁴²

1265. The allegations examined also showed concern about the overly complex procedure for elections that requires compliance with numerous requirements outlined in the CNE’s electoral regulations and poses significant obstacles to the holding of elections.²⁷⁴³ In addition, the allegations examined concerned the demands imposed by the CNE, such as requiring official certification by the Ministry of Labour or the presentation of four physical copies and one electronic copy of all documents.²⁷⁴⁴

1266. In its final report, the Commission of Inquiry recommended “the cessation of the use of judicial proceedings and preventive and non-custodial measures, including the subjection of civilians to military jurisdiction, for the purpose of undermining freedom of association,”²⁷⁴⁵ implementing essential actions to safeguard the state of law, especially ensuring the autonomy of the powers of the State with respect to the Executive Power.²⁷⁴⁶

1267. In relation to the electoral delay, the ILO Commission of Inquiry recommended its elimination and “the reform of the rules and procedures governing trade union elections, so that the intervention of the CNE is really optional (...) and, does not constitute a mechanism for interference in the life of organizations.”²⁷⁴⁷ In 2022, the ILO reiterated that, within the framework of an institutionalized dialogue, a reviews of the laws and regulations that pose incompatibility with ILO Convention 87 be carried out, including those related to electoral delay.²⁷⁴⁸

²⁷³⁶ *Ibid.*, para. 483.

²⁷³⁷ *Ibid.*, para. 480

²⁷³⁸ Organic Law on Labour, art. 401 and 402.

²⁷³⁹ ILO, Report of the Commission of Inquiry, para. 169.

²⁷⁴⁰ *Ibid.*, para. 171.

²⁷⁴¹ Organic Law on Labour, art. 401 and 402.

²⁷⁴² ILO, Report of the Commission of Inquiry, para. 480

²⁷⁴³ *Ibid.*, para. 170.

²⁷⁴⁴ *Ibid.*

²⁷⁴⁵ ILO, Report of the Commission of Inquiry, para. 497. paragraph 1 ii)

²⁷⁴⁶ *Ibid.*, para. 497 (1 v)

²⁷⁴⁷ *Ibid.*, para. 497 (2 ii)

²⁷⁴⁸ ILO, Observation (CEACR). Adoption: 2022, Publication: 111th ILC session, Follow-up to recommendations of the Commission of Inquiry (complaint submitted under article 26 of the ILO Constitution), 2023.

1268. In relation to the findings of the Commission of Inquiry, the Mission received information that, in the case of the National Union of Workers of the National Institute of Socialist Education and Training (SITRAINCES by its Spanish acronym), the National Electoral Council (CNE) took 24 months to publish in the Electoral Gazette the results of the electoral process,²⁷⁴⁹ which were finally published on 16 October 2018.²⁷⁵⁰ The excessive delay prevented the trade union from functioning normally during this period.²⁷⁵¹

1269. A representative of the Federation of University Teachers' Associations of Venezuela (FAPUV by its Spanish acronym) indicated to the Mission that, since 2004 to date, said Federation has been excluded by the Ministry of University Education in the majority of collective negotiations, the most recent one held in 2021.²⁷⁵² According to the Federation of University Teachers' Associations of Venezuela (FAPUV), the authorities have alleged that the associations attached to the Federation cannot participate in collective negotiations because they have been in electoral default since 2009.²⁷⁵³ Furthermore, FAPUV has submitted to the CNE the electoral project to carry out its elections on at least three occasions.²⁷⁵⁴ However, the project has been rejected by the CNE in all opportunities.²⁷⁵⁵

1270. The Mission also received information that the National Assembly's Staff Union (SINFUCAN by its Spanish acronym) requested the National Electoral Council to begin its electoral process on at least five occasions between 2019 and 2021. According to the source interviewed by the Mission, at the time of concluding this report, the National Electoral Council (CNE) had not authorized the call of its elections.²⁷⁵⁶

(d) Conclusions

1271. The Mission recalls that both the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, treaties of which the Bolivarian Republic of Venezuela is a party, refer to the right of every individual to freely associate, including the right to found trade unions and join the trade union of their choice.²⁷⁵⁷ The right to freedom of association, as mentioned *supra*, includes the right of all people to form and join trade unions for the protection of their interests, for which it is required that trade union members be protected from any discrimination and can function freely, without excessive restrictions on its operation.²⁷⁵⁸

1272. Likewise, the Mission observes that Article 3 of Convention No. 87 of the ILO indicates that "public authorities must refrain from any intervention that tends to limit this right or hinder its legal exercise." In this same case, the ILO has repeatedly expressed its concern about the interference of the Venezuelan authorities in relation to the creation and functioning of trade union organizations.

1273. Based on the above, and in accordance with the investigation carried out by the Mission, it has reasonable grounds to believe that in the Bolivarian Republic of Venezuela, legislation and practices that affect the independence and normal functioning of trade union organizations govern. Likewise, the Mission observes that said legislation and practices favour pro-government trade unions to the detriment of those that are perceived as opposed to it.

3. Limitations on the operations of political parties

1274. Like other entities of civil society, political parties, and specifically those placed on the ideological spectrum of opposition to the Government, have suffered a series of limitations to their autonomous functioning. In the period from 2017 to 2018, the National Electoral Council (CNE), at the request of rulings from the Supreme Tribunal of Justice and Decrees from the National Constituent Assembly, carried out a process of renewal of the existing political parties. This renewal produced a drastic reduction in the number of existing organizations, and eventually led to the

²⁷⁴⁹ CNE, Resolution no. 180704-154, *Electoral Gazette* no. 907 of 30 October 2016. In accordance with the aforementioned norm, SINTRAINCES held its elections on 30 August 2016.

²⁷⁵⁰ *Ibid.*

²⁷⁵¹ Interview with Carmelo Sánchez, 28 and 29 August 2023.

²⁷⁵² Interview with Keta Stephany, 29 August 2023

²⁷⁵³ *Ibid.*

²⁷⁵⁴ CNE, Resolution No. 12119-003, 19 January 2012.

²⁷⁵⁵ Interview with Keta Stephany, 29 August 2023

²⁷⁵⁶ Interview with José Rivero, 29 August 2023.

²⁷⁵⁷ See Chapter IV, Section A.3.

²⁷⁵⁸ Joint statement of the Committee on Economic, Social and Cultural Affairs, Human Rights and the Human Rights Committee, E/C.12/2019/3-CCPR/C/2019/1, para. 3.

exclusion of the main opposition platform, the Democratic Unity Roundtable (*Mesa de la Unidad Democrática*), from the 2018 presidential elections.

1275. The Mission identified that, like organizations with other formats, political parties have been the subject of judicial interventions by the Supreme Tribunal of Justice, through rulings that appointed ad hoc boards of directors, and granted them broad powers of management and electoral representation. This type of interventions followed a clear pattern: their objective was the opposition political parties in the time and context immediately prior to an electoral process.

1276. Due to their differentiated status and role, the limitations on political parties not only affect the right of association of their members, but also have evident impacts on the political rights of both the candidates and citizens as a whole.²⁷⁵⁹ As the Human Rights Committee has noted, parties play a “primary role” in “the conduct of public affairs,” including the electoral processes.²⁷⁶⁰ Therefore, the limitations on its operation have broader consequences in the configuration of the civic and democratic space.

(a) Renewal of political parties’ registrations

1277. According to unofficial estimates, if, in February 2016, 67 political parties were registered in the National Electoral Council (CNE), by February 2018 this number was reduced to 17.²⁷⁶¹ This reduction occurred as a result of the process of renewing the register of political parties carried out by the CNE, at the request of the Supreme Tribunal of Justice.

1278. The political parties’ renewal process had as its immediate precedent the elections to the National Assembly of December 2015. As noted, these elections led to a clear victory for the opposition parties grouped in the Democratic Unity Roundtable. This victory led to an unprecedented institutional crisis, which was reflected in the rulings by the Supreme Tribunal of Justice (TSJ) that reduced the constitutional prerogatives of the National Assembly and, in April 2017, the convocation by President Maduro of a National Constituent Assembly.²⁷⁶²

1279. Between January and October 2016, the Supreme Tribunal of Justice (TSJ) (Constitutional Chamber) issued four rulings ordering changes in the renewal process of political parties, as well as new requirements to verify the militancy of their members.²⁷⁶³ In the first of these rulings, issued on 5 January 2016, the Tribunal modified the interpretation of the Law on Political Parties, Public Gatherings and Protests of 2010, which forced political parties to implement new procedures for its renewal before the National Electoral Council (CNE).²⁷⁶⁴ Likewise, the Tribunal established the prohibition of double militancy, as well as access to the militancy ratification procedure for those

²⁷⁵⁹ CteIDH, *Yatama case Vs. Nicaragua*, Judgment of 23 June 2005, para. 216. The CteIDH ruled on political parties and organizations that participate in the political life of a country, stating that, “they can only be subject to the limitations established by law that are necessary in a democratic society, for the sake of national security, public safety, public order, the protection of public health or morals, or the rights and freedoms of others.”

²⁷⁶⁰ Human Rights Committee, General Observation no. 25: Article 25. Participation in public affairs and the right to vote, HRI/GEN/1/REV.7 (1994), para. 26.

²⁷⁶¹ Access to Justice, Venezuela without opposition political parties, 21 February 2023. Available at: <https://accesoaljusticia.org/venezuela-sin-partidos-politicos-opositores/>; CEPAZ, CEPAZ, Invalidation of political parties: Another attack against democracy. Available at: <https://cepaz.org/noticias/invalidacion-los-partidos-politicos-otra-arremetida-la-democracia/>

²⁷⁶² See Chapter II.B. Access to Justice, Venezuela without opposition political parties, 21 February 2018. Available at: <https://accesoaljusticia.org/venezuela-sin-partidos-politicos-opositores/>.

²⁷⁶³ Supreme Tribunal of Justice (Constitutional Chamber), Sentence 01, File no. 15-0638, 5 January 2016; Supreme Tribunal of Justice (Constitutional Chamber), ruling no. 185, File no. 15-0638, 18 March 2016; Supreme Tribunal of Justice (Constitutional Chamber), ruling number 415, File no. 15-0638, 24 May 2016; Supreme Tribunal of Justice, Constitutional Chamber, ruling number 878, File no. 15-0638, 21 October 2016.

²⁷⁶⁴ Pursuant to article no. 335 of the Constitution, the Supreme Tribunal of Justice is the highest and final interpreter of the Constitution. Likewise, in accordance with article 67 of the Constitution, the Supreme Tribunal of Justice is the guarantor of the right to associate for political purposes. In the exercise of these powers, the Supreme Tribunal of Justice interpreted article 67 of the Constitution and articles 10, 16 and 25 of the Law on Political Parties, Public Gatherings and Protests of 2010 on automatic renewal of political parties, in its ruling 1 of 5 January 2016. Said ruling ordered that political parties must submit to renewal before the National Electoral Council (CNE) in cases in which they have not obtained 1% of the valid votes cast in a national election in at least 12 of the States. Likewise, said judgment established the prohibition of double militancy.

parties that had violated this principle.²⁷⁶⁵ In its ruling no. 878, of 21 October 2016, the TSJ granted a period of six months for the renewal schedule of political parties, establishing that, if the renewal was not complied with, they would not be able to participate in any electoral process.²⁷⁶⁶

1280. The process of renewal of political parties before the CNE formally began on 4 March 2017 and concluded on 29 July 2017, a period in which the Council carried out the verification of the lists of registered members (militants) of the political parties.²⁷⁶⁷ On 7 August 2017, the Council announced that, out of a total of 59 political parties and movements called to renew their lists of registered members, just over a third (22) were authorized to register candidacies for the regional elections of 2017.²⁷⁶⁸

1281. On 12 August 2017, the National Constituent Assembly agreed to advance the regional elections.²⁷⁶⁹ The nomination of candidates before the CNE was given a period of only three days, making it difficult for opposition political parties to achieve consensus in the presentation of candidates in the 23 states.²⁷⁷⁰ The state elections took place on 15 October 2017.²⁷⁷¹ while the municipal elections took place on 6 December 2017. The opposition political parties of Democratic Unity, Justice First, Democratic Action, A New Time and Popular Will decided not to run in the December municipal elections due to lack of guarantees.²⁷⁷²

1282. On 20 December 2017, the National Constituent Assembly approved the Constituent Decree for Participation in Electoral Processes,²⁷⁷³ which established that only political parties that had participated in the elections of the national constitutional period could participate in the electoral processes, immediately preceding regional or municipal election and also who had obtained 1% of the valid votes cast in a national election in at least 12 of the States.²⁷⁷⁴ For those parties that had not participated in immediately previous electoral processes, the Decree imposed the obligation to carry out the renewal process before the CNE.²⁷⁷⁵ In application of the Decree, the CNE called for the renewal of

²⁷⁶⁵ Supreme Tribunal of Justice (Constitutional Chamber), Sentence no. 01, Exp. 15-0638, 5 January 2016; Interview QQIV004.

²⁷⁶⁶ Supreme Tribunal of Justice (Constitutional Chamber), Sentence no. 878, Exp. 15-0638, 21 October 2016.

²⁷⁶⁷ Ministry of People's Power for Communication and Information, Verification of political party payrolls will be until 29 July, 4 July 2017. Available at: <http://www.minci.gob.ve/vverificacion-nominas-partidos-politicos-sera-29-julio/>; Supreme Tribunal of Justice (Constitutional Chamber), Sentence no. 01, Exp. 15-0638, 5 January 2016. According to the ruling, double militancy implies the adherence of the registered list of one political party to that of another political party. The judgment orders the National Electoral Council (CNE) to regulate the verification of the registration list of each political party, instructing it to adapt the rules on party renewal and security mechanisms.

²⁷⁶⁸ CNE, Approved report on the renewal of political organizations. Available at: http://www.cne.gov.ve/web/sala_prensa/noticia_detallada.php?id=3557.

²⁷⁶⁹ National Constituent Assembly, Constituent Decree rescheduling the electoral process for the election of state governors for the month of October 2017, *Official Gazette*, no. 6,327 extraordinary, 12 August 2017. In accordance with article 2, paragraph 1 of the Law of Regularization of the Constitutional and Legal Periods of the Public, State and Municipal Powers of 2010, the elections of governors and legislators of the Legislative Councils of the states must be called and carried out jointly.

²⁷⁷⁰ Transparencia Electoral, This is how you vote in Venezuela, page 276, para. 2, 3, 2020. Available at: https://transparenciaelectoral.org/wp-content/uploads/2022/05/Asi-se-vota-en-Venezuela_TEEditiones-compressed.pdf;

²⁷⁷¹ CNE, CNE processed 217 substitutions and modifications of candidacies for 2017 Regional elections, 13 October 2017. Available at: http://www.cne.gov.ve/web/sala_prensa/noticia_detallada.php?id=3585.

²⁷⁷² EL MUNDO. The opposition will not appear in the municipal elections of Nicolás Maduro, 31 October 2017, Available at: <https://www.elmundo.es/internacional/2017/10/31/59f895b5468aeb51138b46b3.html>; BBC News Mundo, Venezuela's main opposition parties refuse to participate in municipal elections "due to lack of guarantees," 30 October 2017. Available at: <https://www.bbc.com/mundo/noticias-america-latina-41811739>.

²⁷⁷³ Constituent Decree for Participation in electoral processes. *Official Gazette* No. 41308 of 27 December 2017.

²⁷⁷⁴ National Constituent Assembly, Constituent Decree for Participation in Electoral Processes, *Official Gazette* no. 41308, 27 December 2017, available at: <https://www.ghm.com.ve/wp-content/uploads/2018/01/41308.pdf>. Likewise, article 1 of the operative part of the decree indicates that, in addition to complying with the other requirements provided for in the Law on Political Parties, Public Gatherings and Protests.

²⁷⁷⁵ *Ibid.*, no. 2 and 3 of the operative part of the Decree, 20 December 2017.

the list of registered political parties of the Democratic Action, Democratic Unity Roundtable, Popular Will Activists, Justice First Movement and *Unión y Entendimiento* Party, between 18 and 19 January 2018.²⁷⁷⁶

1283. On 25 January 2018, the Supreme Court's Constitutional Chamber reviewed at its own initiative compliance with the Decree for Participation in Electoral Processes of 27 December 2017 and the request by the CNE to the political parties for the renewal nominal number of registered members for its legality on 17 January 2018,²⁷⁷⁷. In its ruling no. 53, the Constitutional Chamber ordered the CNE to exclude the Democratic Unity Roundtable from the call to renew the list of registered members of the national political parties, since this movement was made up of various political organizations already renewed and authorized to participate in electoral processes, incurring a case of double militancy prohibited in accordance with its own jurisprudence.²⁷⁷⁸

b) Appointment of ad hoc boards

1284. The Mission identified the existence of a pattern of judicial interventions in the autonomy of political parties. According to the Mission's investigations, between June 2012 and August 2023, the Supreme Court of Justice adopted at least 14 decisions, of which 12 were pronounced during the period of the Mission's mandate, by virtue of which, as a precautionary measure in response to a request for constitutional protection or a contentious electoral appeal, replaced the authorities of opposition political parties with new *ad hoc* boards of directors, appointed by the same Tribunal.²⁷⁷⁹ The decisions of the TSJ imply the transfer to new people of the symbols, decision-making bodies and structures of the affected political parties. The interventions of the TSJ to the political parties have occurred after a call for an electoral process, before the nominations of candidates, alliances or support for candidacies of political parties of the political opposition to the Government.

1285. In 2012, the TSJ issued rulings appointing new internal authorities for the political parties Patria para Todos ("Homeland for All")²⁷⁸⁰ and the Por la Democracia Social-PODEMOS ("Movement for Social Democracy").²⁷⁸¹ These interventions occurred after 29 March 2012, the date on which the call was made for the presidency elections of 7 October 2012 and the regional elections (municipal and state) of 16 December 2012.²⁷⁸² The ad-hoc boards of the parties Patria para Todos and PODEMOS decided to join the alliance of left-wing parties, the Gran Polo Patriótico Simón Bolívar ("Great Patriotic Pole" or GPP) led by the ruling Unified Socialist Party of Venezuela (PSUV), and participate in a joint alliance to the parliamentary elections of December 2020.²⁷⁸³ Despite this, the political party Patria Para Todos suffered a second judicial intervention in August 2020, which is described below.

1286. In 2015, the TSJ issued rulings installing new authorities for the parties Movimiento de Integridad Nacional-Unidad ("National National Integrity Movement-Unity", or Min-Unidad),²⁷⁸⁴ the Movimiento Electoral del Pueblo ("People's Electoral Movement" or MEP),²⁷⁸⁵ Bandera Roja ("Red Flag")²⁷⁸⁶ and the Partido Social Cristiano COPEI ("Social Christian Party").²⁷⁸⁷ These interventions took place during the stage previous to the call and campaign of the parliamentary elections held on 6 December 2015.

²⁷⁷⁶ CNE, Renewal of payroll of registered organizations with national political purposes, 17 January 2018. Available at: http://www.cne.gob.ve/web/normativa_electoral/elecciones/2018/renovacion/documentos/aviso-oficial-renovacion2018.pdf.

²⁷⁷⁷ Supreme Tribunal of Justice (Constitutional Chamber), Sentence no. 053, Exp. 15-0638, 25 January 2018.

²⁷⁷⁸ *Ibid.*

²⁷⁷⁹ A/HRC/45/CRP.11, para. 155.

²⁷⁸⁰ Supreme Tribunal of Justice (Electoral Chamber), Sentence no. 87, Exp. AA70-E-2011-000089-AA70-E-20110-000095, 06 June 2012.

²⁷⁸¹ Supreme Tribunal of Justice (Constitutional Chamber), Sentence no. 793, Exp.12-0402 of 7 June 2012.

²⁷⁸² Interview QQIV007.

²⁷⁸³ TeleSURtv.net, Which political parties are running in the 6D elections?, 5 December 2020. Available at: <https://www.telesurtv.net/news/partidos-politicos-presentan-elecciones-20201205-0019.html/>.

²⁷⁸⁴ Supreme Tribunal of Justice (Constitutional Chamber), Sentence no. 15-0905, Exp.15-0905 of 6 August 2015.

²⁷⁸⁵ Supreme Tribunal of Justice (Electoral Chamber), Sentence no. 48, Exp. AA70-E-2014-000030, 13 April 2015; Supreme Tribunal of Justice (Electoral Chamber), Sentence no. 155, Exp. 2015-000089, 16 July 2015.

²⁷⁸⁶ Supreme Tribunal of Justice (Constitutional Chamber), Sentence no. 1011, Exp. 13-0977 of 28 July 2015.

²⁷⁸⁷ Supreme Tribunal of Justice (Constitutional Chamber), Sentence no. 1023, Exp. 15-0860 of 30 July 2015.

1287. In 2020, the TSJ issued six rulings declaring a precautionary measure of constitutional protection consisting of the suspension of national directives and the appointment of ad-hoc boards of directors of Acción Democrática (“Democratic Action”),²⁷⁸⁸ Primero Justicia (“Justice First”),²⁷⁸⁹ Voluntad Popular (“Popular Will”),²⁷⁹⁰ Movimiento Republicano (“Republican Movement”),²⁷⁹¹ TUPAMARO (“Unified Tendencies to Reach the Organized Revolutionary Action Movement”),²⁷⁹² and Patria para Todos (“Homeland for All”) ²⁷⁹³. These decisions were adopted between June and August 2020, weeks before the CNE’s call of the parliamentary elections (held on 6 December 2020), and continued during the special period of updating the electoral registry (July 2020), presentation of applications and period of audits by the CNE (August 2020).²⁷⁹⁴

1288. A source interviewed by the Mission reported that after the TSJ’s appointment of an ad hoc board of directors to the party Acción Democrática (“Democratic Action”),²⁷⁹⁵ the previous board of directors appealed the ruling without obtaining a response.²⁷⁹⁶ Subsequently, the party’s militancy began to call itself “AD Resistencia”²⁷⁹⁷.

Table 3:
Judicial intervention of political parties

<i>Politic party</i>	<i>TSJ chamber</i>	<i>Interlocutory sentence</i>
Patria para Todos	Electoral Chamber	Sentence 87-2012 of 6 June 2012. Through measures accessory to the protection, the National Board was suspended as well as its assembly decisions. The sentence appointed an ad-hoc board of directors with new directors as an accessory measure to the protection and ordered its functions.
PODEMOS	Constitutional Chamber	Sentence 793 of 7 June 2012. Through accessory measures to the protection, the National Board was suspended, as well as its assembly decisions, appointing an ad-hoc board of directors, with management and representation functions of PODEMOS.
Movimiento Electoral del Pueblo (MEP)	Electoral Chamber	Sentence 48 of 13 April 2015. The Chamber declared the MEP’s Assembly and elections null and void and ordered to organize a new Assembly with an agenda established by the Electoral Chamber.
<i>Politic party</i>	<i>TSJ chamber</i>	<i>Interlocutory sentence</i>
Bandera Roja	Constitutional Chamber	Sentence 1011 of 28 July 2015, in which the Chamber at its own initiative reviews a sentence of the Electoral Chamber of 2013 (sentence number 19 of 15 May 2013). The sentence ordered a new precautionary measure by which it maintains, temporarily and with full powers, the Bandera Roja authorities elected at the IV Bandera Roja Congress on 14 and 15 May 2011, where Pedro Veliz Acuña was elected President.
Partido Social Cristiano COPEI	Constitutional Chamber	Sentence 1023 of 30 July 2015, in which it was agreed to suspend the National Political Directorate and Board of Directors of COPEI until the merits of the case are resolved; and appoint an ad-hoc board that is ordered to coordinate with the state directives the nominations for the 2015 parliamentary elections.

²⁷⁸⁸ Supreme Tribunal of Justice (Constitutional Chamber), Sentence no. 0071, Exp. 18-0458, 15 June 2020.

²⁷⁸⁹ Supreme Tribunal of Justice (Constitutional Chamber), Sentence no. 0072, Exp. 20-0026, 16 June 2020.

²⁷⁹⁰ Supreme Tribunal of Justice (Constitutional Chamber), Sentence no. 0077, Exp. 20-0053, 07 July 2020.

²⁷⁹¹ Supreme Tribunal of Justice (Electoral Chamber), Sentence no. 019, Exp. 2017-000096, 20 June 2020.

²⁷⁹² Supreme Tribunal of Justice (Constitutional Chamber), Sentence no. 0119, Exp. 20-0127, 18 August 2020.

²⁷⁹³ Supreme Tribunal of Justice (Constitutional Chamber), Sentence no. 0122, Exp. 20-0278, 21 August 2020.

²⁷⁹⁴ CNE, Parliamentary Elections will be held on 6 December 2020, 1 July 2020.

²⁷⁹⁵ Supreme Tribunal of Justice (Constitutional Chamber), Sentence no. 0071, Exp. 18-0458, 15 June 2020.

²⁷⁹⁶ Interview QQ003.

²⁷⁹⁷ Interview QQ003.

Partido Social Cristiano COPEI	Constitutional Chamber	Sentence 1023 of 30 July 2015, in which it was agreed to suspend the National Political Directorate and Board of Directors of COPEI until the merits of the case are resolved; and appoint an ad-hoc board that is ordered to coordinate with the state directives the nominations for the 2015 parliamentary elections.
MIN Unidad	Constitutional Chamber	Sentence 1025 of 6 August 2015, in which it declared the suspension of the National Directorate of MIN Unidad, and appointed an ad-hoc National Directorate authorizing the President of said ad-hoc board to make nominations to the CNE.
Acción Democrática (AD)	Constitutional Chamber	Sentence 0071 of 15 June 2020, in which the appointment of an ad-hoc board of directors was agreed to lead the AD restructuring process. Likewise, it authorized the appointment of regional and municipal authorities, and the use of the electoral card, logo, symbols and any other concept of the political party.
Primero Justicia (PJ)	Constitutional Chamber	Sentence 0072 of 16 June 2020, in which the appointment of an ad-hoc board of directors was agreed to lead PJ's restructuring process. Likewise, the judgment authorized the ad hoc board of directors to appoint regional and municipal authorities, and make use of the electoral card, logo, symbols and any concept of PJ. On 4 September 2020, the TSJ issued sentence 128, suspending the precautionary measure of constitutional protection that appointed an ad-hoc board of directors. The TSJ published the operative part of sentence 128 on its website. Currently PJ is in legal limbo, unable to use its electoral card ²⁷⁹⁸ .
Voluntad Popular (VP)	Constitutional Chamber	Sentence 0077 of 7 July 2020, in which the appointment of an ad-hoc board of directors was agreed to lead VP's restructuring process. In addition, the judgment includes authorization for the ad-hoc board of directors to use the official electoral card, the logo, the symbols and any other concept of VP, to carry out internal consultations for the modification of the statutes and to appoint the VP national political directorates.
Movimiento Republicano (MR)	Electoral Chamber	Sentence 019 of 20 July 2020, by which the appointment of an ad-hoc board of directors was agreed, appointing its General Secretary with the power to use the electoral card, logos and any other concept of (MR). The TSJ also ordered the ad-hoc board of directors to carry out the restructuring and renewal process of MR, and appoint its board of directors and the directors at the national level.
<i>Politic party</i>	<i>TSJ chamber</i>	<i>Interlocutory sentence</i>
TUPAMARO	Constitutional Chamber	Sentence 0119 of 18 August 2020, by which the TSJ appointed an ad-hoc board of directors in order to undertake the restructuring process of party TUPAMARO, authorized the ad-hoc board of directors to designate authorities at the national level and the use of the electoral card, logo, symbols and any other concept of TUPAMARO.
Patria para Todos (PPT)	Constitutional Chamber	Sentence 0122 of 21 August 2020, by which the TSJ appointed an ad hoc board of directors, authorizing it to carry out PPT's restructuring process. Likewise, the judgment authorized the ad-hoc board of directors to designate authorities at the national level and use the electoral card, logo, symbols, emblems and any other PPT concept.

²⁷⁹⁸ Interview QQIVOO5.

1289. On 11 August 2023, the TSJ issued a ruling in response to protection action filed by six people, allegedly militants of the Venezuelan Communist Party (PCV by its Spanish acronym), against the General Secretariat of the party for abandonment and violation of the party statutes.²⁷⁹⁹ As in previous cases, the ruling declared the appointment of an ad hoc board of directors.²⁸⁰⁰ The first vice president of the Unified Socialist Party of Venezuela (PSUV), Diosdado Cabello, stated that the leadership of the Venezuelan Communist Party (PCV) was “contaminated” with the discourse of the United States of North America.²⁸⁰¹ According to PCV representatives, the persons who filed the protection action before the TSJ were not party members, so they lacked legal legitimacy to file said action on behalf of their membership.²⁸⁰²

c) Lack of registration of political parties

1290. The registration process of political parties is regulated by the Law on Political Parties, Public Gatherings and Protests of 2010, which establishes the requirements and procedures for the creation and legalization of these organizations for political purposes before the CNE, which is responsible for carrying out the registration process.²⁸⁰³

1291. The CNE has been criticized for its lack of transparency, imposing arbitrary requirements and not responding to requests to establish political parties.²⁸⁰⁴ This situation has led to many political movements not being able to obtain legal registration. According to a source interviewed by the Mission, the lack of registration of political parties has led some movements to choose not to register or to operate under other legal regulations.²⁸⁰⁵

1292. The Vente Venezuela political movement, headed by opposition leader and presidential candidate María Corina Machado, finds itself in this situation. According to a source interviewed by the Mission, in July 2012, the promoters of the movement presented a “request for a provisional name” to the CNE, with the aim of initiating its formal registration as an organization with political purposes with national scope and, consequently, obtaining its corresponding card.²⁸⁰⁶ After several visits to its premises, the CNE published in the *Electoral Gazette* the denial of the request for a provisional name, based on the argument that the proposed name of the main political party and its alternatives violated article 7 of the Law on Political Parties, Public Gatherings and Protests.²⁸⁰⁷ The same source affirmed that, in August 2014, Vente Venezuela presented a second request for a provisional name. After more than nine years, the second request has still not received a response²⁸⁰⁸. According to a person interviewed by the Mission, this situation responds to a direct order from the Government to the CNE not to register Machado’s party²⁸⁰⁹.

²⁷⁹⁹ Supreme Tribunal of Justice (Constitutional Chamber), Sentence no. 1160, Exp. 23-0708, 11 August 2023. Available at: <http://historico.tsj.gob.ve/decisiones/scon/agosto/328317-1160-11823-2023-23-0708.HTML>.

²⁸⁰⁰ *Ibid.*

²⁸⁰¹ YouTube video: Futuro TV, Chavista Diosdado Cabello targeted the Leaders of the Communist Party of Venezuela, 24 May 2023. Available at: <https://www.youtube.com/watch?v=lp9QgUXlkj4>; Aporrea, Oscar Figuera (PCV) responds to Diosdado Cabello: We are willing to go to a debate, 25 May 2023. Available at: <https://www.aporrea.org/actualidad/n383177.html>; Tal Cual, Diosdado Cabello assures that the PCV leadership has been “contaminated” by the US speech, 24 May 2023. Available at: <https://talcualdigital.com/diosdado-cabello-asegura-que-cupula-del-pcv-se-ha-contaminado-con-el-discurso-de-eeuu/>.

²⁸⁰² Tweet from the Venezuelan Communist Party [@PCV_Venezuela], 11 August 2023. Available at: https://twitter.com/PCV_Venezuela/status/1690215658925989889.

²⁸⁰³ Law on Political Parties, Public Gatherings and Protests. *Official Gazette* No. 6,013, Extraordinary of 23 December 2010, art. 8-21.

²⁸⁰⁴ Interview QQIV009.

²⁸⁰⁵ Interview QQIV004.

²⁸⁰⁶ Interview QQIV009; Crónica Uno, United by Dignity bursts onto the political scene to “give voice and represent the forgotten”, 30 August 2022. Available at: <https://cronica.uno/unidos-por-la-dignidad-irrumpe-en-el-escenario-politico-para-dar-voz-y-representar-a-los-olvidados/>.

²⁸⁰⁷ *Electoral Gazette* no. 718 of 4 July 2014, page 7. According to article 7 of the Law on Political Parties, Public Gatherings and Protests, the name of political parties may not include names of people or churches, nor be contrary to social and legal equality, nor expressive of antagonisms towards foreign nations, nor in any way resemble or have a graphic or phonetic relationship with the symbols of the country or with religious emblems. Likewise, in accordance with article 12 of the Law, the approval or denial of the Provisional Denomination Application takes at least 60 days. If the Application is approved, it does not confer any rights, except ownership of the name and acronym of the organization yet to be established.

²⁸⁰⁸ According to Chapter II of the Law on Political Parties, Public Gatherings and Protests of 2010, the registration of the Organization for Political Purposes occurs after the approval of the Provisional Name and the acronym.

²⁸⁰⁹ Interview QQIV011.

1293. Another case investigated by the Mission was that of the movement Unidos por la Dignidad movement (“United for Dignity”), led by LGTBI+ activist and presidential candidate Tamara Adrián. The promoters of the United by Dignity movement presented their request for provisional designation as an organization with political purposes to the CNE Commission of the Electoral and Civilian Register.²⁸¹⁰ The request was initially approved by the Political Participation and Financing Commission; however, according to a source, the process was later paralyzed for reasons allegedly linked to the CNE internal reorganization.²⁸¹¹

d) Conclusions

1294. The Mission recalls that the International Covenant on Civil and Political Rights (ICCPR), of which the Bolivarian Republic of Venezuela is a party, establishes that all citizens may be elected in “genuine periodic elections, which shall be carried out by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the voter” (article 25). Furthermore, the Mission observes that the Human Rights Committee, the supervisory body of ICCPR, establishes that “the right to freedom of association, including the right to form and join organizations and associations concerned with political and public affairs, is essential (...) to article 25” of the Covenant.

1295. The Mission recalls that all associations, including political parties, are essential for a democratic State, which is why the TSJ’s decisions replacing the authorities of the parties autonomously appointed by them, by ad hoc boards of directors elected directly by the own Tribunal are subject of concern. These acts of interference seriously affect the right of political party members to participate in public affairs.

1296. Based on the facts described, the Mission has reasonable grounds to believe that the judicial intervention by the TSJ has affected the ability of political parties to function independently. Furthermore, the Mission considers that said intervention has weakened the political party system, restricting the participation of opposition political groups, to the detriment of the democratic space.

4. Illustrative cases

Case 42: Caleidoscopio Humano

1297. Caleidoscopio Humano is an organization based in Venezuela that is dedicated to the promotion of human rights and has been operating since 24 October 2019²⁸¹². The organization works to train the LGTBIQ+ community, journalists and activists in general on gender and human rights.

Lack of recognition of legal personality

1298. According to the testimony of a representative of the organization, Caleidoscopio Humano began the procedures to obtain legal personality in October 2019, when it presented the necessary documentation to the office of the Main Registry Office of the Libertador Municipality of Caracas for the registration of its articles of incorporation²⁸¹³.

1299. Representatives of the organization told the Mission that, between October and December 2019, the documentation was rejected up to 18 times due to alleged formal errors. Among the arguments used to deny the start of the process, the organization was informed that the articles of incorporation lacked punctuation marks, the signatures did not match the identity documents, or that duplicates of the documentation presented were missing.²⁸¹⁴ Unofficially, according to the source, some Registry officials reportedly advised Caleidoscopio Humano that “*for its process to proceed, there should be no reference to human rights as part of the organization’s objectives.*”²⁸¹⁵ The Mission was unable to obtain a copy of the proof of receipt of the documentation presented by the organization, since Caleidoscopio Humano reported that the Registry did not provide them with said proof.²⁸¹⁶

²⁸¹⁰ *Ibid.*; Interview QQIV008.

²⁸¹¹ Interview QQIV008.

²⁸¹² Caleidoscopio Humano. Available at: <https://caleidohumano.org/nosotros/#mision>.

²⁸¹³ Interview with Gabriela Buada, 5 July 2023.

²⁸¹⁴ *Ibid.*

²⁸¹⁵ *Ibid.*

²⁸¹⁶ *Ibid.*

1300. According to the source interviewed by the Mission, given the delay by the Main Registry Office of the Libertador Municipality of Caracas, Caleidoscopio Humano decided to start a new procedure in March 2020 before the Public Registry Office of the Second Circuit of the Municipality of Baruta, in the Miranda State.²⁸¹⁷ From then until 2021, Caleidoscopio Humano could not continue monitoring the progress of the process because the institutions did not serve the public normally due to the restrictions of the COVID-19 pandemic.²⁸¹⁸

1301. During the year 2022, the representative of Caleidoscopio Humano visited three times to the Public Registry office of the Second Circuit of the Municipality of Baruta, where she was informed that she had to wait for a response.²⁸¹⁹ In July 2023, in the aforementioned office, an official verbally suggested that she consult again in the last week of the month.²⁸²⁰ At the date of writing this report, the organization is still waiting for the registration of its articles of incorporation, despite the fact that, according to the Law of Registries and Notaries, the deadline for this process is three business days.²⁸²¹

1302. As its representative pointed out to the Mission, the fact that Caleidoscopio Humano is not registered affects its normal development. She cannot open an institutional bank account, so she cannot receive funds, and it is forced to operate with personal bank accounts. They cannot rent an office on behalf of the organization, causing employees to work from home.²⁸²²

Conclusions

1303. The Mission recalls that one of the difficulties faced by associations consists of certain cumbersome administrative procedures that slow down their operation and, in turn, limit the civic space of civil society.²⁸²³ For this reason, the procedure for registration and granting of legal personality by the authorities must be quick, simple, easily accessible and non-discriminatory.²⁸²⁴ In particular, in this case, as well as in others that the Mission has investigated (see *supra*), the Mission has identified barriers that restrict the activities of the association, especially due to the delay in granting legal personality. After three and a half years, the Caleidoscopio Humano association has not obtained its legal personality, despite the fact that it is legally established that the procedure should take three business days. Furthermore, the delay in granting legal personality to Caleidoscopio Humano has had implications for the exercise of the right to access financing and its entry into the financial system.

1304. The Mission has reasonable grounds to believe that the NGO Caleidoscopio Humano has been subject to unjustified restrictions on the registration of its articles of incorporation, which have negatively impacted its activities. Such restrictions appear to be related to the fact that the organization's scope of work is the promotion of human rights.

Case 43: Transparencia Venezuela

1305. Transparencia Venezuela, national chapter of Transparencia Venezuela, is a non-profit association dedicated to “promoting conditions, procedures and factors to prevent and reduce corruption²⁸²⁵.”

Impossibility of updating the register

1306. In October 2019, Transparencia Venezuela delivered to the Public Registry Office of the Municipality of Chacao, Miranda State, a set of assembly minutes of the organization for registration, as prescribed by the legislation²⁸²⁶.

²⁸¹⁷ *Ibid.*

²⁸¹⁸ *Ibid.*

²⁸¹⁹ *Ibid.*

²⁸²⁰ *Ibid.*

²⁸²¹ Law of Registries and Notaries, *Official Gazette* no. 6,668 (Extraordinary) of 16 December 2021, art. 29.

²⁸²² Interview with Gabriela Buada, 5 July 2023.

²⁸²³ OHCHR. The Space of Civil Society and the United Nations Human Rights System, pages 16 and 17. Available at: https://www.ohchr.org/sites/default/files/Documents/AboutUs/CivilSociety/CS_space_UNHRSystem_Guide_SP.pdf.

²⁸²⁴ A/HRC/20/27, para 95.

²⁸²⁵ Transparencia Venezuela, Who We Are. Available at: <https://transparenciave.org/quienes-somos-2/>.

²⁸²⁶ Interview WWIV014.

1307. As reported to the Mission, on 27 December 2019, the person authorized by Transparencia Venezuela went to the aforementioned Registry again and was informed that his assembly minutes were under review by the Autonomous Registry and Notary Service (SAREN) Registry Directorate.²⁸²⁷ Transparencia Venezuela explained to the Mission that, in the past, the process of recording minutes did not require the review by the Autonomous Registry and Notary Service (SAREN) headquarters and that, in fact, this step is not regulated in the current legislation.²⁸²⁸

1308. In early 2020, according to Transparencia Venezuela, one of the Registry officials advised the person authorized for actions at administrative headquarters by Transparencia Venezuela to start the process again because it was possible that the documentation had been lost. As a consequence, in February 2020, the representative of Transparencia Venezuela resubmitted the minutes to the Chacao Registry,²⁸²⁹ thus beginning the process again. In September 2020, the registrar informed the representative of Transparencia Venezuela that authorization from the SAREN was still pending and that, therefore, the assembly minutes could not be recorded.²⁸³⁰ Between 2021 and 2022, Transparencia Venezuela went at least four other times to ask about the status of the process, until it decided not to do so again for fear of retaliation.²⁸³¹

1309. In January 2023, Transparencia Venezuela attempted to submit to the SAREN General Directorate (headquarters located in Caracas) a letter requesting to know the status of the process²⁸³²; however, the institution refused to receive the request based on the argument that at that time it did not have a seal.²⁸³³ In view of this situation, Transparencia Venezuela sent the request addressed to the SAREN Director, Abel Ernesto Durán Gómez, by e-mail dated 26 January 2023.²⁸³⁴

1310. On 17 August 2023, due to the lack of response to the e-mail sent in January, Transparencia Venezuela submitted to the SAREN a new written request in which it asks “to carry out all the necessary procedures to allow the registration of the minutes of assembly” of its organization²⁸³⁵. As of the date of writing of this report, the organization has not obtained a response regarding its request, contradicting the stipulations of the Law of Registries and Notaries, which establishes a term of three days for the registration of the minutes of assemblies²⁸³⁶. The fact that the minutes of assemblies are not registered in the SAREN’s records affects the normal operation of the associations because they are unable to carry out certain activities relating to taxes,²⁸³⁷ banking,²⁸³⁸ and other legal procedures²⁸³⁹.

Conclusions

1311. Based on the facts described above, the Mission has reasonable grounds to believe that the organization Transparencia Venezuela has faced a series of obstacles that have unreasonably delayed the registration of its minutes of assembly, which appears to be linked to the nature of the organization’s corporate purpose, which is related to the fight against corruption. The Mission observes that the organization has faced these obstacles for four years, an

²⁸²⁷ Document WWDC007: Mail from the Chacao Registry addressed to the SAREN Registry Directorate.

²⁸²⁸ Interview WWIV014.

²⁸²⁹ *Ibid.*

²⁸³⁰ *Ibid.*

²⁸³¹ *Ibid.*

²⁸³² *Ibid.*

²⁸³³ *Ibid.*

²⁸³⁴ Document WWDC008: Letter from Transparencia Venezuela addressed to the Autonomous Registry and Notary Service (SAREN) dated 26 January 2023.

²⁸³⁵ WWDC012. Letter from Transparencia Venezuela addressed to the Autonomous Registry and Notary Service (SAREN) dated 17 August 2023.

²⁸³⁶ Law of Registries and Notaries, *Official Gazette* no. 6,668 (Extraordinary) of 16 December 2021, art. 29.

²⁸³⁷ SENIAT, Requirements and Procedures for the operation of the Single Tax Information Registry (RIF by its Spanish acronym). According to the National Integrated Customs and Tax Administration Service (SENIAT by its Spanish acronym) legal entities must submit before the tax administration unit corresponding to their tax domicile, the original and copy of the last meeting minutes. Available at: <https://www.legiscomex.com/BancoMedios/Documentos%20PDF/inscripci%C3%B3n%20en%20el%20rif-requisitos.pdf>.

²⁸³⁸ Document WWDC014: Audio received by CIVILIS Human Rights; Interview WWIV014. The Mission received information that the banking entities request as a requirement the Statutory Constitutive Document and its subsequent modifications for the opening of a new account before the banking entity.

²⁸³⁹ Resolution No. 019, which establishes the unique and mandatory requirements for the processing of legal acts or businesses in the Public, Principal, Mercantile Registries and Notaries’ Office, Article 51, published in *Official Gazette* No. 40,332 of 13 January 2014. Article 51 establishes that it is necessary to present the articles of incorporation, as well as its last amendment in order to obtain power of attorney as a legal entity.

excessively long time considering that, according to the Law of Registries and Notaries, the SAREN has three working days to carry out the registration from its presentation date²⁸⁴⁰.

V. Gender dimensions and impacts

1312. The persecution against people opposing the Government or perceived as such, and the closing of the civic and democratic space have had different effects on women, men and people of diverse gender identity and sexual orientation. This is due to underlying gender roles, inequalities and stereotypes previously established in Venezuelan society. These, as previously pointed out by the Mission,²⁸⁴¹ emphasize the ideal of women as caregivers and maternal figures within the domestic sphere and sexualized young women outside of this role. They also apply stereotypes to men through the predominance of male chauvinism that discriminates against those who do not fit in the traditional concepts of masculine and feminine should be.²⁸⁴² Homophobia and misogyny are used as tools to discredit male opponents, insinuating their homosexuality or femininity, concepts associated with weakness and defencelessness.

1313. These roles and stereotypes are reinforced during the commission of the acts of violence, so a gender analysis of the human rights violations and crimes documented by the Mission allows us to determine to what extent the gender of the victims or their sexual orientation, in the current Venezuelan socio-political context, shaped the way in which repression of opponents or perceived opponents was exercised and the impacts it had on these individuals, their organizations and their community.

A. Contextual Elements

1314. The Bolivarian Republic of Venezuela has an advanced legal framework on gender equality. Article 21 of the Constitution guarantees the principle of equality before the law without discrimination based on sex, and guarantees positive measures in favour of discriminated or vulnerable people or groups. Likewise, the Constitution recognizes the equal rights of men and women in working life;²⁸⁴³ the social economic value of domestic work²⁸⁴⁴, and women's sexual and reproductive rights.²⁸⁴⁵

1315. The constitutional framework was developed in a series of sectoral norms related to women's rights and gender equity.²⁸⁴⁶ Among the most relevant is the Law on Equal Opportunities for Women, approved in October 1999, with the objective of guaranteeing women the full exercise of their rights, the development of their personality, aptitudes and capacities.²⁸⁴⁷ The Law of Equal Opportunities establishes equal treatment between men and women and the empowerment of women with guarantees of equal opportunities in employment and promotions, including the integration of women in rural areas, community and productive organizations.²⁸⁴⁸ The law also created the National

²⁸⁴⁰ Law of Registries and Notaries, *Official Gazette* no. 6,668 (Extraordinary) of 16 December 2021, art. 29.

²⁸⁴¹ A/HRC/45/CRP.11, para. 1953; Interview with CEPAZ, 18 April 2023; Interview with IIIV003.

²⁸⁴² *Ibid.*

²⁸⁴³ Constitution of the Bolivarian Republic of Venezuela of 1999, *Official Gazette* No. 36,860 Extraordinary of 30 December 1999, art. 88.

²⁸⁴⁴ *Ibid.*

²⁸⁴⁵ *Ibid.*, art. 76.

²⁸⁴⁶ See, for example and without being exhaustive, the Law for the Promotion and Protection of Breastfeeding, *Official Gazette* No. 38,763 of 6 September 2007, with the purpose of promoting, protecting and supporting breastfeeding; the Law for the Protection of Families, Maternity and Paternity, *Official Gazette* No. 38. 773 of 20 September 2007, with the purpose of establishing mechanisms for the development of policies for the protection of families, maternity and paternity, and measures to prevent conflicts and intra-family violence; the Organic Law on Labor and Workers, *Official Gazette* No. 6,076 Extraordinary of 7 May 2012, which guarantees equality and equity of women and men in the exercise of the right to work and develops the principle of non-discrimination in the workplace; the Organic Law of Public and Popular Planning approved in 2010, *Official Gazette* No. 6. 011 of 21 December 2010, which establishes the principles of equity, justice, social and gender equality, complementarity, cultural diversity, co-responsibility, cooperation, responsibility, social duty, sustainability, environmental defense and protection, guarantee of the rights of women, children and adolescents, and all persons in vulnerable situations; the Law for the Respect of Human Rights in the Exercise of the Public Function of 2021, *Official Gazette* No. 6.658 Extraordinary of October 2021, and the Law for the Prevention and Eradication of Sexual Abuse against Children and Adolescents, *Official Gazette* No. 6655 Extraordinary of 7 October 2021.

²⁸⁴⁷ Law on Equal Opportunities for Women, *Official Gazette* no. 4653 Extraordinary of 26 October 1999.

²⁸⁴⁸ *Ibid.* arts. 11 and 12.

Women's Institute and the National Ombudsman's Office for Women's Rights, the latter as a legal entity of the former.²⁸⁴⁹

1316. Another fundamental instrument is the Organic Law on the Rights of Women to a Life Free of Violence, which was last reformed in April 2021²⁸⁵⁰. The law defines 25 forms of violence against women, including sexual violence, computer violence and political violence.²⁸⁵¹ The law also creates a National Commission to guarantee the rights of women to a life free of violence, made up of 13 public administration institutions and five organizations that represent civil society.²⁸⁵²

1317. In 2009, the Ministry of the People's Power for Gender Equality was created with state directorates at the national level and under which two executive bodies are located: the aforementioned National Women's Institute, with the National Ombudsman's Office for Women's Rights (Women's Ombudsman's Office²⁸⁵³, and the Women's Development Bank.²⁸⁵⁴ This Ministry has developed plans to mainstream the gender perspective in public policies.²⁸⁵⁵

1318. The Women's Ombudsman's Office has the mandate to support, guide, assist and accompany women in the defence of their rights.²⁸⁵⁶ A women's rights activist explained to the Mission that the Ombudsman's Office that operates in her state is not effective and does not have an adequate structure to accompany women.²⁸⁵⁷ In one of the cases of gender violence in which this activist works, she made the corresponding complaint to this entity, but it was not followed up and the complaint was not subsequently taken into consideration in court.²⁸⁵⁸ Another activist stated that she was aware that, in her state, the Ombudsman's Office does provide advice to women victims of gender violence so that they can file the corresponding complaints, but that they then have many difficulties in ensuring that the complaints are taken seriously by the prosecutor's offices or the police, the two bodies that receive complaints of gender violence in accordance with the law.²⁸⁵⁹

²⁸⁴⁹ *Ibid.* arts. from 44 to 56.

²⁸⁵⁰ Organic Law on the Rights of Women to a Life Free of Violence, *Official Gazette* no. 36,531 of 3 September 1998, amended by *Official Gazette* no. 40,548 of 25 November 2014 and by *Official Gazette* No. 6,667 of 16 December 2021. Available at: <https://www.alc.com.ve/wp-content/uploads/2022/02/Ley-Organica-sobre-el-Derecho-de-las-Mujeres-a-una-Vida-Libre-de-Violencia.pdf>.

²⁸⁵¹ Organic Law on the Rights of Women to a Life Free of Violence, art. 15.

²⁸⁵² *Ibid.*, art. 19.

²⁸⁵³ Ministry of People's Power for Women and Gender Equality, hereinafter Ministry for Women and Gender Equality, Women's Institute, Public Policy for the Protection, Prevention, Promotion, Care and Defense of the Human Rights of Women.

²⁸⁵⁴ *Ibid.*, Public Policy for Productive Development.

²⁸⁵⁵ See, as an example, the "Mamá Rosa" Plan, which covered the period from 2013 to 2019. Ministry of People's Power for Women and Gender Equality, "Gender equality and equity plan, "Mamá Rosa" 2013-2019. Available at: <https://faolex.fao.org/docs/pdf/ven164359.pdf>. This Plan is prepared in the context of the Plan for the Homeland: the second socialist plan for the social and economic development of the Nation 2013-2019, which is a continuation of the Equality Plan for Women Juana Ramírez "La Avanzadora" 2009-2013 and the Equality Plan for Women 2004-2008, and the second, The Ministry of People's Power for Women and Gender Equality is the entity responsible for this Plan and the Presidency of the Republic is the coordinating entity of the Plan. During the implementation phase of the "Mamá Rosa" Plan for Gender Equity and Equality, spaces for internal coordination were created between state institutions, as well as between public organizations and women's and feminist organizations. On 25 November 2014, the Presidential Council for the Popular Women's Government was established. See, Ministry of People's Power for Communication and Information, Presidential Council for the Popular Women's Government installed, 25 November 2014 <http://me.gob.ve/instalado-consejo-presidencial-de-gobierno-popular-de-las-comunas/>.

²⁸⁵⁶ Ministry for Women and Gender Equality, National Ombudsman's Office for Women's Rights.

²⁸⁵⁷ Interview with Vannesa Rosales, 1 August 2023.

²⁸⁵⁸ *Ibid.*

²⁸⁵⁹ Interview IIIV031.

1319. Furthermore, human rights NGOs have criticized the instrumentalization of welfare policies, for example, the funds of the Local Committees for Supply and Production (CLAP by its Spanish acronym), as a form of social control and capture of votes, because they condition the receipt of aid to the support the Government party when there are elections, and its effects are disproportionate on women.²⁸⁶⁰ The NGO Local Committees for Supply and Production (CEPAZ) has highlighted that this happens in a context in which women have a greater dependence on state services and subsidies, due to gender income inequality, educational gaps and the care roles that are traditionally assigned to women.²⁸⁶¹

1320. Regarding women's political participation, the Bolivarian Republic of Venezuela is characterized by low female political participation and does not have specific legislation on quotas.²⁸⁶² To fill this gap, the National Electoral Council (CNE) has adopted a series of rules regulating parity in the electoral lists, as occurred for the last regional and municipal elections in November 2021, when a special regulation was issued to guarantee representation equality of men and women.²⁸⁶³ However, gender parity suffered a setback in these elections because a smaller number of women were elected to positions in the departments and municipalities.²⁸⁶⁴

1321. In its final report for 2021, the European Union Electoral Observation Mission highlighted the lack of political participation of women in the Bolivarian Republic of Venezuela which, according to that mission, finds its causes in the greater care burden due to emigration to large scale of men, high poverty rates and economic and mobility challenges.²⁸⁶⁵

1322. The Movement of Women in Politics of Venezuela²⁸⁶⁶ explained to the Mission that women, including those who are associated to the Government, face difficulties in obtaining financing from both political parties and other donors to run and campaign for elections. According to a female politician interviewed by the Mission, "*given the constitutional prohibition of financing political parties in Venezuela, the largest financiers are men, who, in a sexist culture like the Venezuelan one, mean that those who receive the most financing are also men.*"²⁸⁶⁷

²⁸⁶⁰ Interview with Local Committees for Supply and Production (CEPAZ), 18 April 2023; Interview with Caleidoscopio Humano, 10 April 2023; Shadow report to the 85th Period of Sessions of the Committee on the Elimination of Discrimination against Women (CEDAW), presented by the Local Committees for Supply and Production (CEPAZ), Las Comadres Púrpuras, Red Mérida feminista, Resonalia, Voto Joven, and Joven Pride, paras. 30 and 31 (2023). Available at: https://cepaz.org/wp-content/uploads/2023/05/CEDAW_Espacio-civico.Orgs-feministas.pdf.

²⁸⁶¹ CEPAZ, *Women victims of persecution and criminalization in Venezuela*, page 26, (2021).

²⁸⁶² Organic Law of Suffrage and Political Participation (LOSPP by its Spanish acronym), *Official Gazette* no. 5,223 Extraordinary of 30 December 1997, art. 144. This article prescribes a minimum of 30% representation of women in deliberative bodies. The rule was declared unconstitutional after the entry into force of the 1999 Constitution. Supreme Tribunal of Justice (Electoral Chamber), Sentence no. 052, File no. 0037 of 19 May 2000.

²⁸⁶³ National Electoral Council (CNE), Special Regulation to guarantee the Rights of equal, alternate and political participation of Legislators and Councilors in the 2021 Regional and Municipal Elections, Resolution no. 210708-0034 of 8 July 2021, *Electoral Gazette* no. 980 of 12 July 2021. See also, CNE, Instructions on the parity and alternate nominations of both genders for the 2021 Regional and Municipal Elections..

²⁸⁶⁴ Only two women were elected from 23 vacant provincial government offices and 62 from municipalities out of a total of 335 municipal authorities, while in 2017 five provincial governors and 76 mayors had been elected. National Electoral Council (CNE), Results of Regional and Municipal Elections 2021; National Electoral Council (CNE) Governor election result, Governor of the State of Barinas 2022; National Electoral Council (CNE), Regional Election Results 2017; CEPAZ, *Women's political participation in Venezuela: Building paths for peace and democracy*, March 9, 2023, pages 16 and 17. Available at: https://cepaz.org/documentos_informes/participacion-politica-de-las-mujeres-en-venezuela-construyendo-caminos-para-la-paz-y-la-democracia/.

²⁸⁶⁵ Final report: EU MOE Venezuela 2021, page 35. Available at: https://www.eeas.europa.eu/sites/default/files/eu_eom_ven_2021_fr_es.pdf

²⁸⁶⁶ This Movement is a group of women from various political parties in Venezuela who meet on a personal basis to discuss the main problems they face in their work as politicians, and work to design a common agenda for women in Venezuela.

²⁸⁶⁷ Interviews with Iris de Franca, 1 June and 3 July 2023.

1323. The Venezuelan Judicial Power created Violence against Women Tribunals after the entry into force of the Organic Law on the Rights of Women to a Life Free of Violence.²⁸⁶⁸ These are bodies, which make up the Gender Justice Network, specialized in criminal matters and criminal procedure to understand and judge gender violence²⁸⁶⁹. These Tribunals are made up of (i) Tribunals of first instance for violence against women and (ii) Courts of Appeal for violence against women²⁸⁷⁰.

1324. The Public Ministry has a General Directorate for the Defence of Women, to which 72 prosecutor's offices specialized in violence against women depend, four national and 68 at the State level.²⁸⁷¹ In addition, the Public Ministry has a Specialized National Prosecutor's Office against Femicide.²⁸⁷² Despite this, the high rates of gender violence and femicides continue to be one of the most important obstacles to achieving gender equality in the country.²⁸⁷³ According to the Ombudsman's Office, in 2022 they received 890 denunciations, complaints and petitions regarding gender-based violence, which were forwarded to the Public Ministry.²⁸⁷⁴

1325. Several human rights NGOs denounced to the United Nations the opacity of the official information on the figures of violence against women, since they do not provide disaggregated data on the form of violence, the status of the process and the sentences and reparation measures adopted,²⁸⁷⁵ which makes it difficult to understand the magnitude of the problem and formulate effective public policies.²⁸⁷⁶ However, NGOs provided some figures obtained from unofficial sources, such as the Utopix Femicide Monitoring, which recorded a total of 902 cases of femicides and trans-femicides between 2019 and 2022.²⁸⁷⁷ These NGOs also denounce the lack of a gender perspective in the System for the Protection of Girls, Boys and Adolescents, as well as the absence of integration between this system and the Justice System for Women. They also point out the persistence of a structural problem in the absence of monitoring and evaluation of public policies related to gender violence, despite having regulations in this area.²⁸⁷⁸ Other NGOs expressed aggravated difficulties for indigenous women victims of violence to file complaints in the regions where the majority of indigenous communities are located, as they do not have bodies that receive them in accordance with the provisions of article 71 of the Organic Law on a Life Free of Violence.²⁸⁷⁹

1326. Article 432 of the Venezuelan Criminal Code classifies voluntary interruption of pregnancy as a crime, except for specific cases of danger to the woman's life. The women's human rights movement criticizes that this exception is interpreted very restrictively in the country's hospital network.²⁸⁸⁰ In this regard, the Committee on the Elimination of Discrimination against Women (CEDAW) recommended that the Venezuelan authorities legalize abortion, "at least

²⁸⁶⁸ The Organic Law on the Rights of Women to a Life Free of Violence, *Official Gazette* no. 38,668 Extraordinary of 23 April 2007, amended by *Official Gazette* no. 40,548 of 25 November 2014, *Official Gazette* no. 6,667 Extraordinary of 16 December 2021.

²⁸⁶⁹ Supreme Tribunal of Justice, National Gender Justice Commission of the Judicial Power, Gender Justice Network.

²⁸⁷⁰ Supreme Tribunal of Justice, Gender Justice Network, Organizational Structure of the Violence against Women Tribunals.

²⁸⁷¹ Public Ministry of the Bolivarian Republic of Venezuela, Directorate for the Defense of Women.

²⁸⁷² *Ibid.*

²⁸⁷³ CEDAW/C/VEN/CO/9, para. 25.

²⁸⁷⁴ Report of the Ombudsman's Office of the Bolivarian Republic of Venezuela to the Committee on the Elimination of Discrimination against Women (CEDAW by its Spanish acronym) within the framework of the review of the implementation of the Convention on the Elimination of All Forms of Discrimination against Women. Available at: <http://www.defensoria.gob.ve/wp-content/uploads/2023/09/2-Informe-Abril-2023-Sobre-la-aplicacion-de-CEDAW-DDp-FECHA-110523-definitivo.pdf>.

²⁸⁷⁵ Shadow Report to the 85th Session of the Committee on the Elimination of Discrimination against Women (CEDAW) presented by ACCSI, Kapé Kapé, CONSORVEN, COFAVIC, CEJIL and OMCT, (2023), page 8; available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2648&Lang=en.

²⁸⁷⁶ Shadow Report to the 85th Period of Sessions of the Committee on the Elimination of Discrimination against Women CEDAW presented by Tinta Violeta, Utopix and the organizations of the Territorial Accompaniment Network MUGER, MOMUMAS and Shippiyukon, page 2 (2023). Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2648&Lang=en.

²⁸⁷⁷ *Ibid.*

²⁸⁷⁸ *Ibid.*

²⁸⁷⁹ *Ibid.*, page 5.

²⁸⁸⁰ Interview IIV031, Interview with Vannesa Rosales, 1 August 2023.

in cases of rape, incest and severe fetal impairment, and in cases of threats to the life or health of the pregnant woman.”²⁸⁸¹

1327. In contrast to the developments in women’s rights, limitations persist regarding the recognition of the specific rights of people of diverse gender identity and sexual orientation. Only three legislative instruments expressly prohibit discrimination for reasons of gender identity and expression in access to social development (article 4 of the People’s Power Organic Law of 2010²⁸⁸²); housing (article 14 of the Law for the regularization and control of housing leases²⁸⁸³) and work (article 21 of the Organic Law on Labour and Workers²⁸⁸⁴).

1328. Although article 146 of the Organic Law of the Civil Registry allows the change of name in accordance with gender identity,²⁸⁸⁵ sources consulted by the Mission assured that this provision is not fulfilled in practice.²⁸⁸⁶ In 2008, the Supreme Court of Justice determined that the provision of the Civil Code that limits marriage or union between “one man and one woman”²⁸⁸⁷ was not unconstitutional.²⁸⁸⁸ The approval of a bill on equal civil marriage, which was presented by LGBTIQ+ organizations before the National Assembly in 2014 remains pending.²⁸⁸⁹

1329. In recent years, regulatory progress has been made with regard to the rights of LGTBIQ+ people. In May 2022, the full National Prosecutor’s Office 98 was created for the Protection of Human Rights and Gender Diversity, under the General Directorate for the Protection of Human Rights of the Public Ministry.²⁸⁹⁰ On 16 March 2023, there was an important jurisprudential advance with regard to people of diverse gender identity and sexual orientation. In its ruling number 128, the Constitutional Chamber of the Supreme Tribunal of Justice, annulled the last paragraph of article 565 of the Organic Code of Military Justice, which classified as a crime “sexual acts against nature,” which included homosexual sexual relations between military.²⁸⁹¹ Currently, the draft Organic Law on the Elimination of all Forms of Discrimination has been unanimously approved by the plenary session of the National Assembly and is being subjected to a national public consultation.²⁸⁹²

1330. The information received by the Mission shows that, in practice, the broad regulatory framework that enshrines gender equity in Venezuela does not translate into total substantive equity.²⁸⁹³ In the case of people with diverse sexual orientation and gender identity, limitations persist on their autonomy and participation in society under conditions of equality. Regarding women’s organizations, groups that promote sexual and reproductive rights are those that have seen their scope of action most restricted. Feminist and LGBTIQ+ organizations attribute this situation, and the fact that they have recently become a particular target of hate speech on social networks, to the increase in the political strength of Christian religious groups, especially evangelists, both within the Government and within the PSUV.²⁸⁹⁴

²⁸⁸¹ CEDAW/C/VEN/CO/9, para. 38(a).

²⁸⁸² Organic Law of the Judicial Power, *Official Gazette* No. 6.011 of 21 December 2010.

²⁸⁸³ Law for the Regularization and Control of Housing Leases, *Official Gazette* no. 6,053 Extraordinary of 12 November 2011.

²⁸⁸⁴ Organic Law on Labor and Workers.

²⁸⁸⁵ Organic Law of Civil Registry, *Official Gazette* No. 39.264 of 15 September 2009.

²⁸⁸⁶ Interview IIIV019; Interview with Gabriela Buada, 3 March 2023; Interview with OVV LGBTIQ+, ACCSI and Cofavic, 20 July 2023; A/HRC/53/54, para. 38.

²⁸⁸⁷ Civil Code, *Official Gazette* no. 2,990 Extraordinary of 26 July 1982, art. 44.

²⁸⁸⁸ Constitutional Chamber Judgment of the Superior Tribunal of Justice, 7 October 2003. Available at: <http://www.redlgbtidevenezuela.org/wp-content/uploads/Sentencia-TSJ-190-280208-03-2630.pdf>.

²⁸⁸⁹ Tweet from VTV Canal 8 [@VTVcanal8], 22 October 2020. Available at: <https://twitter.com/VTVcanal8/status/1319415549005385729>.

²⁸⁹⁰ Public Ministry of the Bolivarian Republic of Venezuela, General Directorate for the Protection of Human Rights. Available at: <http://www.mp.gob.ve/index.php/proteccion-de-derechos-humanos/>; Tweet from Venezuelan Public Ministry [@MINPUBLICOVEN], 11 May 2022. Available at: <https://twitter.com/MinpublicoVEN/status/1524439638739460098>.

²⁸⁹¹ Supreme Tribunal of Justice (Constitutional Chamber), Sentence no. 128, File no. 23-0288, 16 March 2023.

²⁸⁹² CEDAW/C/VEN/CO/9, para. 11; National Assembly, Parliament approves in first discussion the draft Organic Law on the Elimination of all Forms of Discrimination, 28 March 2023. Available at: <https://www.asambleanacional.gob.ve/noticias/parlamento-aprueba-en-primera-discusion-proyecto-de-ley-organica-contra-todo-tipo-de-discriminacion>.

²⁸⁹³ CEDAW/C/VEN/CO/9, para. 6, 19 and 29.

²⁸⁹⁴ Interview to Caleidoscopio Humano, 10 May 2023; Interview to CEPAZ, 18 April 2023; Interview to Tamara Adrián, 13 June 2023.

B. Differentiated impacts of the principal violations and crimes

1. Arbitrary deprivations of life

1331. As documented in chapter III, the Mission investigated nine cases of arbitrary deprivations of life that occurred during the period 2020-2023 (see chapter III.B.3, *supra*). In all cases, the victims were adult men.

1332. In the context of protests, the two out of the three cases in which the Mission concluded that there were reasonable grounds to believe that arbitrary deprivations of life were committed involved the excessive use of force by security forces in breach of international protocols. The victims were protesting about the shortage of fuel and the high cost of living, and one of them was shot indiscriminately. In all three cases, these were demonstrations led by generally male-dominated labor sectors in the country, such as fishing, with a higher percentage of male participation (see chapter III.B.3, *supra*).

1333. In another case investigated by the Mission, the murder of social communicator and Communist Party activist José Urbina, his wife and 10-year-old daughter were secondary victims²⁸⁹⁵. Both witnessed his extremely violent death, leaving them severely traumatized²⁸⁹⁶. Urbina died after receiving 25 gunshot wounds, and, since he was the primary earner within the family, his murder had a specific impact, in economic terms, for his family as well as a change in family roles and dynamics. His wife told the Mission that she was left in a highly vulnerable situation after her partner's death.²⁸⁹⁷

2. Short-term enforced disappearances and arbitrary detentions

1334. As documented in chapter III, the Mission investigated 14 cases of victims of short-term enforced disappearances (10 men and 4 women) were investigated (see chapter III.C.3, *supra*), and 58 cases of arbitrary detentions (42 men, 15 women, including a transgender woman) within the framework of targeted political repression. This, as well as the Mission's previous conference room papers, has identified that arbitrary detentions, and sometimes short-term enforced disappearances have become a widespread instrument of repression against people opposed to the Government or perceived as such. It is during the first moments of detention that these people are subjected to torture and ill-treatment, including sexual and gender-based violence.²⁸⁹⁸

1335. The Mission has identified a pattern of detention of relatives of people considered opponents of the Government or allegedly linked to insurgent groups.²⁸⁹⁹ The targeting of those closest to opponents has had a disproportionate impact on women, who are used to attack the opponent and end up immersed in judicial proceedings for crimes of treason and terrorism, and subjected to serious human rights violations, sometimes even more serious than those suffered by the alleged insurgents or opponents.²⁹⁰⁰

1336. In 10 cases documented by the Mission, family members - especially women²⁹⁰¹ - were automatically detained when the wanted person could not be found, either as a form of retaliation or to force the wanted person to surrender in exchange for the release of their relatives.²⁹⁰² In one case investigated by the Mission, the detention of family members was used to threaten and force the detainees to incriminate themselves or other people.²⁹⁰³ In two other cases, women who were in romantic relationships with or were relatives of alleged perpetrators were arrested.²⁹⁰⁴ These women experienced specific impacts as a consequence of detention, as will be explained below.

²⁸⁹⁵ Case 14: José Urbina.

²⁸⁹⁶ Case 14: José Urbina.

²⁸⁹⁷ *Ibid.*

²⁸⁹⁸ Case 4: Operation *Gedeón*; and Case 1: Operation *Constitución*.

²⁸⁹⁹ Case 4: Operation *Gedeón*, Case 6: Matthew John Heath and eight other persons - Case "*Gringo Espía*". Interview IIIV013; Interview with *Foro Penal*, 4 May 2023; Interview IIIV017.

²⁹⁰⁰ Case 4: Operation *Gedeón*; Case 6: Matthew John Heath and eight other persons - Case "*Gringo Espía*". Interview IIIV017.

²⁹⁰¹ In Operation *Gedeón* at least six civilian women were detained without evidence of charges against them, beyond their relationship with alleged perpetrators. Document IIDC008: Women Victims of Political Repression, *Foro Penal*.

²⁹⁰² Case 4: Operation *Gedeón*. Interview IIIV022.

²⁹⁰³ *Ibid.*

²⁹⁰⁴ *Ibid.*; Case 1: Operation *Constitución*; Case 6: Matthew John Heath and eight other persons - Case "*Gringo Espía*". Interview with *Foro Penal*, 4 May 2023.

3. Torture and mistreatment and sexual and gender-based violence

1337. As analysed in chapter III, in at least five of the cases investigated by the Mission for the period covered by this conference room paper, rape and the threat of rape were used as a form of torture against male and female opponents to the Government or those perceived as such (*see* chapter III.F.3, *supra*). These relate to two military men, and three civilians – one man and two women.²⁹⁰⁵ As previously documented by the Mission, this behaviour follows a systematic and deliberate pattern where sexual and gender-based violence is used to exert control, power and dominance over the body and life of the victims, seeking to break them and subjugate them due to their gender and position – either real or perceived – of opposition to the Government.²⁹⁰⁶

1338. Within the framework of insurgency operations, such as Operation *Constitución* or Operation *Gedeón*, in two cases investigated, rape was used against men, belonging to or associated with the Armed Forces, to extract information and as a form of punishment and humiliation.²⁹⁰⁷ The use of sexual violence in these cases is not casual but this was used to attack the virility and masculinity of the victims and reinforce power over them and their body.²⁹⁰⁸ These acts have serious psychological impacts on the victims.

1339. One of the men interviewed by the Mission was raped several times with a blunt object in a DGCIM (Directorate General of Military Counter-Intelligence) safe house. He believes he was raped with a broomstick and relates with particular apprehension, on the one hand, the moment when one of his torturers told him: “*Wow, you look hot, I want to fuck you*” and, on the other, the pain of the rape that he suffered²⁹⁰⁹. According to the soldier, at that moment he began to shout, “*but what do you want to do to me, but what do you want to do to me*” and he was crying the whole time. The victim recalls this attack as a particularly reprehensible act against his dignity and integrity. This act has had impacts on his physical and psychological health that continue to this day.²⁹¹⁰ The Mission also documented the cases of two men who were tortured by the application of electric shocks to their testicles.²⁹¹¹

1340. The Mission has registered the use of gender-based insults or threats as a form of humiliating treatment against opposition detainees.²⁹¹² For example, women deprived of liberty were insulted and labelled as “*bad mothers*”, “*bitches*” or “*whores*.”²⁹¹³ In comparison to men, in a disproportionate number of cases, when women were threatened, reference was made to their sons and daughters and what could happen to them if they did not cooperate.²⁹¹⁴

1341. According to information received by the Mission, a woman detained for her alleged ties to Operation *Gedeón* was threatened and insulted by one of the Generals of *La Boleíta*. The General wanted to force her to convince her brother -also detained- to self-incriminate, by referring to her motherhood and telling her: “*you don’t love your children, because if you did you would have told your brother to own up, you are a bad mother who prefers her brother’s affection to her own children’s, because you are going to be locked up for 30 years without seeing them.*”²⁹¹⁵

1342. In another of the cases reported to the Mission, officials threatened a detained man with sexual violence against his wife, who was free, referring to her in a pejorative tone, saying that she was “*a promiscuous woman, who is with many men*”, and that he was “*an idiot.*”²⁹¹⁶ In at least two of the cases investigated by the Mission, women were attacked by pulling out their hair and damaging their scalp, a circumstance that, in addition to the serious physical suffering it entails, seeks to humiliate and repress the women, considering that the hair is one of the characteristics of femininity in Venezuelan society.²⁹¹⁷

²⁹⁰⁵ *Ibid.*

²⁹⁰⁶ A/HRC/45/33CRP.11, paras. 1921-1931.

²⁹⁰⁷ Case 4: Operation *Gedeón*, Case 1: Operation *Constitución*; Case 6: Matthew John Heath and eight other persons – Case “*Gringo Espía*”. Interview with *Foro Penal*, 4 May 2023.

²⁹⁰⁸ Bergara A. Riviere J., Bacete, R. *Los hombres, la igualdad y las nuevas masculinidades*, 2008, p. 24. Available at: http://www.berdingune.euskadi.net/u89-congizon/es/contenidos/enlace/enlaces_mochila_gizonduz1/es_gizonduz/adjuntos/guia_masculinidad_cas.pdf

²⁹⁰⁹ Case 1: Operation *Constitución*. Interview IIIV014; Interview IIIV025.

²⁹¹⁰ *Ibid.*

²⁹¹¹ Case 1: Operation *Constitución*. Document IIDC015.

²⁹¹² These patterns were also discussed in the Mission's first report. See A/HRC/45/CRP.11, paras. 1961-1968.

²⁹¹³ Case 4: Operation *Gedeón*. Interview IIIV022.

²⁹¹⁴ *Ibid.*; Interview IIIV035.

²⁹¹⁵ *Ibid.*

²⁹¹⁶ Case 16: Six union leaders. Interview IIIV030.

²⁹¹⁷ Interview IIIV035; Interview IIIV039.

1343. In all of the aforementioned behaviour, the punishment and humiliation of the detainees was sought by resorting to stereotypical notions and perspectives about masculinity and femininity in society, seeking to attack the virility of the detainee in the position that he was presented as the “owner” of or “responsible” for his wife and perpetuating the idea that women should remain in the private sphere. They also refer to stereotypes of female beauty and patriarchal roles that glorify motherhood and women's chastity.

1344. As analysed in chapter III, the Mission investigated acts of forced nudity in nine cases, and two witness testimonies that show the existence of a pattern of invasive searches accompanied by forced nudity of women deprived of liberty and of female family members and lawyers during visits to detention centres.²⁹¹⁸ The regional and international standards in this matter emphasize the exceptional nature of personal searches and the need for them to respect the dignity of the detained person.²⁹¹⁹ Personal searches should also be carried out by trained personnel of the same gender. These standards also suggest the development and use of alternative registration methods.²⁹²⁰ Forced nudity violates the rights to privacy, dignity, and intimacy of the victims, also placing them before the possibility of being the object of sexual and gender-based violence in which the aggressors have power and control over them.²⁹²¹

1345. All of the people interviewed by the Mission on this topic confirmed that these events occur consistently against inmates and family members.²⁹²² In specific cases, women lawyers were also searched, but according to the three cases analysed by the Mission, the attempts at nudity did not materialize on two occasions due to the complaints and opposition of the lawyers, who specifically referred to their status as legal representatives.²⁹²³

1346. Invasive searches are experienced in a traumatic way by the people who suffer them. According to the testimony of one of those affected in the National Institute for Female Orientation (*see* chapter III.F.3, *supra*): “*the truth is that it is horrible the humiliation... it is very depressing. I still haven't gotten over this, no one deserves this.*”²⁹²⁴

1347. According to the testimonies received, the searches also affect older women,²⁹²⁵ children and teenagers.²⁹²⁶ According to the information received by the Mission, a man deprived of liberty for being considered an opponent of the Government had stopped receiving visits from his daughter to ensure that she was not stripped and searched by officials of the penitentiary system.²⁹²⁷ Another woman, a relative of a man deprived of liberty in the Yare II penitentiary centre, also suspended visits after an invasive search where she felt particularly humiliated when she was subjected to forced nudity.²⁹²⁸ In this same prison, another woman was insulted during a search and was violently forced to remove the makeup and accessories she was wearing.²⁹²⁹ In both cases, the detained people were opponents of the Government or perceived as such.

²⁹¹⁸ Case 6: Matthew John Heath and eight other persons; Case 13: Aidaliz Guarisma Mérida; Case 17: Zikiu Rivas. Interview IIIV014; Interview IIIV025; Interview IIIV035; Interview PPIV046, Interview HHIV080; Interview IIIV043; Interview IIIV042; Interview IIIV040; Interview with *Foro Penal*, 4 May 2023.

²⁹¹⁹ UNODC, United Nations Rules for the Treatment of Women Prisoners and Measures involving Deprivation of Liberty for Women Offenders and Commentaries (2011). OAS, Inter-American Principles and Best Practices for the Protection of Persons Deprived of Liberty in the Americas (2008).

²⁹²⁰ APT, Penal Reform International, *Body searches Addressing risk factors to prevent torture and ill-treatment*, p.1-2. Available at: https://cdn.penalreform.org/wp-content/uploads/2013/11/Factsheet-4_Body-searches-ES1.pdf.

²⁹²¹ *Ibid.*

²⁹²² Interview IIIV014; Interview IIIV025; Interview IIIV035; Interview PPIV046; Interview HHIV080; Interview IIIV043; Interview IIIV042; Interview IIIV040; Interview with *Foro Penal*, 4 May 2023 and 26 May 2023.

²⁹²³ Interview with *Foro Penal*, 4 May 2023; Interview with Yasnaia Villalobos Montiel, 12 July 2023.

²⁹²⁴ Interview IIIV014; Interview IIIV025; Interview IIIV035; Interview PPIV046; Interview HHIV080; Interview IIIV043; Interview IIIV042; Interview IIIV040; Interview with *Foro Penal*, 4 May 2023.

²⁹²⁵ *Ibid.*

²⁹²⁶ Interview IIIV025.

²⁹²⁷ Interview HHIV077.

²⁹²⁸ Interview IIIV042.

²⁹²⁹ *Ibid.*

1348. In another case documented by the Mission, a transgender woman activist told the Mission that, while in the cells of the 2nd Municipal Control Court of the Criminal Judicial Circuit of the State of Anzoátegui in March 2023, she was forced to undress in front of 10 men.²⁹³⁰ This mistreatment had a strong psychological impact on the activist, who told the Mission that she even had suicidal thoughts.²⁹³¹

1349. The previous cases confirm the use of sexual and gender-based violence as a form of torture aimed at exercising control and power over detainees not only because of their status as real or perceived opponents, but also for reasons of gender. Both men and women detainees have suffered sexual violence, with serious psychological and physical consequences. Insults, threats and gender-based violence are routinely used during interrogations, creating an atmosphere of humiliation and fear for detainees. The violation of women's privacy through invasive body searches also places them in a position of special vulnerability when visiting their imprisoned relatives. Likewise, the lack of prison policies with a gender perspective and discrimination against detained women and their families aggravate their situation and impact their mental health.

4. Detention conditions

1350. The Bolivarian Republic of Venezuela has 17 facilities connected to male penitentiary centres where women deprived of liberty are housed and only one, the National Institute for Female Orientation, is a centre specifically and exclusively created for women.²⁹³² According to data from the Venezuelan Prison Observatory organisation, in the first half of 2022 the percentage of women in prison corresponded to 7.8% of the prison population.²⁹³³ This percentage reflects an increase of 47% in the last five years.²⁹³⁴

1351. The Venezuelan prison system is characterized by the lack of prison policies with a gender perspective that address the particular needs of women and other people of diverse sexual orientation and gender identity.²⁹³⁵ As will be seen below, even when detention conditions are not discriminatory, these can have a discriminatory impact on women – including transgender women – since prisons have been predominantly designed to house men.²⁹³⁶

1352. The United Nation Rules for the treatment of women prisoners and non-custodial measures for women (Bangkok rules)²⁹³⁷ establish that women have specific hygiene and health needs related to their reproductive health, which include, among many, menstrual hygiene items, gynaecological and menopause care, or adequate and consistent services and access to water.²⁹³⁸ Transgender people, in addition to the above, may require specific hormonal medical

²⁹³⁰ Interview WWIV002.

²⁹³¹ *Ibid.*

²⁹³² Venezuelan Prison Observatory, Informe - Mujeres Privadas de Libertad: las voces de las mujeres detrás de las rejas (2021), p. 20. Available at: <https://oveprisiones.com/informe-mujeres-privadas-de-la-libertad-en-venezuela-las-vozes-de-las-mujeres-detras-de-las-rejas/>.

²⁹³³ Informe Sombra al 85º Período de Sesiones del Comité CEDAW presentado por Acceso a la Justicia y OVP (2023). Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2648&Lang=en/.

²⁹³⁴ Venezuelan Prison Observatory, Informe - Mujeres Privadas de Libertad: las voces de las mujeres detrás de las rejas (2021), p. 22. Available at: <https://oveprisiones.com/informe-mujeres-privadas-de-la-libertad-en-venezuela-las-vozes-de-las-mujeres-detras-de-las-rejas/>.

²⁹³⁵ IACHR, Annual Report 2021, Chapter IV.B Venezuela, para. 120 and those that follow.; IACHR, Annual Report 2022, Chapter IV.B Venezuela, paras. 121 and those that follow.

²⁹³⁶ OHCHR, Dignity and Justice for Detainees Week: Information Note no. 5, 2008, p. 1. See International Review of the Red Cross, The dialogue of difference: gender perspectives on international humanitarian law (2010), p. 3.

²⁹³⁷ UNODC, Bangkok Rules. United Nations Rules for the Treatment of Women Prisoners and Measures Involving Deprivation of Liberty for Women Offenders and Commentaries (2011). The Bangkok Rules require States to consider the specific needs of women prisoners and set out rules of general application regarding admission, registration, place of confinement, personal hygiene, health services and contact with the outside world, including specific provisions for pregnant women. The Yogyakarta Principles, adopted by a group of human rights organisations, address the application of various human rights standards to issues relating to sexual orientation and gender identity. Available at: <http://yogyakartaprinciples.org/>.

²⁹³⁸ Bangkok rule number 5. See A/68/340, para. 54 and International Review of the Red Cross, The dialogue of difference: gender perspectives on international humanitarian law (2010).

treatments that are not guaranteed to them in the country's detention centres, violating their human rights and their gender identity and/or expression.²⁹³⁹

1353. According to a testimony received by the Mission, a woman deprived of liberty because she was considered an opponent of the Government, had to interrupt the in vitro fertilization treatment she was undergoing because of her detention. This has had significant impacts on her mental health since, by denying her treatment, and due to her age and the 30-year sentence for which she was sentenced, she has also been denied the possibility of being a mother.²⁹⁴⁰

1354. As indicated by several sources consulted by the Mission, detained women do not have access to sexual hygiene products and have to receive them from their relatives or other prisoners when they do not receive family visits.²⁹⁴¹ In a case documented by the Mission, a woman considered an opponent, detained at the Directorate General of Military Counter-intelligence headquarters in Boleíta, was denied access to sexual hygiene products when she was menstruating, as a form of humiliation.²⁹⁴²

1355. According to several sources consulted by the Mission, both heterosexual women and homosexual people suffer discrimination when it is in relation to access to conjugal visits, which, although recognized in article 115 of the Penitentiary Code, has not been developed by regulation, as established in the aforementioned article.²⁹⁴³ According to the sources interviewed by the Mission, detained women do not have access to conjugal visits, except on specific occasions when they obtain special permits.²⁹⁴⁴ This situation is diametrically opposite in the case of men, who do enjoy private conjugal visits.²⁹⁴⁵ According to testimonies received, this fact reinforces the stereotype of women as mothers who must not freely enjoy their sexuality, unlike heterosexual men, for whom sexual acts are a sign of virility.²⁹⁴⁶ In the case of homosexual persons, according to an NGO report, taking advantage of the lack of regulation of conjugal visits and considering that same-sex marriage is not recognized in the Bolivarian Republic of Venezuela, they are currently not allowed to receive visits from their partners.²⁹⁴⁷

1356. According to the Venezuelan Prison Observatory, transgender women deprived of liberty are subject to discrimination and suffer greater vulnerability to being victims of acts of sexual violence because they are routinely assigned to facilities with men²⁹⁴⁸. This is what happened to the transgender activist mentioned above (*see* Case 17: Zikiu Rivas, *supra*), who reported to the Mission that she was treated in a humiliating manner while she was being retained by male police officers at the police station of her district. These officers ignored her gender identity and they referred to her by her legal male identity.²⁹⁴⁹ An intersex person interviewed by the Mission, who felt persecuted for

²⁹³⁹ Venezuelan Prison Observatory, Boletín Informativo, Comunidad LGBTI, una población vulnerable dentro de las cárceles venezolanas, p. 2.

²⁹⁴⁰ Document IIDC002: Political Prisoner Report, p. 212.

²⁹⁴¹ Interview with Venezuelan Prison Observatory on 19 April 2023. Venezuelan Prison Observatory, *Mujeres Privadas de Libertad: las voces de las mujeres detrás de las rejas* (2021).

²⁹⁴² Interview IIIV022.

²⁹⁴³ Organic Penitentiary Code. Official Gazette No. 6,207 Extraordinary, 28 December 2015. Amended on September 2021, Art. 115. Available at: <https://www.asambleanacional.gob.ve/storage/documentos/leyes/ley-de-reforma-del-codigo-organico-penitenciario-20211005234409.pdf>. Informe Sombra al 85° Período de Sesiones del Comité CEDAW presentado por Acceso a la justicia y OVP, para. 76-77 (2023). Available at: <https://accesoalajusticia.org/shadow-report-to-the-committee-on-the-elimination-of-discrimination-against-women-cedaw/>; Venezuelan Prison Observatory, Informe - *Mujeres Privadas de Libertad: las voces de las mujeres detrás de las rejas* (2021); Interview IIIV028; Interview IIIV029; IACHR, Hearing 17, 187th Period of Sessions, Human Rights Situation of LGBTIQ+ persons deprived of liberty in Venezuela, 14 July 2023. Available at: <https://www.oas.org/es/cidh/sesiones/audiencias.asp>.

²⁹⁴⁴ Interview IIIV029.

²⁹⁴⁵ *Ibid.*

²⁹⁴⁶ Interview IIIV007; Interviews with the Venezuelan Prison Observatory on 2 and 19 May 2023.

²⁹⁴⁷ Venezuelan Prison Observatory, Boletín Informativo: Comunidad LGBTI - una población vulnerable dentro de las cárceles venezolanas, p. 2; Una Ventana a la Libertad, CDP no cuentan con protocolos para atención de reos LGBTI en Guárico, 23 July 2019. Available at: <https://unaventanaalalibertad.org/alertas/cdp-no-cuentan-con-protocolos-para-atencion-de-reos-lgbti-en-guarico/>.

²⁹⁴⁸ Venezuelan Prison Observatory, Boletín Informativo: Comunidad LGBTI - una población vulnerable dentro de las cárceles venezolanas, p. 1.

²⁹⁴⁹ Interview with Zikiu Rivas, 29 June 2023.

his/her political ideas, expressed his/her fear of being detained and deprived of liberty given the total lack of awareness of intersex people in detention centres.²⁹⁵⁰ Due to fear of being arrested, this person opted for exile.²⁹⁵¹

1357. Various sources have shown that throughout the world, in general terms, women deprived of liberty have greater mental health needs than men in the same situation,²⁹⁵² with significantly higher rates of suicide and self-harm.²⁹⁵³ All the testimonies received by the Mission from relatives of people deprived of liberty in Venezuela emphasize the serious mental health conditions their relatives are suffering. In the case of women, the testimonies reflect a differential impact on those who are separated from their sons and daughters or those who were in the process of becoming mothers and their life plans were frustrated by the arbitrary deprivation of liberty.²⁹⁵⁴

(a) Pregnant women, nursing mothers and female prisoners with children in their care outside prison

1358. The Bangkok Rules protect pregnant women deprived of liberty and their breastfeeding children as a group in a situation of special vulnerability in the context of detention.²⁹⁵⁵ Likewise, the Rules require that contact of female prisoners with their released sons and daughters be guaranteed, taking into account the serious consequences that imprisonment can have not only in the life of the woman deprived of liberty, but also in those who are in her care outside the detention centre.²⁹⁵⁶ In accordance with this standard and the principle of the best interests of the minor, an evaluation should be carried out on the appropriateness of applying alternative measures to prison for pregnant, lactating women or those who have children in their care.²⁹⁵⁷

1359. Domestically, the Venezuelan Organic Code of Criminal Procedure establishes that “the preventive judicial deprivation of liberty of women cannot be decreed in the last three months of pregnancy” or of “mothers while breastfeeding their sons or daughters up to six months after birth.”²⁹⁵⁸ In these cases, the judge would be obliged to decree a substitute measure, such as house arrest.²⁹⁵⁹

1360. The Mission analysed the detention conditions of three women who were detained as part of counterinsurgency operations and who were denied alternative measures to prison despite being pregnant or having nursing children in their care.²⁹⁶⁰ In one of the cases, one of the women deprived of liberty by the Operation *Gedeón* was breastfeeding her two-month-old daughter as she was being arrested.²⁹⁶¹ The woman was able to see her daughter four months later, but she no longer recognized her, which caused her a great deal of suffering.²⁹⁶²

²⁹⁵⁰ Interview with Julián Parra and Inney Romero, 22 June 2023.

²⁹⁵¹ *Ibid.*

²⁹⁵² International Review of the Red Cross, *The dialogue of difference: gender perspectives on international humanitarian law* (2010), p. 12.

²⁹⁵³ A/68/340, para. 48; OHCHR, *Dignity and Justice for Detainees Week: information note núm.5* (2008), p. 3; International Review of the Red Cross, *The Dialogue of Difference: Gender Perspectives on International Humanitarian Law* (2010), p. 12.

²⁹⁵⁴ Interview with *Foro Penal*, 8 May 2023; Interview IIIV043; Interview IIIV042; Interview IIIV039; Interview IIIV038.

²⁹⁵⁵ Bangkok Rules, rule 64: “where possible and appropriate, non-custodial sentences shall be preferred for pregnant women and women with dependent children, and consideration shall be given to imposing custodial sentences if the offence is serious or violent or if the woman poses a continuing danger but bearing in mind the best interests of the child or children, while ensuring that appropriate arrangements are made for the care of such children”.

²⁹⁵⁶ Human Rights Committee, General Comment No. 28, *Equality of rights between men and women* (Article 3), 29 March 2000, CCPR/C/21/Rev.1/Add.10.; International Review of the Red Cross, *The Dialogue of Difference: Gender Perspectives on International Humanitarian Law* (2010), p. 11; Inter-American Court of Human Rights, *Punición y Maternidad: Acceso al Arresto Domiciliario*, p. 32. Available at: <https://www.corteidh.or.cr/tablas/33277.pdf>.

²⁹⁵⁷ Bangkok Rules, rule 64; Inter-American Court of Human Rights, *Punición y Maternidad: Acceso al Arresto Domiciliario*, p. 27. Available at: <https://www.corteidh.or.cr/tablas/33277.pdf>.

²⁹⁵⁸ Organic Code of Criminal Procedure of the Bolivarian Republic of Venezuela (2012), art. 231.

²⁹⁵⁹ *Ibid.*

²⁹⁶⁰ National Human Rights Observatory, *Informe de Mujeres presas políticas en Venezuela* (2021), Available at: <https://www.observatorionacionalddhh.com/wp-content/uploads/2021/04/informe-de-mujeres-presas-politicas-en-venezuela.pdf>. Document IIDOC008: Informe mujeres presas políticas *Foro Penal*; Documento IIDOC002; Interview with Miriam Marrero, 19 May 2023.

²⁹⁶¹ Case 4: Operation *Gedeón*.

²⁹⁶² Interview with Miriam Marrero, 19 May 2023.

1361. Another case documented by the Mission is that of a female sergeant of the Bolivarian National Army, who was detained in 2019 when she was 24 years old and seven months pregnant.²⁹⁶³ The sergeant was detained for her alleged involvement in a failed attack against the Governor of the State of Monagas, Yelitza Santaella.²⁹⁶⁴ After giving birth by caesarean section, she was separated from her baby after 24 hours, and was denied the option of breastfeeding her daughter.²⁹⁶⁵ According to information received by the Mission, in this case there was a specific component of cruelty because it involved a person detained for being considered an opposition member, since the option of breastfeeding is always offered to civilian prisoners in the first days after giving birth.²⁹⁶⁶ To date, the woman remains imprisoned.

1362. The Mission also recorded the case of a female Bolivarian National Guard sergeant, who was arrested on 18 November 2019, in the *Ramo Verde* military prison, in Los Teques, Miranda State. She is accused of espionage, being a single mother of a baby who was just a few months old. At the time of her arrest, she was breastfeeding her daughter.²⁹⁶⁷ The baby was left in the care of her grandmother, a resident of the State of Apure, who had financial difficulties in visiting the woman in prison. Therefore, the contact between mother and daughter was interrupted.²⁹⁶⁸ She was finally released in 2023.

1363. The detention of mothers specifically impacts their children as they are generally the primary caregivers.²⁹⁶⁹ Two of the cases documented by the Mission correspond to single women, head of families, with children and teenagers in their care.²⁹⁷⁰ These women were separated from their children without having carried out a gender analysis when deciding to impose a measure of preventive detention on women who are the primary or sole caregivers for their children, which contravenes human rights standards in the matter.²⁹⁷¹ According to the United Nations sources consulted, the effects of detention on these women who act as the sole or main caregivers of their children are devastating for the family and could lead to prolonged or permanent disintegration of the family.²⁹⁷²

1364. The first case refers to one of the civilian women detained in 2020 within the framework of Operation *Gedeón*, the only person in charge of her three teenage children and her mother, who was also a wheelchair user.²⁹⁷³

²⁹⁶³ This is also contrary to the Organic Penitentiary Code (art. 42) as well as international standards, Bangkok Rules. Interview with the Venezuelan Prison Observatory, 14 June 2023.; Document IIDC008: Informe mujeres presas políticas Foro Penal; Document IIDC002; *Analítica*, Exigieron libertad para la presa política Yusimar Montilla ante el PNUD, 28 August 2019. Available at: <https://www.analitica.com/actualidad/actualidad-nacional/exigieron-libertad-para-la-presa-politica-yusimar-montilla-ante-el-pnud/>; *Caleidoscopio Humano*, El revelador informe del observatorio de DDHH de 19 presas políticas: algunas torturadas y alejadas de sus hijos, 12 April 2021. Available at: <https://caleidohumano.org/el-revelador-informe-del-observatorio-de-ddhh-de-19-presas-politicas-algunas-torturadas-y-alejadas-de-sus-hijos/>; *Efecto Cucuyo*, Yusimar Montilla parió y a las 24 horas le quitaron a su bebé #PresasPolíticas, 15 July 2020. Available at: <https://efectocucuyo.com/la-humanidad/yusimar-montilla-amamantar-hija-presapoliticas/>.

²⁹⁶⁴ *Ibid.*

²⁹⁶⁵ *Ibid.*

²⁹⁶⁶ Interview with *Foro Penal*, 8 May 2023.

²⁹⁶⁷ National Human Rights Observatory, Informe de Mujeres Presas Políticas en Venezuela, p. 9; *Caleidoscopio Humano*, El revelador informe del observatorio de DDHH de 19 presas políticas: algunas torturadas y alejadas de sus hijos, 12 April 2021. Available at: <https://caleidohumano.org/el-revelador-informe-del-observatorio-de-ddhh-de-19-presas-politicas-algunas-torturadas-y-alejadas-de-sus-hijos/>.

²⁹⁶⁸ The Venezuelan National Human Rights Observatory Facebook page, Diana Daniela Díaz S/2do de la GNB, graduada el 30/01/2018, luego de 11 meses, es detenida el 18/11/2019, 28 March 2021. Available at: https://www.facebook.com/observatorionacionalddhh/videos/diana-daniela-d%C3%ADaz-s2do-de-la-gnb-graduada-el-30012018-luego-de-11-meses-es-dete/335137358282826/?locale=ur_PK/; Tweet by Observatorio Nacional de DDHH [@ONacionalDDHH], 29 March 2021. Available at: <https://twitter.com/ONacionalDDHH/status/1376674326506840065/>.

²⁹⁶⁹ Ministry of Defence of Argentina. Punicción y Maternidad, Acceso al Arresto Domiciliario. p. 35. Available at: www.corteidh.or.cr/tablas/33277.pdf.

²⁹⁷⁰ Case 4: Operation *Gedeón*.

²⁹⁷¹ Committee on the Rights of the Child, General Comment No. 14 on the right of the child to have his or her best interests taken as a primary consideration, 2013. CRC/C/GC/14, paras. 69-70.

²⁹⁷² OHCHR, Dignity and Justice for Detainees Week: information note no. 5, Geneva, 2008, p. 2.

²⁹⁷³ IIDC008: Informe mujeres presas políticas *Foro Penal*; Interview with Miriam Marrero, 19 May 2023.

Since her arrest, the family lacked sufficient means to ensure their livelihood and her teenage children had to leave school because they were unable to pay for it.²⁹⁷⁴

1365. The second case investigated by the Mission concerns a woman detained in 2022 in connection with the case of an opposition deputy who was being persecuted.²⁹⁷⁵ According to a source interviewed by the Mission, the woman, a single mother, was detained without a court order by Bolivarian National Intelligence Service officials when she was driving her vehicle with her two young children.²⁹⁷⁶ According to the sources interviewed by the Mission, the two minors remained in *El Helicoide* parking lot for several hours, guarded by two Bolivarian National Intelligence Service officials, with large weapons.²⁹⁷⁷ At the time of writing this conference room paper, the woman remains in very difficult detention conditions and the minors were in the care of their grandmother, in a precarious situation due to lack of resources.²⁹⁷⁸ In addition, in the days following the woman's detention, her family was permanently followed by black vans without license plates.²⁹⁷⁹

(b) Families of detainees

1366. The unequal gender roles prevalent in the country, as well as the fact that most people deprived of liberty are men, due to targeted repression of opponents or for any other reason, consequently, determine that it is women who are disproportionately responsible for the upkeep of their relatives in prison and for supporting their family. Female relatives of detainees face significant challenges that include economic challenges, invasive requests during visits, and accompanying their relatives' judicial processes.²⁹⁸⁰

1367. According to the information received by the Venezuelan Observatory of Prisons, only female relatives – mothers, sisters, adult daughters, wives or women in *de facto* unions – are authorized to visit their relatives imprisoned in centres dependent on the penitentiary system.²⁹⁸¹ Several women interviewed by the Mission stated that this situation has had a significant impact on their daily life, often putting their plans for the future and their own needs on hold so they can take care of their imprisoned family member.²⁹⁸² A wife of an opponent deprived of liberty reported that “*her family thinks that she is the one who has to take care of the laundry, run errands, or bring medicine...it is the role that corresponds to women.*”²⁹⁸³ According to her testimony, the situation has generated significant emotional stress and physical and mental impacts, questioning:

*Who cares for the caregiver? Clothes, medicines, drinking water... every day you have to bring him water, breakfast, lunch, dinner. And it's been like this for 9 months and you have to pay in dollars so you can visit him. All of these are high expenses. Pre and post logistics. I leave carrying a bag that gives me muscle pain. There are many things that as a woman I have to deal with and go through.*²⁹⁸⁴

1368. The impossibility of men participating in family visits in the centres managed by the penitentiary system (see chapter III.D.3.b.iii, *supra*) has also negatively affected both a young prisoner, because he is considered an opponent, and his family, as the former was never able to receive a visit from his father, who was his only direct relative in the country, despite having requested it on countless occasions.²⁹⁸⁵

1369. Another woman explained to the Mission her difficulties generating enough income to support her family, since her relative's detention. She has to take care of her children, all minors and the expenses of having her

²⁹⁷⁴ *Ibid.*

²⁹⁷⁵ Interview IIIV002; Document IIDC056; Document IIDC002: Informe presos políticos, p. 15.; Interview IIIV038.

²⁹⁷⁶ Document IIDOC002: Informe presos políticos, p. 15; Interview IIIV002; Document IIDC056.

²⁹⁷⁷ Interview IIIV038; Interview IIIV002; Interview IIIV038; Document IIDC056.

²⁹⁷⁸ Document IIDC056; Interview IIIV038.

²⁹⁷⁹ *Ibid.*; Document IIDC002: Informe presos políticos, p. 15.

²⁹⁸⁰ Interview IIIV035; Interview with the Venezuelan Observatory of Prisons, 14 June 2023; Interview IIIV007; Interview IIIV030; OVV, *Mujeres privadas de la libertad en Venezuela: Las voces de las mujeres detrás de las rejas*, 14 June 2021. Available at: <https://oveprisiones.com/informe-mujeres-privadas-de-la-libertad-en-venezuela-las-vozes-de-las-mujeres-detras-de-las-rejas/>; OVV, Informe temático: visitantes en las cárceles venezolanas son víctimas de violencia des un enfoque de género y derechos humanos, 2022.

²⁹⁸¹ Interview with the Venezuelan Observatory of Prisons, 14 June 2023.

²⁹⁸² *Ibid.*; Interview IIIV007; Interview IIIV029; Interview IIIV030.

²⁹⁸³ Interview IIIV028.

²⁹⁸⁴ Interview IIIV007.

²⁹⁸⁵ Interview PPIV082; Interview with the Venezuelan Observatory of Prisons, 14 June 2023.

loved one in prison.²⁹⁸⁶ Furthermore, according to this testimony, the situation has had significant effects on the mental health of the three minors. The three minors were alone at home when the police officers broke down the door looking for their father. Since then, the eldest, male, has adopted the role of the “man of the house,” while the youngest has stopped sleeping and has very violent behaviour at school.²⁹⁸⁷

1370. The long distances, the limitations of public transportation and its cost make family visits difficult and extremely burdensome for families.²⁹⁸⁸ These burdens fall mainly on women since they are the ones who assume the greatest proportion of visits. According to the testimony of a female defender interviewed by the Mission:

*A woman has to travel many kilometres to visit a loved one. The women generally bring the food and if there are pranes [criminal groups inside the prisons] women have to pay the vacuna [extortion]. In a society with so much poverty, a person makes a great sacrifice to go visit their family member. We have spoken with families who tell us that when their loved ones are taken to other states, it is almost impossible for them to visit them.*²⁹⁸⁹

1371. Undertaking activities aimed at demanding justice for their relatives has made women a special target of repression through harassment, surveillance, threats and monitoring by security agents and groups. A relative of a detained male opponent told the Mission that on the four occasions when the opponent's partner publicly demonstrated for her partner's release, between July and August 2022, she was photographed and videotaped by Bolivarian National Intelligence Service personnel and by the Bolivarian National Guard. According to her testimony, on three occasions there were members of *colectivos* (paramilitary groups) - whom she recognized because they wore a badge on their arm - who stood in front of her with a violent and intimidating attitude, besides behaving very rudely.²⁹⁹⁰

1372. The information received shows a general lack of access to justice for victims of serious violations of human rights and crimes analysed in chapter III. In this case, given the much higher number of direct male victims of these human rights violation and crimes, the burden and impacts of long judicial processes mainly affect women and have important economic consequences on their families' plans for the future. Several NGOs denounced to the United Nations the significant impact on mental health that this has on families, as secondary victims.²⁹⁹¹

C. Civic and democratic space

1. Repression and criminalisation of women's and feminist organisations

1373. The Venezuelan women's movement has a long history of public advocacy and demanding rights before the State since the 1990s,²⁹⁹² especially in matters related to labor equality, the family and the home.²⁹⁹³ Academic sources describe this movement as a set of women's groups or organisations that have mobilized at specific key moments to act for legislative and governmental changes.²⁹⁹⁴ The 1999 constitution-making process included an explicit commitment to the inclusion of women's rights. At that time, women's movements were reorganized to participate in the political and governmental sphere, given the support and political will expressed by the Government to guarantee women's rights.²⁹⁹⁵

²⁹⁸⁶ Case 16: Six union leaders. Interview IIIV030.

²⁹⁸⁷ Interview IIIV030.

²⁹⁸⁸ Interview with *Foro Penal*, 4 May 2023.

²⁹⁸⁹ Interview with the Venezuelan Observatory of Prisons, 14 June 2023.

²⁹⁹⁰ Case 16: Six union leaders. Interview IIIV029.

²⁹⁹¹ Shadow Report to the 85th Session of the CEDAW Committee on access to justice, gender-based violence and differential impact on women secondary victims in Venezuela, presented by the *Observatorio de Justicia para la Violencia de Género*, CEPAZ, *Fundamujer* and CEM UCV. (2023). Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2648&Lang=en.

²⁹⁹² Gioconda Espina, Cathy A. Rakowski, *¿Movimiento de mujeres o mujeres en movimiento? El caso Venezuela.*, v. 19, n. 49, p. 31-48, January (2002). Available at: http://ve.scielo.org/scielo.php?script=sci_arttext&pid=S1012-25082002000100003&lng=es&nrm=iso.

²⁹⁹³ CLACSO, López Caldera, Anais Movimiento de mujeres, Estado, política y poder: lecturas feministas de la política pública de género en la Venezuela bolivariana, 2015, p. 13.

²⁹⁹⁴ Gioconda Espina; Cathy A. Rakowski *¿Movimiento de mujeres o mujeres en movimiento? El caso Venezuela.* v. 19, n. 49, p. 31-48, January 2002. Available at: http://ve.scielo.org/scielo.php?script=sci_arttext&pid=S1012-25082002000100003&lng=es&nrm=iso/.

²⁹⁹⁵ CLACSO, López Caldera, Anais Movimiento de mujeres, Estado, política y poder: lecturas feministas de la política pública de género en la Venezuela bolivariana, 2015, p. 13

1374. According to the sources consulted by the Mission, women's organisations related to the Unified Socialist Party of Venezuela are allowed and actively supported by the Government, which has a wide network of consultative bodies in which these organisations are represented.²⁹⁹⁶ The Government continues to maintain an explicitly "feminist" agenda in its public discourse that is favourable to women's rights, as shown by the recent launch of the "Great Mission in Venezuela" project, announced by President Maduro on 8 March 2023, on occasion of International Women's Day.²⁹⁹⁷

1375. However, the criticism from academia and several women's rights NGOs is that these social and gender policies "have reinforced relationships of assistance and dependence of women on the State," as well as "stereotypes about women-mothers and their 'natural' vocation for administration and care"²⁹⁹⁸.

1376. In contrast, tolerance towards organisations related to the Government coexists with persecution and attacks on women's activists and organisations which are considered to be opponents of the Government.²⁹⁹⁹ Sexual and reproductive rights organisations have become a specific target of repression and violence for several influential groups within the Government and public institutions that defend positions against abortion, education and sexual diversity, many of which are ultraconservative evangelical Christian groups.³⁰⁰⁰ According to United Nations, the persecution of sexual and reproductive rights activists can also be understood as a less explicit form of state violence based on religious interpretations or conscience.³⁰⁰¹

1377. A human rights defender interviewed by the Mission reported that, while participating in a march for International Women's Day in Caracas on 8 March 2022, she witnessed how a government official and a woman from the related feminist movement to the Unified Socialist Party of Venezuela organized the arrival of *colectivos* to harass the protesters wearing pro-abortion badges.³⁰⁰² The *colectivos* insulted them, calling them "abortionists" and "witches."³⁰⁰³

1378. The criminalisation of human rights defender, Vannesa Rosales, which was documented by the Mission in its 2021 report,³⁰⁰⁴ illustrates the effect that repression has on women's organisations. Vannesa Rosales was arrested on 12 October 2020, one day after having given information about the termination of a 13-year-old girl's high-risk pregnancy which was the result of rape.³⁰⁰⁵ The assistance was given at the request of the girl and her mother. The next day, when the mother went to the Scientific, Criminal and Forensic Investigations Corps to report the rape, officials arrested her, the alleged rapist and Rosales. Although the three people were arrested after the alleged crimes were committed, only the alleged rapist was released on the grounds that he was not detained in flagrante delicto.³⁰⁰⁶

1379. Likewise, male and female members of the organisation 100% Estrógeno, who assumed the legal representation of Rosales, began to suffer various security incidents such as the tapping of their telephone lines, receiving suspicious calls and messages requesting support to carry out pregnancy terminations, or being followed by

²⁹⁹⁶ In 2015, two State Councils were created, the first one for Gender Equality and Equity and the Council for Gender Equity and Equality of the Bolivarian National Armed Forces. The purpose of the latter is to design public policies that create the necessary conditions to mainstream the gender perspective and equal opportunities for men and women in the Bolivarian National Armed Forces. See <http://www.tsj.gob.ve/-/tsj-interviene-en-la-instalacion-del-consejo-de-estado-para-la-igualdad-de-genero/>; y <https://actualidadlaboral.com.ve/seccion/detalles/crean-consejo-de-equidad-e-igualdad-de-genero-de-la-fanb/>.

²⁹⁹⁷ Ministry of People's Power for Ecosocialism, Gobierno Nacional creó la Gran Misión Mujer Venezuela, 8 March 2023. Available at: <https://mppre.gob.ve/2023/03/08/gobierno-nacional-crea-gran-mision-mujer-venezuela/>.

²⁹⁹⁸ This was established, for example, in the Mama Rosa Plan. CLACSO, López Caldera, Anais, *Movimiento de mujeres, Estado, política y poder: lecturas feministas de la política pública de género en la Venezuela bolivariana*, 2015, p. 24

²⁹⁹⁹ Interview with *Caleidoscopio Humano*, 3 March 2023; Interview IIIV031.

³⁰⁰⁰ *Ibid.*

³⁰⁰¹ A/HRC/53/37, para. 18.

³⁰⁰² Interview with *Caleidoscopio Humano*, 5 July 2023; Tweet by Gabriela Buada Blondell [@gabybuada], 8 March 2022. Available at: <https://twitter.com/gabybuada/status/1501392729925951488/>.

³⁰⁰³ Interview with *Caleidoscopio Humano*, 5 July 2023.

³⁰⁰⁴ A/HRC/48/CRP.5, para. 221.

³⁰⁰⁵ *Ibid.*; Interview DDIV025; Interview DDIV061.

³⁰⁰⁶ *Ibid.*

unmarked vehicles³⁰⁰⁷. In addition, two of the lawyers, Venus Faddoul and Engels Puertas, were included in a confidential Bolivarian National Intelligence Service list of people to be investigated to which the Mission had access (see Case 25: Defenders of sexual and reproductive rights, *supra*).³⁰⁰⁸

1380. The criminalisation of Rosales and the persecution of the three members of the 100% Estrógeno who accompanied her during her trial has also had important personal impacts on the people involved. Vannesa Rosales told the Mission that she has received a lot of support from her community and those around her.³⁰⁰⁹ However, the situation since her criminalisation has been very difficult economically given the socio-political and humanitarian crisis that Venezuela is going through and the difficulties in accessing public jobs after being prosecuted.³⁰¹⁰

1381. According to Rosales, her work in the Feminist Coalition against Judicial Violence has also become very difficult. Neither she nor her colleagues in the Coalition can carry out their work freely and it has become almost impossible to advise women, girls and teenagers on sexual and reproductive rights. For example, the activist told the Mission that, in March 2023, when she was in the Mérida courts photocopying the file of a case that the Coalition was supporting, a person - whom she could not identify - approached her. This person told her, in a threatening manner, that he knew who she was and that she should be careful because he knew that Rosales had been the one who had advocated for her case to be mentioned by the United Nations Special Rapporteur on the situation of human rights defenders. The person told Rosales that all these facts could be considered treason.³⁰¹¹ The activist reported this incident to the international organisations that support her and left the tribunals' headquarters. Rosales told the Mission that she feels that she has censored herself for fear that her safety will be threatened.³⁰¹²

1382. One of her lawyers, Venus Faddoul, told the Mission that the fear she felt when the security incidents began during Rosales' defence caused her to stop publishing on social networks or making public statements for months and that she almost never left her home (see Case 25: Defenders of sexual and reproductive rights, *supra*). Before going into exile, Faddoul had already stopped working on many of the gender-based violence cases she supported. She was merely finishing small projects. In her opinion, "being an activist for sexual and reproductive rights carries an associated stigma in my country."³⁰¹³ In spite of her family responsibilities that prompted her to leave the country, it has been especially difficult for her to avoid the demobilization of her organisation 100% Estrógeno and to maintain spaces for the defence of sexual and reproductive rights in the Bolivarian Republic of Venezuela.³⁰¹⁴

1383. Other women's rights NGOs interviewed by the Mission explained that the criminalisation of Rosales, as well as the subsequent persecution against her team of legal representatives of the 100% Estrógeno organisation, had an inhibiting effect on the work of the sexual rights and reproductive health movement, especially in networks of women and organisations that exercised their right to provide public information regarding reproductive health and pregnancy terminations.³⁰¹⁵ According to these organisations, many activists ceased their activities due to fear of being prosecuted for this work, which in fact has negatively impacted the women who were beneficiaries of their work.³⁰¹⁶ Likewise, according to the women's organisations interviewed, since the criminalisation of defender Vannesa Rosales, the number of women deprived of liberty due to the termination of their pregnancies, those of their family members, or the intervening doctor has increased disproportionately.³⁰¹⁷

1384. Several activists defending women's human rights informed the Mission that at least four women were detained by police officers in Caracas during 2023 for accompanying pregnant women and giving information about the termination of pregnancy.³⁰¹⁸ On 30 May 2023, a campaign was carried out on Twitter under the slogan

³⁰⁰⁷ Interview with Venus Faddoul, 27 April 2023; Interview with Venus Faddoul and Engels Puertas, 6 July 2023.

³⁰⁰⁸ Document IIDC007: SEBIN list.

³⁰⁰⁹ Interview with Vannesa Rosales, 10 April 2023.

³⁰¹⁰ *Ibid.*

³⁰¹¹ *Ibid.*

³⁰¹² *Ibid.*

³⁰¹³ Interview with *100% Estrógeno*, 25 May 2023.

³⁰¹⁴ *Ibid.*

³⁰¹⁵ Interview with *Caleidoscopio Humano*, 10 May 2023; Interview with *100% Estrógeno*, 25 May 2023; Interview IIIV015; Interview IIIV031.

³⁰¹⁶ Interview with Vannesa Rosales, 10 April 2023. Interview with *100% Estrógeno*, 25 May 2023; Interview IIIV031.

³⁰¹⁷ *Ibid.*

³⁰¹⁸ Interview with Vannesa Rosales on 10 April 2023, Interview IIIV031.

#AcompañarNoEsDelito (Accompanying Is Not Crime) in defence of one of these women, who was arrested after a journalist from the team denounced her on networks and before the Bolivarian National Police.³⁰¹⁹

1385. An activist interviewed by the Mission described the situation in the following terms:

*there is a situation of anxiety and uncertainty. We are not going to receive any woman for terminations of pregnancy. There are many organizations that have stopped taking care of this... and this has had many effects on the increase in unsafe abortions and maternal mortality of adolescents and women.*³⁰²⁰

1386. Another activist told the Mission that, due to security issues, her organisation no longer documents many of the cases received nor publishes the information.³⁰²¹ According to this activist, this situation generated a lot of concern about what could happen to them, due to the Government's practice of “planting any crime” on the people they persecute:³⁰²² “The fear is not just about going to jail, it's about being destroyed as a person.”³⁰²³

2. Repression and criminalisation against LGBTIQ+ individuals, activists and organisations

1387. The First Socialist Plan, presented by the late President Hugo Chávez, described a “Bolivarian Socialist Ethical Project” intended to overcome the ethics of capital with broad tolerance for diversity and proposed a civic ethic exclusive to a pluralistic society.³⁰²⁴ As with the feminist movement, this generated a demobilization of the LGTBIQ+ movement.³⁰²⁵ This has re-emerged in the last three years, based on the demand for formal and substantive equality and demanding a regulatory framework that protects their rights.³⁰²⁶

1388. In contrast to the official public discourse, especially in the international sphere,³⁰²⁷ the testimonies received by the Mission express great concern about the escalation of acts of discrimination and incitement to hatred based on sexual orientation and gender identity and/or expression and the impact this has on restricting their free action in public spaces.³⁰²⁸ A community diagnosis carried out by several women's rights NGOs revealed that 47.8% of the lesbian women interviewed were victims of abuse or violence by State authorities.³⁰²⁹

1389. Several organisations that support the LGBTIQ+ population who also live with HIV-AIDS, told the Mission that, since 2019, due to the serious shortage of antiretroviral medication, health authorities began to harass their organisations when they criticized the poor functioning of health care and the death of many people living with HIV-AIDS due to lack of access to the required medication.³⁰³⁰ This situation escalated to acts of search and seizure of its headquarters and persecution and detention of its workers by State security forces during the years 2019 and

³⁰¹⁹ *Ibid.*; Tweet by Tinta Violeta [@entintavioleta], 30 May 2023. Available at: <https://twitter.com/entintavioleta/status/1663712672670515201/>; Tweet by Ruta Verde [@rutaverdevzla], 30 May 2023. Available at: <https://twitter.com/rutaverdevzla/status/1663735274440998913/>; Tweet by Red de Periodistas Venezolanas [@periodistas_ve], 31 May 2023. Available at: https://twitter.com/periodistas_ve/status/1664076404441464838/; Tweet by Ceyrali [@Ceyrali], 30 May 2023. Available at: <https://twitter.com/Ceyrali/status/1663695389051027458/>.

³⁰²⁰ Interview IIIV031.

³⁰²¹ *Ibid.*

³⁰²² *Ibid.*

³⁰²³ *Ibid.*

³⁰²⁴ *Proyecto Nacional Simón Bolívar*, Primer Plan Socialista PPS de Desarrollo Económico y social de la Nación 2007-2013, p. 6- Available at: <http://www.superior.consejos.usb.ve/sites/default/files/Proyecto%20Nacional%20Sim%C3%B3n%20Bol%C3%ADvar%20-%20Primer%20Plan%20Socialista%20-%20Desarrollo%20Econ%C3%B3mico%20y%20Social%20de%20la%20Naci%C3%B3n%202007-2013.pdf>

³⁰²⁵ Interview with *Caleidoscopio Humano*, 10 May 2023.

³⁰²⁶ *Ibid.*

³⁰²⁷ Intervention of the Government of the Bolivarian Republic of Venezuela in the interactive dialogue with the Independent Expert on Sexual Orientation ID: IE on Sexual Orientation - 6th Meeting, 53rd Regular Session of Human Rights Council. Available at: <https://media.un.org/en/asset/k15/k15ev5gopb> [Min. 56:16].

³⁰²⁸ Interview with OVV LGBTIQ+, ACCSI and COFAVIC, 20 July 2023.

³⁰²⁹ Shadow Report to the 85th Session of the CEDAW Committee presented by *Alianza con Ellas* (2023). Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2648&Lang=en/

³⁰³⁰ Interview with organisations of the Venezuelan Network of Positive People: Mavid Foundation and ACCSI, 16 June 2023.

2020. This is the case of the foundation Manos Amigas por la Vida (“Open Hands for Life” or MAVID) in Carabobo State, Acción Solidaria (“Solidarity Action”), in Caracas, and Azul Positivo (“Positive Blue”) in Zulia State.³⁰³¹

1390. Several NGOs also alerted the Mission to the increase of political power of religious leaders in the country over the last two years. These leaders justify violence and discrimination against people of diverse gender identity and sexual orientation.³⁰³² According to two sources interviewed by the Mission, the high rates of gender violence during the pandemic and the lack of State response to this problem caused a fracture in the LGBTIQ+ movement. This movement reorganized itself and began to “*take to the streets again*” once the confinement measures decreed in response to the COVID-19 pandemic came to an end.³⁰³³ The Pride Day Parade in July 2020 had a massive turnout throughout the country, a situation that repeated in July 2023.³⁰³⁴ In response to these demonstrations, in various municipalities and states of the country, several political figures called for marches rejecting the recognition of the rights of people with diverse gender identities and sexual orientations and the legalization of abortion.³⁰³⁵

1391. On 24 July 2023, 33 people were arrested while participating in a party at the Avalon Club, a LGBTIQ+ spa-sauna in Valencia, Carabobo State. The premises were raided by the Bolivarian National Police without a court order.³⁰³⁶ The 33 people - mostly homosexual men - were transferred as witnesses to the Main Command of Los Guayos, Carabobo State, and, according to the testimonies of the detainees given to the Mission, the people detained were subjected to public ridicule by the agents of the Bolivarian National Police due to their sexual orientation.³⁰³⁷ Once at the police station, the Bolivarian National Police agents took away their cell phones, mocking their photographs and making discriminatory comments referring to stereotypes about their sexuality and sexual orientation and referring to them with female pronouns. The Police officers also took photographs that they released together with their names, phone numbers, and other personal information.³⁰³⁸ They were never told what crimes they had been arrested for and they were not able to call their families.³⁰³⁹ Several LGBTIQ+ NGOs denounced the events and the press dissemination of defamation and false news based on prejudices and stereotypes about sexual orientation and living with HIV.³⁰⁴⁰ On 26 July 2023, the Public Ministry charged them with the crimes of “outrage to decency” and

³⁰³¹ *Ibid.*

³⁰³² Interview with CEPAZ, 18 April 2023; Interview with Venezuelan Observatory of LGBTIQ+ Violence on 20 July 2023; Interview IIIV019; Interview IIIV006; Interview IIIV010; Interview IIIV046.

³⁰³³ Interviews with *Caleidoscopio Humano*, 10 May 2023 and 5 July 2023; Interview IIIV019.

³⁰³⁴ Interview with *Caleidoscopio Humano*, 10 May 2023. Interview IIIV019.

³⁰³⁵ On 16 July 2022, Unified Socialist Party of Venezuela mayor of the Plaza-Guarenas municipality in Miranda State, Freddy Rodríguez led one of these marches and named Plaza-Guarenas as the “first pro-life and pro-family municipality” in the country. See *Reporte Católico Laico*, Primera Marcha por la vida y la familia reúne a católicos y evangélicos en Guarenas, 15 July 2022. Available at:

<https://reportecatolicoLaico.com/2022/07/15/primera-marcha-por-la-vida-y-la-familia-reune-a-catolicos-y-evangelicos-en-guarenas/>; *El Guardian Católico*, Primera Marcha por la vida y la familia reúne a católicos y evangélicos en Guarenas, 14 July 2022. Available at:

<https://elguardiancatolico.blogspot.com/2022/07/primera-marcha-por-la-vida-y-la-familia.html>;

Monitoreamos.com, alcalde chavista de Guarenas encabezó marcha contra el aborto y derechos LGBT, 17 July 2022. Available at:

<https://monitoreamos.com/venezuela/alcalde-chavista-de-guarenas-encabezo-marcha-contr-el-aborto-y-derechos-de-personas-lgbt>, <https://www.instagram.com/p/CgKz0JLPqXd/>; Tweet by Laidely Grimán

[@LaidelyPsuv], 13 July 2023. Available at:

<https://twitter.com/LaidelyPsuv/status/1679651282351423488?t=UIJhCXEkJie2JU8jbn5Qyg&s=19>; Tweet

by TalCual [@DiarioTalCual], 13 July 2023. Available at:

<https://twitter.com/DiarioTalCual/status/1679593200795672577?t=J0hX-mrK0fG3Gr0RaTF8ww&s=19/>.

³⁰³⁶ Interview ACCSI, COFAVIC and the 33 victims, 8 August 2023.

³⁰³⁷ Tweet by COFAVIC [@COFAVIC], 28 July 2023. Available at:

<https://twitter.com/cofavic/status/1684997845311520768?s=48&t=hB0glxSHctYZvIxV5f-vgg/>; WTC

Radio, Koddy Campos: Allonar espacios por simplemente haber homosexuales es un delito, 25 July 2023.

Available at: <https://wtradio.net/koddy-campos-allonar-espacios-por-simplemente-haber-homosexuales-es-un-delito/>; Tweet by ACCSI VIH/SIDA [@ACCSI_VIHSIDA], 25 July 2023. Available at:

https://twitter.com/ACCSI_VIHSIDA/status/1683955489359687681?t=5oPRVp9GD3L4ur5YkV4DPw&s=08/.

³⁰³⁸ Interview ACCSI, COFAVIC and the 33 victims, 8 August 2023.

³⁰³⁹ *Ibid.*

³⁰⁴⁰ Tweet by ACCSI VIH/SIDA [@ACCSI_VIHSIDA], 25 July 2023. Available at:

[https://twitter.com/ACCSI_VIHSIDA/status/1683962157686292480?t=hvb8OFxBtDYp3qu_Ive3Og&s=08](https://twitter.com/ACCSI_VIHSIDA/status/1683962157686292480?t=hvb8OFxBtDYp3qu_Ive3Og&s=08;);

“illicit association”, provided for in articles 381 and 287 of the Penal Code, respectively. With the exception of three, 30 people were released that same day under parole.³⁰⁴¹

1392. This news prompted several protests, in which the “escalation of a state policy of persecution and discrimination against LGBTIQ+ people” was denounced.³⁰⁴² This situation has had important impacts on the detained people. Some of them are receiving psychological treatment and others have lost their jobs, or even had to leave the family home, in cases where these people had not made their sexual orientation public.³⁰⁴³

3. Gender dimensions of threats and harassment

(a) Threats and harassment of civil society

1393. The NGO CEPAZ documented - through its monitoring of digital news portals - 818 cases of persecution and criminalisation of communicators, human rights defenders, and political activists, during the year 2021: 73 against women and 534 that it could not classify according to gender. In 2022, the figures reached 523 cases of persecution and criminalisation, of which 68 concerned women and 196 could not be classified by gender.³⁰⁴⁴ The main perpetrators were the state security forces.³⁰⁴⁵ The organisation attributes the decline to self-censorship of activism and to the fact that the backdrop of the human rights crisis that the country is going through has affected the Venezuelan social and organisational structure. It also particularly mentions women, who in many cases abandoned their participation in public spaces to meet their family's survival needs.³⁰⁴⁶

1394. One of these organisations has been the NGO Prepara Familia and its director Katherine Martínez, who has been harassed for denouncing the serious situation at the J.M. De los Ríos Hospital. This institution is marked by erratic distribution of medicines and supplies, staff migration, essential reagents shortages, and failures in equipment and services.³⁰⁴⁷ The situation has disproportionately harmed women who make up 98% of workers. They not only endure the difficult conditions of hospital infrastructure, but they have also reported suffering impacts on their mental health due to the high emotional burden they experience.³⁰⁴⁸

1395. Several NGOs expressed their concern about the messages spread by political and religious leaders. They actively fuel misinformation and/or intolerance against LGBTIQ+ people in Venezuela, which is also replicated by the media.³⁰⁴⁹ Notwithstanding the fact that the Venezuelan State has made reference to the UN of its outright

Youtube Video - Edgar Carrasco, 29 July 2023. Available at:

<https://www.youtube.com/watch?v=d7NOXo1mEpA>.

³⁰⁴¹ Document IIDOC009: denuncia a la Fiscalía presentada por OVV LGBTOQ+; Tweet by Provea [@_Provea], 27 July 2023. Available at: https://twitter.com/_Provea/status/1684604491444650007; Youtube Video - El Tiempo, Liberan a 30 personas detenidas durante redada en local LGBTIQ+ en Venezuela, 27 July 2023.

Available at: <https://www.youtube.com/watch?v=580FmAw0Ucs/>.

³⁰⁴² Swiss info, Activistas protestan en Caracas contra la "política de persecución" a la comunidad LGBTI, 28 July 2023. Available at: https://www.swissinfo.ch/spa/venezuela-lgbti_activistas-protestan-en-caracas-contrala-pol%C3%ADtica-de-persecuci%C3%B3n--a-la-comunidad-lgbti/48697994/; Infobae, La comunidad LGBTI protestó en Caracas contra la “política de persecución” del régimen de Nicolás Maduro, 28 July 2023. Available at: <https://www.infobae.com/venezuela/2023/07/29/la-comunidad-lgbti-protesto-en-caracas-contrala-politica-de-persecucion-del-regimen-de-nicolas-maduro/>.

³⁰⁴³ Interview ACCSI, COFAVIC and the 33 victims, 8 August 2023.

³⁰⁴⁴ CEPAZ, Monitoreo de persecución y criminalización en Venezuela, 2023, p. 7.

³⁰⁴⁵ *Ibid.*

³⁰⁴⁶ Interview with CEPAZ, 18 April 2023.

³⁰⁴⁷ Case 24: Katherine Martínez García and *Prepara Familia*.

³⁰⁴⁸ Shadow Report to the 85th Session of the CEDAW Committee presented by *Centro de Justicia y Paz (CEPAZ)*; *Fundación de lucha contra el Cáncer de Mama (FUNCAMAMA)*; *Prepara Familia*; *UNIANDES*; *Acción Solidaria* and *Unión Afirmativa*. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2648&Lang=en; *Prepara Familia*, Un 98 % de las personas que cuidan a los pacientes pediátricos son mujeres, 21 April 2021. Available at: <https://preparafamilia.org/mujeres-cuidadoras-del-j-m-de-los-rios-tienen-tres-anos-sin-suministro-de-alimentacion>.

³⁰⁴⁹ This occurred in the case of the 33 people arrested in Valencia. See, among many, Tweet by La Patilla [@la_patilla], 24 July 2023. Available at: https://twitter.com/la_patilla/status/168358734221194882?t=5s9CG1EhFx1aUvGbltmwA&s=19/. *La Otra Versión*, Cuando hacían una “Orgía gay”, detienen a 30 hombres por comercializar con pornografía en

condemnation of discriminatory messages that promote hatred and religious narratives against people of diverse gender identity and sexual orientation,³⁰⁵⁰ the Attorney General Tarek William Saab made several comments on Twitter defending the traditional conception of the heterosexual family and his position against what he calls “gender ideology.”³⁰⁵¹ On several occasions, representatives from different states in the Bolivarian Republic of Venezuela have made comments publicly against the rights of people of diverse sexual orientation and gender identity and gender expressions in various spaces.³⁰⁵²

1396. The NGO Observatorio Venezolano de Violencias LGBTIQ+ (OVV LGBTIQ+) has documented an increase in hate speech by state authorities in the first half of 2023 in relation to the year 2022³⁰⁵³. In total, the OVV LGBTIQ+ documented in 2022, 97 cases of discrimination or violence against LGBTIQ+ people - especially cisgender men and transgender women - 22 of which constituted hate incidents committed by officials or public figures in a context of political persecution and closure of civic space.³⁰⁵⁴ Between January and April 2023, the OVV LGBTIQ+ reported that 60 hate incidents were committed, 20 of them by public officials and state authorities.³⁰⁵⁵

1397. The NGO denounced that the dominant narratives in the political and educational spheres promote traditional conceptions of the family and publicly reject the rights of people of diverse sexual orientations and gender identities and/or expressions.³⁰⁵⁶ According to this organisation, the persecution of those who make up the LGBTIQ+ movement has also had an impact on the freedom of movement of these people, given the fear of violence in public spaces, where most of the attacks against these people occur³⁰⁵⁷.

1398. In a case documented by the Mission, members of a *colectivo* harassed a defender, for receiving LGBTIQ+ people in a relative’s home. According to her testimony, the defender moved during the pandemic to live with her relative whose house is located in an impoverished neighbourhood, where the fact that she had a personal computer and printer attracted a lot of attention.³⁰⁵⁸ When she received visits from people from the LGBTIQ+ community, the members of the *colectivos* began to ask her, in an intimidating manner, about what she was doing with “*those weirdos*” and insulted these people by calling them “*mosquitos*” (“sissies”)³⁰⁵⁹ all the time. In addition, these *colectivo* members scratched her vehicle and asked her again and again to print things for them for free, which she could not refuse to avoid retaliation or attacks on her or her mother.³⁰⁶⁰

Valencia. Available at: <https://laotraversion.com/sucesos/cuando-hacian-una-orgia-gay-detienen-a-30-hombres-por-comercializar-con-pornografia-en-valencia/>. Tweet by Llanero Digital [@LlaneroDigitalV], 25 July 2023. Available at: <https://twitter.com/LlaneroDigitalV/status/1683779126765793284?s=20/>. Tweet by Diario Nuevo Día [@nuevodíaenlinea], 24 July 2023. Available at: <https://twitter.com/nuevodíaenlinea/status/1683620828162949120?s=20>.

³⁰⁵⁰ *Ibid.*, UN web TV, IE on Sexual Orientation - 6th Meeting, 53rd Regular Session of Human Rights Council, 21 June 2023. Available at: <https://media.un.org/en/asset/k15/k15ev5gopb> [min 56:16].

³⁰⁵¹ Tweet by Tarek William Saab [@TarekWilliamSaab], 3 October 2022. Available at: <https://twitter.com/TarekWilliamSaab/status/1577111823031177216>; Tweet by Tarek William Saab [@TarekWilliamSaab], 22 November 2022. Available at: <https://twitter.com/tarekwiliamsaab/status/1595267450500694016/>.

³⁰⁵² Franklyn Duarte in *Caleidoscopio Humano*, Diputado propone “Ley Qatar” para comunidad LGBTIQ+ de Venezuela, 6 July 2022 regarding the Táchira Pride March. Available at: <https://caleidohumano.org/diputado-propone-ley-qatar-para-comunidad-lgbtqi-de-venezuela/>; YouTube Video- *Globovisión*, Primera Página | Dip. AN Franklin Duarte y la Dip. Maribel Castillo en una Interview en Globovisión el: Comunidad LGBTIQ+, 15 July 2022. Available at: <https://www.youtube.com/watch?v=0LrhFkToUx4>; *Noticias24Carabobo*, Rechazan matrimonio igualitario en San Francisco Zulia, 9 November 2022. Available at: <https://noticias24carabobo.com/alcalde-san-francisco-rechaza-union-personas-lgbtqi/>.

³⁰⁵³ Venezuelan Observatory on LGBTIQ+ Violence, Rompiendo el Silencio, Informe Anual sobre violencia LGBTIQ+ en Venezuela durante el año 2022 (2023), p. 16.

³⁰⁵⁴ *Ibid.*, p. 22.

³⁰⁵⁵ Venezuelan Observatory on LGBTIQ+ Violence, Tercer Boletín: Discriminaciones y violencias contra las personas LGBTIQ+, p. 3-8. Available at: <https://nomasdiscriminacion.org/boletines-e-informes/ovvlgbtiq-balance-junio-2023/>.

³⁰⁵⁶ *Ibid.*

³⁰⁵⁷ Venezuelan Observatory on LGBTIQ+ Violence, Rompiendo el Silencio, Informe Anual sobre violencia LGBTIQ+ en Venezuela durante el año 2022 (2023), p. 21.

³⁰⁵⁸ Interview WWIV006.

³⁰⁵⁹ *Ibid.*

³⁰⁶⁰ *Ibid.*

1399. The Mission registered a case of doxing³⁰⁶¹ by the representative of the Legislative Council of Táchira, Sofía Palencia Varela, against the journalist Gabriel Bastidas in July 2022. On that occasion, Palencia granted the journalist from the media company *Monitoreamos* an interview about a public ordinance on the protection of the “original family”, which she had promoted in the Municipal Council of Capacho Viejo.³⁰⁶² After the publication of the news, which included her statements against the LGBTIQ+ movement, she began to harass the journalist and published his personal telephone number on social networks.³⁰⁶³

1400. In the media, the general climate of censorship of certain political and human rights issues also extends to women's rights. Although this issue is discussed on radio programs, a human rights defender interviewed by the Mission explained that very “radical” feminists or those who speak “badly about the government” are not invited or interviewed in the media³⁰⁶⁴.

1401. The cases documented in chapter IV also show that threats, harassment and sometimes direct attacks against both male and female human rights defenders usually also extend to their families, as a strategy to break people and thus hindering or stopping their work or forcing them to leave the country.³⁰⁶⁵ The social imposition of the role of caregivers on women means that this type of repression has had an even greater impact on women defenders, especially those who are heads of families. A women's rights defender who continues to work from exile told the Mission that “*the decisions that women have made linked to the issue of persecution are based on their family and their children. For men it matters, but for women, it is crucial.*”³⁰⁶⁶ Several feminist activists and women's rights defenders interviewed by the Mission stated that the fear of the impact that repression and prosecution could have on their families, sons and daughters, was determinant in their decision to reduce their participation in the public sphere or leave the country altogether.³⁰⁶⁷

1402. In a case documented by the Mission, a criminal lawyer and human rights defender made the decision for her 27-year-old daughter to leave the country in early 2022, once the attacks directed at her directly threatened the physical integrity of her daughter. Specifically, on 10 May 2021, her daughter suffered an intentional act of violence against the vehicle she was driving, and in which her father was also traveling.³⁰⁶⁸

1403. In the case of General Vivas Perdomo, his wife and daughter - a human rights defender - also suffered various attacks and harassment since the General's release from prison, including an attack inside their home. The Inter-American Commission on Human Rights, which had granted precautionary measures in 2017 in favour of the General, decided to extend them in 2021 to his family, to also protect their physical and mental integrity.³⁰⁶⁹

1404. The family of the communicator Norbey Marín was also particularly affected by the persecution of Marín. In March 2021, the communicator decided to stop broadcasting on the YouTube channel that he was running from abroad. On this channel, he published information about the human rights situation in the Bolivarian Republic of Venezuela, until two of his relatives were detained and intimidated by the Scientific, Criminal and Forensic Investigations Corps so that Marín would stop publishing on the digital platform. After this, they managed to leave the country.³⁰⁷⁰

1405. A similar situation occurred in the case of a renowned human rights defender, Humberto Prado, to whom the Inter-American Court of Human Rights granted provisional measures in 2009, which remain in force today for his

³⁰⁶¹ *Doxing* refers to the publication of personal information.

³⁰⁶² *Monitoreamos*, Legisladora del Táchira promueve ordenanzas en defensa de «la familia originaria», 28 July 2022. Available at: <https://monitoreamos.com/venezuela/legisladora-del-tachira-promueve-ordenanzas-en-defensa-de-la-familia-originaria>.

³⁰⁶³ Tweet by IPYS Venezuela [@ipysvenezuela], 28 July 2022. Available at: <https://twitter.com/ipysvenezuela/status/1552687767053795329>; Tweet by SNTP [@sntpvenezuela], 28 July 2022. Available at: <https://twitter.com/sntpvenezuela/status/1552643417670402053/>.

³⁰⁶⁴ Interview with *Caleidoscopio Humano*, 3 March 2023.

³⁰⁶⁵ Case 32: Yasnaia Villalobos Montiel, Case 28: Franklin Alfredo Caldera Cordero. Interview SSIV004; Interview SSIV002; Interview IIV009.

³⁰⁶⁶ Interview with CEPAZ, 18 April 2023.

³⁰⁶⁷ *Ibid.*; Interview with the Venezuelan Observatory of Prisons, 19 April 2023; Interview with *100% Estrógeno*, 25 April 2023, Interview with Yasnaia Villalobos Montiel, 12 July 2023.

³⁰⁶⁸ Interview with Yasnaia Villalobos Montiel, 27 Junio 2023; Interview AAIV041.

³⁰⁶⁹ Case 30: Ángel Omar Vivas Perdomo and relatives.

³⁰⁷⁰ Case 31: Norbey Marín.

human rights work.³⁰⁷¹ His wife, also a human rights defender, began to receive threats since she assumed the direction and became spokeswoman for the work of the Venezuelan Prison Observatory organisation in 2019. She received phone calls for months, in which she was insulted in a sexist manner, “*shut up bitch, I’m going to kill you.*”³⁰⁷² She also received threats against the integrity of her children “*we are going to send you the little boys in a bag.*”³⁰⁷³ On 8 July 2020, the Inter-American Court expanded the provisional measures to also protect her and the children.³⁰⁷⁴ The well-founded fear of potential retaliation against their children, just because of their role as defenders, finally led the family to leave the country in November 2020.

1406. As analysed in this conference room paper, threats and harassment against activists, journalists and human rights defenders are widespread in Venezuela, with varying impacts depending on the gender of the people. The gender impact of these attacks is exacerbated by the social expectation that women take on caregiving roles, leading some women to withdraw from public participation to protect their families. Coupled with this, the spread of misinformation and intolerance against the LGBTIQ+ community, fuelled by political and religious leaders, has led to an increase in incitement of hatred and violence against people with diverse sexual orientations and gender identities. Women and people from the LGBTIQ+ community are especially vulnerable to discrimination, threats and violence, which also affect their freedom of movement and their participation in public life.

(b) Threats and harassment in the political sphere

1407. The United Nations Working Group on the issue of discrimination against women in law and practice, in its thematic report on the political representation of women in the world, noted that “stigmatization, harassment and direct attacks have been used to silence and discredit women who make their voices heard as leaders (...). Sexual harassment of political candidates has been reported as a tactic to discourage women from exercising their right to vote (...).”³⁰⁷⁵ In this regard, the United Nations General Assembly has urged States to “create an environment of zero tolerance for perpetrated [crimes of violence, aggression or harassment] against women elected to hold public office and candidates for political office.”³⁰⁷⁶

1408. Several Venezuelan female politicians interviewed by the Mission, including a transgender woman, agreed that there is a culture of political violence against women who access the public scene, which affects both opposition and pro-government women.³⁰⁷⁷ As a well-known presidential candidate indicated, unlike men, women who work in politics are often the object of sexist insults and ridicule; for example, “*if a woman is pretty or stunning, Diosdado Cabello calls her stupid in the [TV programme] Con el Mazo Dando*”³⁰⁷⁸. In the episode 437 of this show, aired on 22 June 2023, the candidate Delsa Solórzano was subject of stigmatizing statements in a mocking mini-section where images and videos of her were shown with direct and constant references to her physical appearance - “*plastic woman*” -, her way of dressing, and her intellectual abilities³⁰⁷⁹. According to her own testimony, the presidential candidate for the Vente Venezuela party, María Corina Machado, also identified patterns of repression based on her gender in the constant attacks she has received from the Government³⁰⁸⁰. Among others, the politician highlighted the comics with sexual and obscene content in which she appears, made by the Unified Socialist Party of Venezuela (PSUV by its Spanish acronym), and the public references to her by the authorities as “*the crazy lady.*”³⁰⁸¹

³⁰⁷¹ Interview IIIV009.

³⁰⁷² A/HRC/23/50, para. 65.

³⁰⁷³ Interview IIIV009.

³⁰⁷⁴ Inter-American Court of Human Rights, Matter of Certain Venezuelan Prisons Humberto Prado, Mariala Sánchez Ortiz and Family. Provisional measures regarding Venezuela, 8 July 2020.

³⁰⁷⁵ A/HRC/23/50, para. 65.

³⁰⁷⁶ A/RES/66/130, i.

³⁰⁷⁷ Interview with Iris de Franca, 9 May 2023; Interview IIIV019.

³⁰⁷⁸ Interview with Delsa Solórzano, 6 February 2023.

³⁰⁷⁹ *Ibid.*

³⁰⁸⁰ Interview with María Corina Machado, 13 July 2023.

³⁰⁸¹ *Ibid.*

1409. The political activist Richelle Briceño and the candidate Tamara Adrián were threatened and reported for gender violence, without further judicial consequences, by a deputy of the National Assembly in July 2022, just for requesting that hate speech be investigated and punished.³⁰⁸²

1410. The Mission also documented the death threats and insults that the general secretary of the opposition political party Avanzada Progresista in Trujillo and councillor of the municipality of Varela, in the same State, Iraly Guerrero, received from the Governor of this State, Gerardo Márquez. Iraly Guerrero is also president of the College of Teachers of Trujillo State and leads the fight for the rights of educators in that State for several years.³⁰⁸³ As part of her participation in the January 2023 manifestations demanding better salaries and better working conditions, Guerrero began to receive insults and threats.³⁰⁸⁴ On 24 March 2023, Márquez referred to her on his radio program “*Háblame Gerardo*” on the *Paisana Estéreo* station, calling her an “*opposition councilor*,”³⁰⁸⁵ disqualifying her again and directing death threats as she interpreted it. Specifically, in the program Márquez said: “*I think she is going to report me to the Public Ministry, I think she is going to go to the International Criminal Court, and I am going to offer her means to go to the Heavenly Court as well. I am very worried*”³⁰⁸⁶. The Governor referred to her as “*Cruella de Vil*”³⁰⁸⁷ for her physical appearance and attitude and alluded to her mental state saying that “*I used to consider her a normal person, but now I have doubts*”³⁰⁸⁸. The comment exemplifies the attack on women who assume leadership roles and being able to call them “*crazy*” or “*hysterical*” and referring to them in mocking terms in public and through mobile messaging groups³⁰⁸⁹. The Councillor Iraly Guerrero denounced the Governor for political violence and computer violence as forms of gender violence, in accordance with the 2021 reform of the Organic Law on the Right of Women to a Life Free of Violence (see chapter V.A.). At the time of writing this report, the investigation was still ongoing.

1411. As analysed in chapter IV, the Mission identified a pattern of physical attacks against opposition politicians, particularly in the context of the electoral campaign.³⁰⁹⁰ In many of the cases - although not in all - it was women close to the Government who carried out the violence. In the opinion of several people interviewed by the Mission, the participation of women in this type of attacks reflects a conscious strategy of exploiting the Law on

³⁰⁸² Document IIDC001: Report on cases of persecution OVV LGBTIQ+; Tweet by Maribel Castillo [@CastilloMaribel], 1 August 2022. Available at: <https://twitter.com/CastilloMaribel/status/1554286152231919617>; Tweet by Ericka López Sánchez, [@ErickaEliberte], 2 August 2022. Available at: <https://twitter.com/ErickaEliberte/status/1554499118982221826>; *Observatorio de Violencias LGBTIQ+, Rompiendo el Silencio: Informe Anual sobre violencia LGBTIQ+ en Venezuela durante el año 2022 (2023)*, p. 55.

³⁰⁸³ *Efecto Cocuyo*, Docentes trujillanos se sumaron al paro nacional de 48 horas, 22 October 2019. Available at: <https://efectococuyo.com/la-humanidad/docentes-trujillanos-se-sumaron-al-paro-nacional-de-48-horas/>; *Diario de los Andes*, Iraly Guerrero: Hemos mantenido una defensa sostenida de los derechos de los educadores, 30 September 2017. Available at: <https://diariodelosandes.com/iraly-guerrero-mantenido-una-defensa-sostenida-los-derechos-los-educadores/>.

³⁰⁸⁴ The year 2023 began with a reactivation of the protests that had taken place in 2022 by various public sector workers, including education, health and transportation unions. See *Efecto Cocuyo*, El Chavismo marcha en simultáneo a la protesta de maestros y trabajadores este 23 de enero, 22 January 2023. Available at: <https://efectococuyo.com/la-humanidad/protesta-nacional-maestros-trabajadores-chavismo-23-de-enero/>.

³⁰⁸⁵ Document IIDC003: Iraly Guerrero filed a complaint with the Attorney General of the Bolivarian Republic of Venezuela, p. 3.

³⁰⁸⁶ *Ibid.*, *Diario de los Andes*, Gobernador a Iraly Guerrero: yo le voy a ofrecer un medio para que me denuncie en la Corte Celestial, 14 April 2023. Available at: <https://diariodelosandes.com/gobernador-a-iraly-guerrero-yo-le-voy-a-ofrecer-un-medio-para-que-me-denuncie-en-la-corte-celestial/>; Document IIDC004: audios with threats by Gerardo Márquez.

³⁰⁸⁷ In reference to a Disney movie character.

³⁰⁸⁸ Interview with Iraly Guerrero, 5 June 2023.

³⁰⁸⁹ On 24 March 2023, Governor Gerardo Márquez said on his radio program *Háblame Gerardo* on *Paisana Estéreo* radio station, the following: “I think she is going to denounce me before the Public Ministry, I think she is going to go to the International Criminal Court, and I am going to offer her a way to go to the Heavenly Court as well. I am very worried”. Later, Governor Gerardo Márquez continued mentioning Mrs. Guerrero in his radio program: “That lady I thought she was normal [...] who now admits she is Cruella de Vil [...] I thought she was normal, now I have doubts, ha ha ha, I have doubts” (...) I met with the 101 Dalmatians (...) there are about ten lawyers who are going to help me with Cruella De Vil (...) there is one who wants to make a movie, another movie of Cruella de Vil and yesterday I said... what if we make this lady the main character? (...) but the important thing is that they are going to defend me”. Documents no. IIDC003 and IIDC004.

³⁰⁹⁰ Interview with Iris de Franca, 9 May 2023; Interview with María Corina Machado, 13 July 2023.

Violence against Women, to be able to file complaints in accordance with the aforementioned law in the event of a physical response to attacks by men.³⁰⁹¹

1412. To adequately measure the impact and its harmful effect on women, it is important to remember that these attacks occur in a context of sexist culture. The political leader Iris de Franca, of the opposition party Cambiemos (“Let’s Change”), told the Mission of the threats and harassment she was subjected to by her ex-partner in February 2021 in Los Teques, in the Guaiacaipuro municipality, Miranda State. At the time of the events, her ex-partner held a high position in the Mayor’s Office of Carrizal, in the same state of Miranda, where his brother was Mayor.³⁰⁹² According to the complaint filed with the Scientific, Criminal and Forensic Investigations Corps (CICPC by its Spanish acronym) and the Women’s Prosecutor’s Office, the aggressor threatened to broadcast some sexual videos that both had recorded consensually when they were a couple. He also threatened her to show these videos to her 8-year-old son who has an autistic spectrum disorder. According to the complaint, the threats made reference to the impact that the dissemination of the video could have on her political career because “*you are a woman, I am a man, this affects you socially...it is not so bad when it is about men.*”³⁰⁹³

1413. The Mission also collected the testimony of a female political activist who was victim of a sexual assault by an unidentified man at the entrance of the National Assembly on 7 January 2020, and who was recording her with a mobile phone.³⁰⁹⁴ According to her testimony, as a result of the attack there was a struggle to take the phone from him and the man insulted her in a sexist manner saying “*get this woman off of me, get this motherfucker off of me*” and the device ended up getting lost.³⁰⁹⁵ This incident provoked public ridicule from the Public Prosecutor and from the Deputy Diosdado Cabello. The former even announced that he was going to open a case against her for the alleged theft of the mobile phone, and Diosdado Cabello in his program and on his social networks referred to her as the “*phone stealer.*”³⁰⁹⁶ For the politician, these actions show “*a certain disdain towards women and a sexist attitude.*”³⁰⁹⁷

1414. Overall, the competition in political discourse affects women differently since sexist aggression is also used against them (through insults, objectification and derogatory comments about their appearance and abilities) to try to silence them and displace them from the positions of leadership that they have achieved due to their political militancy.

(c) Online stigmatization and gender-based violence

1415. The CEDAW Committee has recognized that online violence is a contemporary form of violence against women³⁰⁹⁸. According to the Follow-up Mechanism of the Belém do Pará Convention (MESECVI) of the Organization of American States (OAS), it is important to understand that the repercussions of these forms of violence “do not differ from the effects of offline violence” despite the fact that “persisting lack of proper understanding of the seriousness of the consequences and harm that online violence causes to women, harm that is often considered ‘not real’.”³⁰⁹⁹ The Venezuelan internal regulatory framework penalizes “computer violence” as a specific form of violence against women.³¹⁰⁰

1416. According to people interviewed by the Mission, social networks in Venezuela have become the predominant space where hate narratives and sexist and homophobic violence against women and people with diverse

³⁰⁹¹ *Ibid.*; Tweet by Henrique Capriles [@hcapriles], 2 June 2023. Available at: <https://twitter.com/hcapriles/status/1664778282309500928?cxt=HHwWgIC-reDBvZouAAAA>.

³⁰⁹² Document IIDC005; Interview with Iris de Franca, 9 May 2023.

³⁰⁹³ Interview with Iris de Franca, 9 May 2023; Document IIDC055: screenshots of conversations with her ex-partner.

³⁰⁹⁴ Interview with María Beatriz Martínez, 23 February 2023.

³⁰⁹⁵ *Ibid.*

³⁰⁹⁶ Instagram *Con el Mazo Dando* [@mazo4f], Batalla campal: las dos Marías, 20 February 2023. Available at: https://www.instagram.com/reel/Co479wxDnE9/?utm_source=ig_web_button_share_sheet.

³⁰⁹⁷ Interview with María Beatriz Martínez, 18 February 2023.

³⁰⁹⁸ Committee on the Elimination of Discrimination against Women (CEDAW), General Recommendation No. 35, CEDAW/C/GC/35 (2017), paras. 20, 30(d).

³⁰⁹⁹ OAS, MESECVI, Online Gender-Based Violence against Women and Girls: Guide of Basic Concepts, p. 14. Available at: <https://www.oas.org/en/sms/cicte/docs/Guide-basic-concepts-Online-gender-based-violence-against-women-and-girls.pdf>

³¹⁰⁰ Art. 19, Organic Law on the Right of Women to a Life Free of Violence, *supra*.

sexual orientations and gender identities are replicated³¹⁰¹. Several people interviewed by the Mission expressed their fear about the sexist attacks they receive, especially through the social network Twitter³¹⁰². A defender of sexual and reproductive rights told the Mission: “one day I received more than 200 hate messages for a comment. They called me a terrorist, and this affects my mental health; you stop saying a lot of things or if you do, it is very carefully, thinking about who you say them to and how you express yourself”³¹⁰³.

1417. The Mission analysed 22 examples of discriminatory speech by State officials, inciting hatred between July 2022 and July 2023.³¹⁰⁴ The examples documented by the Venezuelan Observatory of LGBTIQ+ Violence show that violence is carried out through the denial of people’s gender identity and sexuality.³¹⁰⁵ On the contrary, in the case of heterosexual men, the insults are usually linked to their alleged actions against the Government, as was the case of the online campaign against human rights defender Javier Tarazona, called “#TarazonaMercenario (#TarazonaMercenary)”³¹⁰⁶.

1418. As the Mission documented, in March 2021, after a thematic hearing before the Inter-American Commission on Human Rights on women's rights in Venezuela, the director of the organization *Caleidoscopio Humano* received a large number of attacks on social networks, calling her, among other names, “aborter”³¹⁰⁷. Other women who participated in the hearing were also insulted. More than 150 different accounts that participated in the attacks were documented³¹⁰⁸.

1419. As a political activist explained to the Mission, this type of attack is also recurrent in the political sphere and is characterized by the dissemination of sexist or discriminatory insults promoted by political leaders, especially middle-ranking officials. These insults, subsequently, are replicated on networks by a multitude of users³¹⁰⁹. These insults have clear gender connotations, given that women are disproportionately attacked for their physique or sexuality, while in the case of men, they are more often accused of being corrupt or thieves. According to the same source, these insults come mostly from anonymous user accounts³¹¹⁰. Other people interviewed by the Mission³¹¹¹ confirmed having also received messages from people with clear links to the ruling party, as well as from bot networks³¹¹² or botnets.³¹¹³

1420. On 12 July 2023, the electoral debate took place with the main opposition candidates for the 2024 presidential elections. Tamara Adrián, the first transgender woman to run for elections, was the victim of hate messages on the social network Twitter by anonymous people, mainly alluding to her gender identity and alluding

³¹⁰¹ Interviews with *Caleidoscopio Humano*, 10 May and 5 July 2023; Interview IIIV031; Interview with OVV LGBTIQ+, ACCSI and COFAVIC, 20 July 2023.

³¹⁰² Interview IIIV031; Interview with *Caleidoscopio Humano* on 3 March 2023; Interview with Iris de Franca on 9 May 2023.

³¹⁰³ Interview IIIV031.

³¹⁰⁴ Document IIDC001: Cases of LGBTIQ+ OVV persecution report.

³¹⁰⁵ Venezuelan Observatory on LGBTIQ+ Violence, *Rompiendo el Silencio: Informe Anual sobre violencia LGBTIQ+ en Venezuela durante el año 2022 (2023)*, p. 54. Available at: <https://nomasdiscriminacion.org/wp-content/uploads/2023/04/OVVInforme1.pdf>

³¹⁰⁶ Analysis of this campaign by the *Proboxve* organisation. #TarazonaMercenario Available at: <https://proboxve.org/en-US/publicacion/maduro-y-la-caceria-de-activistas-Case-javier-tarazona>.

³¹⁰⁷ Interview with *Caleidoscopio Humano*, 3 March 2023.

³¹⁰⁸ *Ibid.*

³¹⁰⁹ Interview with Iris de Franca, 9 May 2023.

³¹¹⁰ *Ibid.*

³¹¹¹ *Ibid.* Interview with OVV LGBTIQ+, ACCSI and COFAVIC, 20 July 2023, Interview with Leopoldo López, 4 July 2023; Interview with Juan Guaidó, 24 July 2023; YouTube Video, *Con el Mazo Dando – Program 370*, 5 January 2022. Available at: <https://www.youtube.com/live/9IajeNfkz1c?feature=share&t=1598/>; YouTube Video, *Con el Mazo Dando – Program 371*, 19 January 2022. Available at: <https://www.youtube.com/live/zH-U72bBotk?feature=share&t=4546/>.

³¹¹² A bot is an automated social media account, managed by an algorithm, and not by a real person. In other words, a bot is designed to make posts without human intervention. See <https://ijnnet.org/es/story/todo-lo-que-hay-que-saber-sobre-trolls-bots-y-botnets>.

³¹¹³ A botnet is a network of bot accounts managed by the same individual, designed to fabricate an engagement that makes the subject matter in which the botnets are involved appear to have more "real" users than there are actual users. See <https://ijnnet.org/es/story/todo-lo-que-hay-que-saber-sobre-trolls-bots-y-botnets>.

that she was not actually a woman, but a man and that “she had a penis.” The hashtag #TamaraAdrian became a trend for Venezuela on that social network.³¹¹⁴

1421. The Mission received allegations from journalist Yohana Marra, who was covering the so-called “Güiria shipwreck” – in which more than 20 migrants died on the journey to Trinidad and Tobago – and who was subject to harassment on social networks and in media.³¹¹⁵ According to her testimony, the journalist especially suffered attacks from a well-known television presenter linked to the Government who accused her of lying to discredit the State in relation to migration out of Venezuela.³¹¹⁶ According to her, these attacks sought to discredit her work, devaluing her as a journalist and adult woman, referring to her pejoratively as “a little girl”, “a poor unsuccessful journalist” and “a poor girl.”³¹¹⁷ The comments generated a wave of hate messages on social networks calling her a “liar”, “a sycophant” and of being paid by the opposition.³¹¹⁸

1422. The situation of hostility towards the journalist escalated and the Government published two statements, dated 14 December³¹¹⁹ and 16 December 2020³¹²⁰, signed by the then Minister of People’s Power for Interior Relations, Justice and Peace, Carmen Teresa Meléndez Rivas, mentioning the need to investigate the journalists and media that were spreading false news. The journalist considered this a direct attack against her³¹²¹. She was also mentioned by Diosdado Cabello on the program *Con el Mazo Dando*³¹²². As a result of these events, the journalist decided to leave her home for a few days and reduce her presence on social networks. From then on, she has been very careful and self-censoring when choosing the topics she writes about.³¹²³

1423. Self-censorship on networks is a recurring impact on women activists who are victims of this type of harassment. According to one activist, “*this type of situation makes you think that maybe you should censor yourself, because you don't know if these insults can escalate to threats or attacks*”³¹²⁴. In the experience of another defender: “*now I censor myself, a pro-government woman was recently arrested for accompanying a TOP (termination of pregnancy) case and even though there was a campaign for her release on Twitter, I didn't tweet anything, I kept a low profile.*”³¹²⁵

1424. The Mission received testimonies from several women defenders who have established different security protocols, to protect themselves from this harassment and out of fear that it will escalate to physical attacks or criminalisation processes. These protocols include preventive actions such as the use of keywords and multiple secure messaging platforms, the establishment of contact guides and digital hygiene, frequently deleting all emails and messages.³¹²⁶

1425. It is important to understand the repercussions that these forms of violence can have on traditionally vulnerable people, especially women. The implementation of security protocols by the defenders reflects their attempt to protect themselves from online harassment and protect their personal and professional lives. The gender impact of online violence is often overlooked, and society underestimates the severity of its consequences, leading to a lack of

³¹¹⁴ Document IIDC006: Screenshots of posted messages.

³¹¹⁵ Interview with Yohana Marra, 6 July 2023.

³¹¹⁶ *Ibid.*

³¹¹⁷ *Ibid.*; Tweet by Monitor de Víctimas [@MonitorVictimas], 13 December 2020. Available at: <https://twitter.com/monitorvictimas/status/1338191860045635589>; IPYS Venezuela, Una reportera y defensores de DDHH atacados por dirigente chavista Mario Silva, 22 December 2020. Available at: <https://ipysvenezuela.org/alerta/alerta-ipysve-una-reportera-y-defensores-de-ddhh-atacados-por-dirigente-chavista-mario-silva/>.

³¹¹⁸ *Ibid.*

³¹¹⁹ Ministry of People’s Power for Interior, Justice and Peace, Press Release, 14 December 2020. Available at: <http://www.mppriyp.gob.ve/?p=78842>.

³¹²⁰ Ministry of People’s Power for Interior, Justice and Peace, Press Release, 16 December 2020. Available at: <http://www.mppriyp.gob.ve/?p=78855>

³¹²¹ Interview with Yohana Marra, 6 July 2023; *Asociación Civil Control Ciudadano*, Press Release: Amenazan, intimidan, hostigan y anuncian apertura de investigación contra periodistas y defensores de derechos humanos por informar sobre tragedia de Güiria, 16 December 2020. Available at: <https://www.civilisac.org/civilis/wp-content/uploads/CC-COMUNICADO-Amenazan-e-intimidan-a-periodistas-y-defensores.pdf>.

³¹²² Interview with Yohana Marra, 6 July 2023.

³¹²³ *Ibid.*

³¹²⁴ Interview with *Caleidoscopio Humano*, 3 March 2023.

³¹²⁵ Interview IIIV031.

³¹²⁶ *Ibid.*

adequate responses and support systems for affected women. However, the damage and effects that online violence has on women are not particularly distinct from those experienced offline.³¹²⁷

1426. In summary, the Mission has received allegations of the use of threats and harassment by the Government party or persons with authority in the State administration, which differentially affect women, men and people of gender identity and diverse sexual orientation, especially those who participate in political life or hold socially relevant positions. In the case of women activists, journalists and politicians, they face specific forms of violence and discrimination, driven by norms and social expectations prevalent in the country.

VI. Impacts on civic and democratic space

1427. The violations recorded in this report not only affect the direct victims, but also have important impacts on society in general, particularly in terms of access to information, the defence of human rights and democratic pluralism. The mechanisms of repression that were documented in the previous chapters not only violate the rights of people who express their dissent or opposition to the Government, but also threaten the freedoms and rights of other people through the reduction of their ability to inform themselves and to defend their rights and interests, and to participate fully in the conduct of public affairs.

A. Impacts on access to information

1. The deterrent effect of violations on journalists

1428. As analysed in chapter IV of this report, to avoid sanctions, people who work on radio stations and television channels in the Bolivarian Republic of Venezuela usually limit the topics they address, the terms they use and the interviews they conduct to CONATEL directives³¹²⁸. But the threat of administrative sanctions is not the only thing that has had an inhibiting impact on media coverage in the country. Arbitrary arrests and selective criminalisation of journalists, along with stigmatization and intimidation by authorities, have also led journalists to stop carrying out their work or self-censor the topics they cover and the way they communicate. Nine independent journalists informed the Mission that they or other journalist colleagues censor themselves or have even left the country and their work for fear of retaliation.³¹²⁹ This includes journalists who work for digital media and international media.

1429. Three journalists told the Mission that they avoid mentioning in their publications the names of State officials who are allegedly linked to violations or crimes and choose to continue working without running the risk of angering a person in power.³¹³⁰ Another journalist explained to the Mission that in recent years he has observed a growing number of journalists who no longer dare to “*challenge the Government*”. He stated “*It is not that the censorship situation is better. It's just that people are already too afraid and don't speak, which is why they don't have to be explicitly censored*”³¹³¹. Another journalist confirmed that the State manages to silence journalists “*in a way that is more subtle and difficult to document, with threats that they do not have to carry out*”, because there have been enough journalists detained, criminalized, and attacked by the Government. The latent threat of this retaliation is enough for people to self-censor.³¹³²

1430. Combined with the media censorship and radio closures documented in chapter IV of this report, this inhibitory effect ends up contributing to a reduction in the dissemination of information of public interest that can be considered criticism of the Government. This results in less access to information for the Venezuelan population. In

³¹²⁷ OEA, MESECVI, Online gender-based violence against women and girls, p. 14. Available at: <https://www.oas.org/es/sms/cicte/docs/Guia-conceptos-basicos-La-violencia-de-genero-en-linea-contras-las-mujeres-y-ninas.pdf>.

³¹²⁸ Interview OOIV035; Interview PPIV051; Interview with Luis Carlos Díaz, 1 March 2023; YouTube Video, Extra última Hora Sale del aire del “Mesa de Análisis” de la emisora Furia 89.9 FM en Barinas (Audio of Leonaldi Meza), 12 May 2023. Available at: <https://www.youtube.com/watch?v=L20y7PQFrkk>.

³¹²⁹ Interview with Jesús Medina, 22 November 2022; Interview with Víctor Ugas, 5 June 2023; Interview PPIV045; Interview with Luis Carlos Díaz, 1 March 2023; Interview OOIV035; Interview PPIV061; Interview with the NGO CAPIR, 24 February 2023; Interview with Carlos Correa, 17 February 2023; Interview with Mildred Manrique, 18 July 2023.

³¹³⁰ Interview with Víctor Ugas, 5 June 2023; Interview PPIV045; Interview PPIV061.

³¹³¹ Interview with Luis Carlos Díaz, 1 March 2023.

³¹³² Interview PPIV045.

the words of a journalist and expert on freedom of expression in Venezuela: “Every day there is less information. Every day fewer people know what is happening.”³¹³³

2. Information deserts

1431. The term “information desert” is used to describe an area where there is little or no media coverage of local public interest issues. In the case of Venezuela, this phenomenon has arisen due to a combination of factors, mainly government restrictions on the free functioning of the media, the criminalisation of journalism and free expression, as well as the lack of a telecommunications infrastructure that allows a reliable and regular news coverage.³¹³⁴

1432. According to data documented by the organisation Instituto Prensa y Sociedad (“Press and Society Institute”, or IPYS Venezuela), between October and December 2022 the number of municipalities classified as “information deserts” in the Bolivarian Republic of Venezuela has increased from 90 in 2020 to 133 in 2022.³¹³⁵ This figure represents 36% of the 335 municipalities in the country, affecting a total of 7,025,427 people.³¹³⁶ This is in addition to the 123 municipalities categorized as “moderate deserts”³¹³⁷ in 2022, which represent about 34% of the country. Therefore, IPYS Venezuela estimates that 70% of the country’s municipalities, comprising almost 15 million residents (approximately half of the population of the entire country), lack sufficient and appropriate means of communication to stay informed on public interest issues.³¹³⁸

1433. The IPYS Venezuela study reveals that in 2022 the states with the highest number of information deserts were Táchira (with 28 information deserts), Zulia (with 19) and Sucre (with 14).³¹³⁹ However, it is important to consider that rural states with fewer municipalities register a higher percentage of information deserts, such as Delta Amacuro (composed of only four municipalities, three of which are deserts and the other is a moderate desert) and Vargas (which has only one municipality of 11 parishes, of which seven are deserts and four moderate deserts).³¹⁴⁰ This highlights the disproportionate impact of the lack of media coverage in rural areas of the country.

1434. According to reports published by Venezuelan civil society organisations, the existence of areas without media coverage has created favourable contexts for the perpetration of attacks and acts of harassment. The absence of independent and diversified media, capable of highlighting such attacks, has increased the probability that these incidents are not properly recorded³¹⁴¹.

³¹³³ Interview with Edgar Cárdenas, 22 November 2022.

³¹³⁴ DW, *Se expanden los desiertos informativos en Venezuela*, 4 August 2023. Available at: <https://www.dw.com/es/se-expanden-los-desiertos-informativos-en-venezuela/a-66444025>.

³¹³⁵ Information Desert (original: “*Desierto Informativo*”) definition: Localities where the practice of journalism is scarce or non-existent, and where there are not enough media outlets that regularly cover information of local public interest. For small localities (less than 25,000 inhabitants), this is equivalent to a maximum of three media outlets that cover information of local public interest on a daily basis. For medium-sized localities (up to 100,000 inhabitants), this equals a maximum of four media outlets; and for large localities (more than 100,000 inhabitants), a maximum of five media outlets. IPYS Venezuela, *Atlas del Silencio*, 2023. Available at: <https://ipysvenezuela.org/atlas-del-silencio/metodologia/index.html>.

³¹³⁶ IPYS Venezuela, *Atlas del Silencio*, 2023. Available at: <http://coldfoot.studio/atlas-del-silencio/paisaje/index.html>.

³¹³⁷ *Desierto Moderado* definition: Localities where relevant news can be accessed with some frequency, but news coverage is severely restricted and insufficient. For small localities, this is equivalent to between four and six media outlets that cover information of local public interest on a daily basis. For medium-sized localities, between five and seven media outlets; and for large localities, between six and eight media outlets. IPYS Venezuela, *Atlas del Silencio*, 2023. Available at: <https://ipysvenezuela.org/atlas-del-silencio/metodologia/index.html>.

³¹³⁸ IPYS Venezuela, *Atlas del Silencio*, 2023. Available at: <http://coldfoot.studio/atlas-del-silencio/paisaje/index.html>.

³¹³⁹ *Ibid.*

³¹⁴⁰ *Ibid.*

³¹⁴¹ DW, *Se expanden los desiertos informativos en Venezuela*, 4 August 2023. Available at: <https://www.dw.com/es/se-expanden-los-desiertos-informativos-en-venezuela/a-66444025>; *Transparencia Venezuela*, *Las ONG toman la palabra ante la desinformación regional*, 2022. Disponible en <https://transparenciave.org/las-ong-toma-la-palabra-ante-desinformacion-regional/>.

1435. The scarcity of reliable, independent and complete information also hinders the ability of citizens to make informed decisions about political, economic and social issues. The existence of information deserts is considered by organisations such as the Inter-American Press Network as one of the structural threats to freedom of expression and citizen participation.³¹⁴²

B. Impacts on the defence of human rights

1. The dissuasive effect of violations on NGOs and human rights whistle-blowers.

1436. As has been documented in this report, through the defamation and stigmatization of human rights defenders, the arbitrary detention and criminalisation of people who claim their rights, and the harassment and threats against NGOs and defenders and their families, the authorities have sent a very clear message: reporting violations, or simply making public statements in favour of human rights, can have serious consequences. Several representatives of NGOs and rights defenders have stated before the Mission that this repression has led them to moderate the public complaints they make, for fear of Government retaliation.³¹⁴³ The director of an NGO working for health rights explained to the Mission: “*Sometimes we do report, but we do it strategically. We don't speak freely. You have to consider everything*”³¹⁴⁴. The fear of retaliation has also led some defenders to leave the country for their safety. The Mission interviewed seven defenders and lawyers who represented real or perceived opponents, who are currently in exile after being directly threatened, or as a precaution, due to the attacks against other defenders in Venezuela.³¹⁴⁵

1437. According to a survey on self-censorship carried out in 2021 by the NGO Un Mundo sin Mordaza (“A World without a Gag”), 93% of civil society in Venezuela considers that freedom of expression cannot be fully exercised.³¹⁴⁶ This inhibiting effect impacts not only human rights NGOs and activists, but also other people who want to report, such as families of victims, public officials who witness corruption, or anyone who wants to speak out to denounce an injustice or violation. The Mission documented several testimonies from witnesses, victims and their legal representatives who stated that fear of retaliation deters them from reporting violations to the corresponding authorities.³¹⁴⁷

1438. In an interview with a journalist in April 2023, Alfredo Chirinos (a former PDVSA-Petroleum of Venezuela worker detained with his partner between 2020 and 2023 and convicted of “disseminating confidential information” after having reported corruption) highlighted the inhibiting effect of his detention and criminalisation: “*How are [PDVSA workers] going to report corruption if two who reported it in 2020 ended up imprisoned and tortured in the Directorate General of Military Counter-intelligence cells?*”³¹⁴⁸. The partner of a person detained in 2020 after reporting human rights violations stated that after his partner's arrest, many of his friends and colleagues did not dare to report publicly, explaining that “*people stay silent out of fear. They don't want the same thing to happen to them.*”³¹⁴⁹

³¹⁴² IPYS Venezuela, Atlas del Silencio, 2023. Available at: <http://coldfoot.studio/atlas-del-silencio/paisaje/index.html>

³¹⁴³ Interview with Gabriela Buada, 3 March 2023; Interview with Rafael Uzcátegui, 3 March 2023; Interview with Marino Alvarado, 14 April 2023; Interview with the NGO CAPIR, 24 February 2023; Interview with Martha Tineo, 13 March 2023; Interview with Mercedes de Freitas, 1 March 2023; Interview with Katherine Martinez, 6 June 2023; Interview with *100% Estrógeno*, 25 May 2023; Interview IIIV015; Interview IIIV031.

³¹⁴⁴ Interview PPIV074.

³¹⁴⁵ Case 25: Sexual and reproductive rights advocates. Interview PPIV054; Interview HHIV078; Interview PPIV060; Interview with Venezuelan Observatory of Prisons, 19 April 2023.

³¹⁴⁶ *Un Mundo Sin Mordaza*, Reporte de Autocensura ciudadana en Venezuela 2021. Available at: <https://sinmordaza.org/wp-content/uploads/2022/03/Reporte-Especial-de-autocensura.pdf>.

³¹⁴⁷ Interview OOIV052; Interview with Eudis Girot, 14 February 2023; Interview with Víctor Ugas, 5 June 2023; Interview with Venezuelan Observatory of Prisons, 30 May 2023; Interview PPIV053; Interview with Luis Carlos Díaz, 1 March 2023.

³¹⁴⁸ YouTube Video - Vladimir Villegas TV, En la DGCIM me quemaron la cara y me reventaron las costillas a patadas denunció Alfredo Chirinos, 5 April 2023. Available at: https://www.youtube.com/watch?v=3cyx7_GXQpU.

³¹⁴⁹ Interview PPIV053.

1439. An indigenous peoples' rights defender explained to the Mission that indigenous communities are afraid to report the violations they suffer. They are also afraid to fight for their rights, particularly after the assassination of the indigenous leader Virgilio Trujillo in 2022.³¹⁵⁰ Indigenous communities believe that Trujillo was murdered for reporting violations and his death is not being investigated in a complete and transparent manner.³¹⁵¹

1440. This inhibitory effect reduces the number of people and organisations that can and dare to report violations, which means that they occur in silence, without being reported and without the possibility of justice.

2. The impact of threats on NGO operations

1441. In addition to self-censorship, NGOs and human rights activists have adopted other precautionary and protective measures to protect themselves against threats and retaliation against civil society. Several NGOs told the Mission that they developed security measures to prevent their NGO members being attacked or arbitrarily detained.³¹⁵² Often, these measures entail costs and are a burden for organisations that already face many difficulties in securing financing in the Venezuelan context. They also involve time and energy that is spent instead of attending to substantive work.³¹⁵³ Protecting themselves and being alert to possible risks and threats also involves a psychological toll that has a significant impact on their ability to do their job of defending rights.³¹⁵⁴

1442. The stigmatization and threats against activists and NGOs have also led to businesses and municipalities refusing to support civil society working on human rights issues. Four organisations told the Mission that between 2020 and 2023 they faced increasing difficulties in securing spaces to work and organize activities. They explained that both hotels and private owners have told them that they prefer not to rent their spaces to organisations that work on human rights issues or justice, due to the fear of State retaliation.³¹⁵⁵

1443. The NGO PROVEA stated to the Mission that, in 2022, a mayor's office that previously allowed them to organize activities in the municipality's cultural centre informed them that they could no longer use that space, explaining that the people who work at the site prefer not to be linked to PROVEA, because of the fear this could lead to retaliation against them.³¹⁵⁶ Two other organisations explained to the Mission that they had to abandon their offices in 2020 because the owners of the buildings where they rented their premises feared being raided by security forces in connection to the organisation's human rights work.³¹⁵⁷

3. The impact of administrative restrictions on NGO operations

1444. The arbitrary limitations on the free functioning of NGOs that were documented in chapter IV of this report also contribute to the inability of these organisations to carry out their work effectively and efficiently. The fact that human rights NGOs cannot register or update their documents with the Autonomous Registry and Notary Service (SAREN by its Spanish acronym) records³¹⁵⁸ means that they cannot open institutional bank accounts, rent offices in the name of the organisation, and in many cases, they cannot receive funds from certain donors because they do not have the corresponding records and bank accounts³¹⁵⁹. These facts limit their ability to work and access funds that are critical to providing services to communities.

C. Impacts on the general population

1445. The human rights violations documented in this report and in previous reports of the Mission have created a climate of fear and apprehension not only among activists, politicians, journalists, and other direct victims

³¹⁵⁰ See Chapter III.B, *supra*.

³¹⁵¹ Interview PPIV050.

³¹⁵² Interview PPIV049; Interview with Rafael Uzcátegui, 3 March 2023; Interview with Katherine Martinez, 6 June 2023.; Interview with Carlos Correa, 17 February 2023; Interview OOIV040.

³¹⁵³ Interview with Rafael Uzcátegui, 3 March 2023; Interview with Carlos Correa, 17 February 2023; Interview OOIV040. See also Chapter IV.G.

³¹⁵⁴ Interview PPIV049; Interview with Rafael Uzcátegui, 3 March 2023; Interview with Katherine Martinez, 6 June 2023; Interview with Carlos Correa, 17 February 2023; Interview OOIV040.

³¹⁵⁵ Interview with Rafael Uzcátegui, 3 March 2023; Interview with Marino Alvarado, 24 August 2023; Interview with Martha Tineo, 13 March 2023; Interview with Katherine Martinez, 6 June 2023.; Interview PPIV062.

³¹⁵⁶ Interview with Rafael Uzcátegui, 3 March 2023; Interview with Marino Alvarado, 24 August 2023.

³¹⁵⁷ Interview with Martha Tineo, 13 March 2023, Interview with Katherine Martinez, 6 June 2023.

³¹⁵⁸ See Chapter IV.G, *supra*.

³¹⁵⁹ Interviews with Gabriela Buada, 3 March and 5 July 2023; Interview with Rafael Uzcátegui, 3 March 2023; Interview with Marino Alvarado, 27 July 2023; Interview PPIV049.

of repression, but also in the general population of the country. The inhibiting effect of these violations has resulted in a reduction in the free expression of people who are not linked to social movements or political or human rights activism, but who still fear being perceived as opponents if they express criticism publicly.³¹⁶⁰

1446. This inhibiting effect is the result of different mechanisms of repression exercised by the State over recent years. Surveillance, harassment, arbitrary detentions and violent repression of people who organize and participate in demonstrations has led to many people no longer daring to participate in such activities.³¹⁶¹ According to a survey on self-censorship carried out by the NGO *Un Mundo sin Mordaza* in 2021, 80% of the 700 people surveyed indicated that they do not feel they can participate in peaceful demonstrations since “they fear suffering attacks, harassment and even murder by state security forces.”³¹⁶²

1447. Targeted repression such as the detention, criminalisation, and defamation of some social leaders and high-profile opponents has also sent a message to the Venezuelan population that being branded as an opponent or criticizing the Government very directly can lead to serious retaliation. Six independent sources explained to the Mission that the targeted repression seen in recent years has had a deterrent effect on the population in general.³¹⁶³ In the words of a union leader arrested in 2020³¹⁶⁴ after posting on Twitter about human rights violations: “*Anyone who dares to raise their voice to defend any right, or make a comment on social media, [my detention] acts as a threat that they may also experience the same situation*”.³¹⁶⁵

1448. The authorities’ defamatory and stigmatizing messages against opponents have also contributed to the inhibitory effect. People who have been the target of these types of acts have indicated that the stigmatization of dissent promoted by high-ranking officials has turned public opinion against people who are perceived as opponents of the Government. They explained to the Mission that they have suffered negative consequences as a result of this stigmatization, such as the denial of State benefits like as access to CLAP bags (Local Committees for Supply and Production)³¹⁶⁶ and rejection by people in their social circles³¹⁶⁷, and therefore, they are very careful when speaking in front of strangers, or even their neighbours.³¹⁶⁸ According to a source who spoke with the Mission “*State control and monitoring is felt in every corner of the country. It is not just the police or the military - neighbors are the ones who are also monitoring and reporting. There is no safe place.*”³¹⁶⁹ According to the 2021 survey conducted by the organization *Un Mundo sin Mordaza*, 29.4% of people surveyed said they have engaged in some self-censorship when communicating publicly, and 30.1% said they almost always censor themselves on social media.³¹⁷⁰

1449. The human rights violations documented in this report have therefore become a tool to not only control political leaders, activists and civil society, but also radiate an inhibiting effect on society as a whole. The perception of imminent risk of being watched, stigmatized, threatened, detained, tortured or even murdered translates into a climate of fear that has been repressing freedom of expression and civic and democratic space in the Bolivarian Republic of Venezuela.

³¹⁶⁰ Interview with the NGO CAPIR, 24 February 2023; Interview with Beatriz Borges, 2 February 2023; Interview PPIV045; Interview with Eudis Giro, 14 February 2023.

³¹⁶¹ Interview with Beatriz Borges, 2 February 2023; Interview with the NGO CAPIR, 24 February 2023.

³¹⁶² *Un Mundo sin Mordaza*, Reporte de Autocensura ciudadana en Venezuela 2021. Available at: <https://sinmordaza.org/wp-content/uploads/2022/03/Reporte-Especial-de-autocensura.pdf>.

³¹⁶³ Interview PPIV045; Interview with the NGO CAPIR, 24 February 2023; Interview with Eudis Giro, 14 February 2023; Interview with Jesús Medina, 22 November 2022; Interview PPIV053; Interview with Beatriz Borges, 2 February 2023.

³¹⁶⁴ See Case 8: Eudis Giro.

³¹⁶⁵ Interview with Eudis Giro, 14 February 2023.

³¹⁶⁶ Interview OOIV044; Interview with Rafael Uzcátegui, 3 March 2023; Interview with Gabriela Buada, 3 March 2023; Interview PPIV049.

³¹⁶⁷ Interview with Rafael Uzcátegui, 3 March 2023; Interview HHIV079.

³¹⁶⁸ Interview with Rafael Uzcátegui, 3 March 2023; Interview PPIV068; Interview with Gabriela Buada, 3 March 2023; Interview PPIV049.

³¹⁶⁹ Interview with the NGO CAPIR, 24 February 2023.

³¹⁷⁰ *Un Mundo Sin Mordaza*, Reporte de Autocensura ciudadana en Venezuela 2021. Available at: <https://sinmordaza.org/wp-content/uploads/2022/03/Reporte-Especial-de-autocensura.pdf>.

D. Impacts on democratic pluralism

1450. The judicial and administrative interventions in the internal functioning of political groups and in the ability of individuals to present themselves as candidates for political office, which were explained in chapter IV, have an important impact on democratic processes and electoral pluralism.

1451. Judicial interventions into political parties, through the Supreme Court of Justice (TSJ), weaken the autonomy and independent decision-making within these groups. Between June 2012 and August 2023, the TSJ issued at least 14 resolutions to replace the boards of directors of political parties belonging to the opposition, and the new boards were appointed by the Court itself.³¹⁷¹ This type of judicial intervention affects the ability of political parties to function independently, and therefore also affects the diversity of candidates who can represent these parties.

1452. On the other hand, the political disqualifications imposed on the candidates by the General Comptroller's Office of the Republic limit the offer of options on the electoral lists and compromise the ability of citizens to choose between diverse representatives. The situation is similar to what happened in the most recent elections of 2021, where the disqualifications exclusively affected candidates in opposition to the Government.³¹⁷² In all cases examined by the Mission until September 2023, the disqualifications have been specifically directed at people aligned with opposition parties. Given that three of the candidates in the primary elections of the opposition United Platform– María Corina Machado³¹⁷³ (*Vente Venezuela*), Henrique Capriles³¹⁷⁴ (*Primero Justicia*) y Freddy Superlano (*Voluntad Popular*) – are disqualified. The options of candidates who can run for the 2024 presidential elections are severely limited.

1453. Added to this situation is the fact that several opposition political figures have left the country as a result of the threats and harassment they have suffered.³¹⁷⁵ Examples include Leopoldo López, Antonio Ledezma, Freddy Guevara, Gilber Caro, Rosmit Mantilla, Roberto Marrero and other opposition politicians who fled Venezuela after being held in arbitrary detention.³¹⁷⁶ Other opposition politicians decided to flee for fear of possible arbitrary detention or after receiving information about a possible arrest warrant against them, such is the case of Dinorah Figuera, Auristela Vásquez, Carlos Vecchio, David Smolansky and the most recent case of Juan Guaidó in April 2023.³¹⁷⁷

1454. Even in exile, these people continue to suffer harassment and threats from public officials and State security agents, such as, for example, raids on their homes in the Bolivarian Republic of Venezuela and arrest warrants. Recently, on 22 August 2023, the General Prosecutor requested an arrest warrant and the extradition from Spain of the former mayor of Caracas, Antonio Ledezma, who was arrested in 2015 and fled the country in 2017.³¹⁷⁸ Opposition politicians in exile cannot stand for election in Venezuela either, further limiting the diversity of opposition candidates.

³¹⁷¹ See Chapter. IV.G, *supra*.

³¹⁷² *Observatorio Electoral Venezolano*, Boletín 101 – ‘Contigo sí, contigo no...’: el juego desigual de la inhabilitación, March 2023. Available at: <https://oevenezolano.org/2023/03/boletin-101-contigo-si-contigo-no-el-juego-desigual-de-la-inhabilitacion/>.

³¹⁷³ Interview with María Corina Machado, 13 July 2023; Document HHDC071: Political persecution and attacks against María Corina Machado; Interview with Antonio Ledezma, 5 July 2023; BBC News Mundo, Venezuela: inhabilitan a María Corina Machado para ejercer cargos públicos, 14 July 2015. Available at: https://www.bbc.com/mundo/noticias/2015/07/150714_venezuela_machado_inhabilitan_dp.

³¹⁷⁴ Tweet by Henrique Capriles [@hcapriles]. Available at: <https://twitter.com/hcapriles/status/850384759184347136?s=20>, 7 April 2017; YouTube Video– *CABLENOTICIAS*, Mensaje de Capriles al Gobierno de Maduro por inhabilitación de 15 años, 7 April 2017. Available at: https://youtu.be/E47Lfk_1GGI.

³¹⁷⁵ *El País*, El chavismo lleva a 22 diputados al exilio, la clandestinidad o la cárcel en el último mes, 17 June 2019. Available at: https://elpais.com/internacional/2019/06/17/actualidad/1560785075_231971.html.

³¹⁷⁶ Interview with Leopoldo López, 4 July 2023; Interview with Antonio Ledezma, 5 July 2023; Interview with Freddy Guevara, 3 July 2023.

³¹⁷⁷ Interview with Orlando Moreno, 9 March 2023; Interview with Auristela Vásquez, 7 July 2023; Interview with Freddy Superlano, 9 August 2023.

³¹⁷⁸ YouTube Video- Luigino Bracci Roa, Orden de aprehensión contra Antonio Ledezma emite el Fiscal General Tarek William Saab, 21 August 2023. Available at: <https://youtu.be/0o61sRGz6vw?feature=shared>; Document HHDC111: Antonio Ledezma - Information on searches and raids; Interview with Antonio Ledezma, 5 July 2023.

VII. Institutions involved

A. Introduction

1455. The preceding chapters have documented different ways in which the actions and omissions of State institutions have repressed real or perceived opponents. These actions and omissions involve bodies whose mandates are particularly relevant for the preservation of civic and democratic space, as well as the enjoyment of human rights. Three of them appear in the wording of the constitutional texts: the National Electoral Council (CNE by its Spanish acronym), the National Human Rights Institution – the *Defensoría del Pueblo* – and the Comptroller General of the Republic. The chapter attributes to these institutions, to administrative bodies and to security and intelligence forces of the State, participation in the actions and omissions that result in the human rights violations documented in this conference room paper and that generate the international responsibility of the State in under international human rights instruments.

B. National Human Rights Institution - *Defensoría del Pueblo*

1456. As previously mentioned by the Mission,³¹⁷⁹ the National Human Rights Institution – the *Defensoría del Pueblo* – was established by the 1999 Constitution and is one of the three organs of the State that make up the Citizen Power³¹⁸⁰. Its mandate is to “prevent, investigate and punish acts that violate public ethics and administrative morality”³¹⁸¹. The *Defensoría del Pueblo*, the Attorney General’s Office and the Comptroller General of the Republic form the Republican Moral Council.³¹⁸² This is an independent institution and has functional, financial and administrative autonomy.³¹⁸³

1. Mandate and structure

1457. According to the Constitution and the 2004 Organic Law regulating the institution, the *Defensoría del Pueblo* is in charge of promoting, defending and monitoring the rights and guarantees established in the Constitution and in human rights treaties.³¹⁸⁴ Likewise, it has a mandate as an administrative ombudsman institution, which includes supervision of the “correct functioning of public services” and the protection of “legitimate, collective or diffuse rights and interests” in this area.³¹⁸⁵

1458. The Ombudsperson (*Defensor del Pueblo*) is responsible for the direction of the institution. The *Defensor* is appointed by two-thirds of the votes of the National Assembly³¹⁸⁶ and has a non-renewable mandate of seven years.³¹⁸⁷ The current *Defensor* Alfredo Ruíz Angulo.³¹⁸⁸ Previously the Executive Director of the institution, Ruíz Angulo was appointed ad interim Ombudsman on 5 August 2017, replacing Tarek William Saab, after the latter was appointed Attorney General by the National Constituent Assembly³¹⁸⁹, in replacement for Attorney General Luisa

³¹⁷⁹ A/HRC/48/CRP.5, paras. 82-86.

³¹⁸⁰ Constitution of the Bolivarian Republic of Venezuela (hereinafter “1999 Constitution”), art. 273.

³¹⁸¹ *Ibid.*, art. 274.

³¹⁸² Organic Law of Citizen's Power, Official Gazette No. 3,310 of 25 October 2001. Available at: http://www.oas.org/juridico/PDFs/mesicic4_ven_ley_org_pod_ciud.pdf. arts. 1-2.

³¹⁸³ 1999 Constitution, art. 273.

³¹⁸⁴ *Ibid.*, arts. 280-282; Organic Law of the National Human Rights Institution – *Defensoría del Pueblo*, Official Gazette No. 37.995, 5 August 2004. Available at: http://www.oas.org/juridico/PDFs/mesicic4_ven_ley_org_def_pueb.pdf (hereinafter referred to as the “2004 Organic Law of the National Human Rights Institution – *Defensoría del Pueblo* art. 2.

³¹⁸⁵ 1999 Constitution, art. 281(2).

³¹⁸⁶ 2004 Organic Law of the National Human Rights Institution – *Defensoría del Pueblo*, art. 17.

³¹⁸⁷ 2004 Organic Law of the National Human Rights Institution – *Defensoría del Pueblo*, art. 3.

³¹⁸⁸ See <http://www.defensoria.gob.ve/index.php/defensor-del-pueblo/>.

³¹⁸⁹ Constituent Decree of the Provisional Appointment of the Attorney General of the Republic Tarek Williams Saab. Official Gazette No. 6,322 (Extraordinary), 5 August 2017. Available at: http://historico.tsj.gob.ve/gaceta_ext/agosto/582017/E-582017-4983.pdf#page=1/.

Ortega³¹⁹⁰. Ruíz Angulo was ratified in office by the National Constituent Assembly³¹⁹¹. The appointment of Ruíz Angulo was deemed unconstitutional by several actors, given that it was done through a substitution of the powers constitutionally vested on the National Assembly.³¹⁹²

1459. The Law against Torture and other Cruel, Inhuman or Degrading Treatment (Law against Torture), of 2013, created the National Commission for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment, “integrated into the organisational structure” of the *Defensoría del Pueblo*,³¹⁹³ with extensive powers.³¹⁹⁴ These powers make it similar to a national prevention mechanism such as that enshrined in the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment³¹⁹⁵. However, the Bolivarian Republic of Venezuela is not party to the Protocol and, therefore, does not recognize the jurisdiction of the United Nations Subcommittee on Prevention.³¹⁹⁶

1460. In its latest observations on the country, published on 12 December 2014, the Committee against Torture expressed “concern at the fact that the Office appears to lack the degree of independence required to serve as the national institution responsible for investigating complaints of torture and ill-treatment.”³¹⁹⁷ In addition, the Committee expressed its concern about the links between the members of the National Commission and the Government.³¹⁹⁸

1461. The *Defensoría del Pueblo* has a constitutional duty to present an annual report on its work to a plenary session of the National Assembly and publish it³¹⁹⁹. The *Defensoría del Pueblo* published annual reports each year from 2001 to 2016³²⁰⁰. After this, annual only reports corresponding to the years 2020³²⁰¹ and 2021³²⁰² were made available. The *Defensoría del Pueblo* published reports on the implementation of the Convention on All Rights (CEDAW), which do not address the other areas of its mandate.³²⁰³

2. Charter and international cooperation

1462. The principles related to the status of National Institutions (Paris Principles), adopted by the United Nations General Assembly in 1993, constitute the generally accepted standard for evaluating the legitimacy and

³¹⁹⁰ Youtube Video - Luigino Bracci Roa from Venezuela, Asamblea Constituyente remueve a Luisa Ortega Díaz como Fiscal General, 5 August 2017. Available at: <https://www.youtube.com/watch?v=-IK72PEvOT8/>.

³¹⁹¹ *Official Gazette No. 41,216, 17 August 2017*. Available at: <http://historico.tsj.gob.ve/gaceta/agosto/1782017/1782017-5001.pdf#page=2/>.

³¹⁹² A/HRC/WG.6/40/VEN/3, para. 8.

³¹⁹³ Law against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter referred to as the “Law against Torture”), art. 11.

³¹⁹⁴ *Ibid.*, art. 12.

³¹⁹⁵ Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 18 December 2002, art. 3.

³¹⁹⁶ *Ibid.*, arts. 2, 11.

³¹⁹⁷ CAT/C/VEN/CO/3-4, para. 20.

³¹⁹⁸ *Ibid.*

³¹⁹⁹ 2004 Organic Law of the National Human Rights Institution – *Defensoría del Pueblo*, arts. 25(8), 30, 56; Organic Law of Citizens’ Power, art. 65; 1999 Constitution, art. 276.

³²⁰⁰ National Human Rights Institution – *Defensoría del Pueblo*, Informes anuales. Available at: <http://www.defensoria.gob.ve/index.php/zona-informativa/informes/anuales/>

³²⁰¹ National Human Rights Institution – *Defensoría del Pueblo*, Informe Anual 2020. Available at: <http://www.defensoria.gob.ve/index.php/zona-informativa/informes/anuales/> (hereinafter, “2020 National Human Rights Institution – *Defensoría del Pueblo* Office Report”).

³²⁰² National Human Rights Institution – *Defensoría del Pueblo*, Informe Anual 2021. Available at: <http://www.defensoria.gob.ve/index.php/zona-informativa/informes/anuales/> (hereinafter, “2021 National Human Rights Institution – *Defensoría del Pueblo* Report”).

³²⁰³ National Human Rights Institution – *Defensoría del Pueblo*, Alcance al Informe de la Defensoría del Pueblo de la República Bolivariana de Venezuela sobre la implementación de la Convención (CEDAW). Available at: <http://www.defensoria.gob.ve/index.php/zona-informativa/informes/informes-especiales/> (hereinafter “2022 CEDAW Report from the Ombudsman’s Office”); National Human Rights Institution – *Defensoría del Pueblo*, Informe de la Defensoría del Pueblo de la República Bolivariana de Venezuela al Comité para la Eliminación de la Discriminación contra la Mujer (CEDAW). Available at: <http://www.defensoria.gob.ve/index.php/zona-informativa/informes/informes-especiales/> (hereinafter “2023 CEDAW Report from the National Human Rights Institution – *Defensoría del Pueblo*”).

credibility of national human rights institutions.³²⁰⁴ The Global Alliance of National Human Rights Institutions (GANHRI) grants “A” status to national human rights institutions when they fully comply with the Paris Principles, and “B” status when they “partially” comply with them.”³²⁰⁵

1463. In 2016, the *Defensoría del Pueblo* lost its “A” status, moving to “B” status, after a “special review” by the GANHRI Accreditation Subcommittee, in light of, but not limited to, the “[a]ctions taken or not taken, and statements made or not made by the DPV during the current volatile situation and protests in Venezuela.”³²⁰⁶ Following its review, the Subcommittee concluded that the *Defensoría del Pueblo* was “not prepared to speak out in a manner that promotes respect for human rights in response to credible allegations of serious human rights abuses having been committed by government authorities.” Therefore, the Subcommittee concluded that the Defensoría was “not operating in full compliance with the Paris Principles.”³²⁰⁷

1464. The loss of the “A” status by the *Defensoría del Pueblo* led to the loss of full membership of the GANHRI, including a series of privileges such as the right to vote and to participate in internal governing bodies of the institution,³²⁰⁸ as well as participating in the Human Rights Council and other United Nations bodies³²⁰⁹. The loss of the “A” status also implied the loss of full membership of the Network of National Institutions for the Promotion and Protection of Human Rights of the American Continent (RINDHCA), the GANHRI’s regional network³²¹⁰.

1465. If the institution had previously played a prominent role in international and regional forums, following the downgrading of its class and the *de facto* assumption of Ruíz Angulo as Ombudsman in 2017, the *Defensoría del Pueblo* stopped participating in international cooperation forums on NHRIs. Since 2018, Venezuela has not participated in the GANHRI annual assemblies.³²¹¹ In the case of the Ibero-American Ombudsman Federation (FIO, by its Spanish acronym),³²¹² the institution has maintained a low profile during Ruíz Angulo’s mandate, in contrast to the high profile of the previous Ombudspersons³²¹³. The Ombudsman began to participate in FIO activities only in 2021, when he participated for the first time in its annual congress³²¹⁴ and began to integrate *Defensoría* officials into its four thematic networks³²¹⁵.

3. Public image and lack of independence

1466. The previous Ombudsmen, Gabriela Ramírez and Tarek William Saab (the current Attorney General), were criticized for their affinity to the Government party and for their statements in favour of the Government’s actions, even in the face of serious violations of human rights.³²¹⁶

1467. After finishing his term in 2014, Ramírez distanced himself from the Government and, together with the then Attorney General, Luisa Ortega, and opposition leaders, denounced the call to the National Constituent Assembly.³²¹⁷ In contrast, his successor, Tarek William Saab, showed alignment with the Government. In 2017, 103

³²⁰⁴ A/48/134, Annex.

³²⁰⁵ GANHRI, Membership Status. Available at: <https://ganhri.org/membership/>.

³²⁰⁶ GANHRI Sub-Committee on Accreditation Report [original in English] – May 2016 (hereinafter “GANHRI Subcommittee Report May 2016”), p. 52. Available at: <https://ganhri.org/wp-content/uploads/2019/11/SCA-FINAL-REPORT-MAY-2016-English.pdf/>.

³²⁰⁷ *Ibid.*, p. 55-56.

³²⁰⁸ GANHRI Statute, arts. 24(1) and 31(4).

³²⁰⁹ See OHCHR, National Human Rights Institutions. Available at: <https://www.ohchr.org/es/hr-bodies/hrc/ngo-nhri-info/>.

³²¹⁰ The Network of National Institutions for the Promotion and Protection of Human Rights in the American Continent, Types of members. Available at: <https://www.rindhca.org/miembros/tipos-de-miembros/>.

³²¹¹ National Human Rights Institution – *Defensoría del Pueblo*, Zona informativa. Available at: <http://www.defensoria.gob.ve/index.php/zona-informativa/>.

³²¹² *Federación Iberoamericana del Ombudsperson*, Acerca de FIO. Available at: http://www.portalfio.org/acerca_de_fio/.

³²¹³ Interview UUIV003.

³²¹⁴ Tweet by Defensor del Pueblo [@Defensoria_Vzla], 24 November 2021. Available at: https://twitter.com/defensoria_vzla/status/1463548093668937728?lang=es/.

³²¹⁵ *Federación Iberoamericana del Ombudsperson*, Redes temáticas en FIO. Available at: <http://www.portalfio.org/redes-tematicas/>

³²¹⁶ *Ibid.*

³²¹⁷ *El Ucabista*, Desde la UCAB, dirigentes de oposición y chavismo llamaron a la unidad nacional, 6 August 2017. Available at: <https://elucabista.com/2017/08/06/desde-la-ucab-dirigentes-oposicion-chavismo-llamaron-la-unidad-nacional/>.

NGOs published a letter in which they requested Saab's resignation for his support of a ruling by the Supreme Tribunal of Justice that deprived National Assembly deputies of parliamentary immunity.³²¹⁸

1468. Unlike the two previous Ombudsmen, who had a clear political profile, Alfredo Ruíz Angulo has a past of militancy in social movements and was founder and president of the organisation *Red de Paolo por la Justicia y la Paz*³²¹⁹. Ruíz Angulo was appointed Executive Director by the previous Head of the *Defensor del Pueblo*, Tarek William Saab, in December 2014³²²⁰. Various sources interviewed made reference to the direct influence that Saab, the current Attorney General, continues to exercise over his successor³²²¹.

1469. Like his predecessors, the Ombudsman has assumed a public profile of defending the actions of the Government, tending to minimize the human rights problems facing the country. For example, in the context of the 2019 crisis, Ruíz Angulo stated that the *Defensoría del Pueblo* could not verify the existence of cases of torture in the Bolivarian National Intelligence Service (SEBIN by its Spanish acronym) detention centres, but only "cruel treatment."³²²² The Ombudsperson also denied that there were enforced disappearances, blaming defence lawyers for appearing directly in court and denying the jurisdiction of the *Defensoría del Pueblo* in relation to the proceedings opened against detainees.³²²³ That same year, Ruíz Angulo also stated that complaints regarding the actions of the Special Action Forces (FAES by its Spanish acronym) had not been frequent.³²²⁴

1470. The Ombudsperson has assumed a public profile in denouncing international sanctions against the Bolivarian Republic of Venezuela and their impact on human rights, especially on the right to health and the rights of vulnerable groups.³²²⁵ In March 2020, the Ombudsman participated in a press conference with the Vice President of the Government, Delcy Rodríguez, and the Minister of Foreign Affairs, Jorge Arreaza, to announce the lawsuit filed before the International Criminal Court against the United States of America for crimes against humanity derived from its sanctions.³²²⁶ The *Defensor* has contributed to spreading a discourse that blames international sanctions for the majority of the human rights problems that the country is going through. For example, Ruíz Angulo stated that the 102,000 complaints filed in 2022 with the *Defensoría del Pueblo* were "mainly a consequence of unilateral coercive measures."³²²⁷

1471. In April 2019, the Government of Canada imposed sanctions on Ruíz Angulo along with 42 other people, including senior officials, governors and other people linked to President Maduro.³²²⁸ The Government of Canada justified these sanctions due to the alleged link of these people "to the regime's antidemocratic actions,

³²¹⁸ *Civilis Derechos Humanos*, Press release: "Más de 100 ONG solicitan al Defensor del Pueblo su renuncia", 4 April 2017, Available at: <https://www.civilisac.org/acciones/mas-100-ong-solicitan-al-defensor-del-pueblo-renuncia/>.

³²¹⁹ National Human Rights Institution – *Defensoría del Pueblo*, Defensor del Pueblo. Available at: <http://www.defensoria.gob.ve/index.php/defensor-del-pueblo/>.

³²²⁰ *Ibid.*

³²²¹ Interview KKIV002; Interview UUIV002.

³²²² Youtube Video - *Noticias Venevisión*, Interview Venevisión: Alfredo Ruíz, defensor del pueblo, 21 May 2019. Available at: https://www.youtube.com/watch?v=GtJiC__UFLY/. [min 08:08]

³²²³ *Ibid.* [min 04:16]

³²²⁴ Youtube Video - *Globovisión videos*, Defensor del Pueblo: "Denuncias" contra las FAES no son frecuentes, 10 Septiembre 2019. Available at: <https://www.youtube.com/watch?v=-wyIFK5YNoU/>. [min. 0:06].

³²²⁵ Youtube Video - *Globovisión videos*, Alfredo Ruiz Angulo | Primera Página | 2-2, 18 June 2019. Available at: <https://www.youtube.com/watch?v=TFy06bHqa1o/>; Youtube Video - *Globovisión videos*, Alfredo Ruíz Angulo - Primera Página | 2-2, 10 September 2019. Available at: <https://www.youtube.com/watch?v=rVNmBqocJfg/>; Youtube Video - Logros de la Patria con Carlos Sierra, Alfredo Ruiz Defensor del Pueblo - Parte 02, 10 March 2023. Available at: <https://www.youtube.com/watch?v=fE3DM3k40vU/>; Youtube Video - *Luigino Bracci Roa desde Venezuela*, Alfredo Ruiz - Defensor del Pueblo de Venezuela: sobre sanciones al país y su efecto en la población, 25 September 2020. Available at: <https://www.youtube.com/watch?v=qUkyptpu34Q&pp=ygUVYWxmcmVkbYBydWl6IGRIZmVuc29y/>.

³²²⁶ Ministry of People's Power for Foreign Affairs, Medidas coercitivas unilaterales empleadas por EEUU son un delito de lesa humanidad, 6 March 2020.

³²²⁷ Youtube Video - Logros de la Patria con Carlos Sierra, Alfredo Ruiz Defensor del Pueblo - parte 01, 10 March 2023. Available at: <https://www.youtube.com/watch?v=SaL12kr0C7o/>. [min. 06:07]

³²²⁸ Government of Canada, Regulations Amending the Special Economic Measures (Venezuela) Regulations: SOR/2019-106, Canada Gazette, Part II, Vol. 153, no. 9, 15 April 2019. Available at: <https://gazette.gc.ca/rp-pr/p2/2019/2019-05-01/html/sor-dors106-eng.html/>.

particularly in relation to repression, the use of force and censorship, and the control of public institutions to personal benefit”³²²⁹.

4. Failure to act ex officio

1472. In accordance with the Constitution, the *Defensoría del Pueblo* must carry out ex officio investigations to “[en]sure the effective respect and guarantee of human rights.”³²³⁰ To this end, the Constitution also attributes to it the responsibility of “[formulating] the necessary recommendations and observations before the corresponding bodies.”³²³¹ To fulfil these functions, the *Defensoría del Pueblo* must develop “permanent communication mechanisms” with national and international human rights organisations.³²³²

1473. Despite this mandate, the Mission was able to verify that the *Defensoría del Pueblo* has not taken any institutional action in response to the Mission's own reports and has not followed up ex officio on the complaints of serious violations of human rights and crimes against humanity collected in these reports. In September 2020, the Ombudsperson publicly stated that the Mission's first report was “*extremely biased, does not contribute anything to human rights*”³²³³. Ruíz Angulo described the report as an example of “*use of human rights as a political weapon*”³²³⁴.

1474. Similarly, the Mission is not aware that the *Defensoría del Pueblo* has taken any type of institutional action in relation to the reports and recommendations of the Inter-American Commission on Human Rights (IACHR) since 2016.³²³⁵ This includes monitoring the numerous resolutions of precautionary measures issued by the Commission in recent years, in “serious and urgent situations presenting a risk of irreparable harm to persons.”³²³⁶ According to the representative of an NGO interviewed by the Mission, the constitutional mandate for international cooperation would oblige the *Defensoría del Pueblo* to use its prerogatives to act ex officio in relation to the Commission's precautionary measures, however, it does not do so³²³⁷.

1475. The Mission carried out an analysis of the official communications and social networks of the *Defensoría del Pueblo* during the period covered by the investigation of this conference room paper and verified the absence of statements from the institution regarding relevant milestones about the situation of human rights in the country, including attacks against civil society actors and political leaders, detentions of social leaders and journalists, and the approval or announcement of approval of restrictive norms of civic space.

5. Failure to act on individual complaints

1476. In accordance with its constitutional mandate, along with its ex officio investigations, the *Defensoría del Pueblo* may receive “complaints and requests”³²³⁸ which may refer to different areas of competence of the *Defensoría del Pueblo*. This includes not only human rights, as its constitutional mandate highlights, but also the rights of users of public and administrative services.³²³⁹

1477. In the reports that the *Defensoría del Pueblo* has made public to date, some actions are described in follow-up to individual complaints. However, as previously noted by the Mission, the lack of specific information on the actions of the *Defensoría del Pueblo* in monitoring complaints limits the evaluation of its performance in this area.³²⁴⁰

³²²⁹ *Ibid.*

³²³⁰ 1999 Constitution, art. 281(1).

³²³¹ *Ibid.*, art. 281(10).

³²³² *Ibid.*

³²³³ Youtube Video- *Luigino Bracci Roa desde Venezuela*, Alfredo Ruiz - Defensor del Pueblo de Venezuela: sobre sanciones al país y su efecto en la población, 25 September 2020. Available at: <https://www.youtube.com/watch?v=qUkypu34Q/> [min. 17:06].

³²³⁴ *Ibid.* [min. 18:46].

³²³⁵ National Human Rights Institution – *Defensoría del Pueblo*, Informe de la Defensoría del Pueblo 2016, p. 51.

³²³⁶ Rules of Procedure of the Inter-American Commission on Human Rights, art. 25(1).

³²³⁷ Document UUDC003: Discussion organized by the Mission with civil society organisations, 25 July 2023.

³²³⁸ Organic Law of the National Human Rights Institution – *Defensoría del Pueblo*, arts. 8, 14(1). 1999 Constitution, art. 281(1).

³²³⁹ *Ibid.*, art. 4.

³²⁴⁰ In its 2020 report, the Mission's investigations included Cases in which the National Human Rights Institution- *Defensoría del Pueblo* received requests from individual victims to verify the physical and

Table 4:
Reports from the *Defensoría del Pueblo* of complaints and claims (2014-2023)

<i>Period of the report</i>	<i>Total figures</i> 3241	<i>Personal integrity</i> 3242	<i>Personal freedom</i> ³²⁴³
2014	5,717 ³²⁴⁴	2,017 ³²⁴⁵	135 ³²⁴⁶
2015	39,418 ³²⁴⁷	2,187 ³²⁴⁸	266 ³²⁴⁹
2016 (January-September)	8,801 ³²⁵⁰	2,534 ³²⁵¹	331 ³²⁵²

psychological state of detained persons and guarantee the right to due process; to investigate the failure of the Public Prosecutor's Office to investigate a death; to enforce a court order on medical grounds; to complain about treatment during arrest and detention; and other complaints regarding the lack of progress in investigations by the Public Prosecutor's Office. See A/HRC/45/CRP.11, para. 483 on Case 5: Detention of three persons - Operation Tun Tun; A/HRC/45/CRP.11, para. 658 on Case 10: Fernando Alberto Albán; A/HRC/45/CRP.11, para. 711 on Case 12: Detentions of private citizens for statements on social media perceived as critical of the Government; A/HRC/45/CRP.11, para. 1,697 on Case 36: Valencia, Carabobo state (13 February 2014); A/HRC/45/CRP.11, para. 739 on Case 12: Detentions of private citizens for statements on social media perceived as critical of the Government, para. 1354 on Case 26: José Daniel Bruzual Pulido (22 August 2017).

³²⁴¹ In some of these reports the National Human Rights Institution- *Defensoría del Pueblo* includes figures on the total number of complaints, denunciations and petitions received by the National Human Rights Institution- *Defensoría del Pueblo* for human rights violations each year.

³²⁴² The numbers of complaints of violations of the right to personal integrity are referred to in these annual reports.

³²⁴³ Figures on violations of the right to personal liberty were also included in some publications of the the National Human Rights Institution- *Defensoría del Pueblo*.

³²⁴⁴ National Human Rights Institution – *Defensoría del Pueblo*, 2014 Annual Report of the National Human Rights Institution – *Defensoría del Pueblo*, p. 49 and 53.

³²⁴⁵ In 2014, the National Human Rights Institution- *Defensoría del Pueblo* reported 2,017 Cases received of violations of the right to personal integrity (including the prohibition of torture and other cruel, inhuman or degrading treatment). 2014 Annual Report of the National Human Rights Institution- *Defensoría del Pueblo*, p. 50.

³²⁴⁶ 2014 Annual Report of the National Human Rights Institution- *Defensoría del Pueblo*, p. 50, 109-117, 380-388. The 2014 report refers, in general terms, to the actions that should be taken by the National Human Rights Institution- *Defensoría del Pueblo* when this right was affected including the investigation of Cases and the filing of legal remedies, but without concrete information on actions taken on complaints, denunciations and petitions,

³²⁴⁷ 2015 Annual Report of the National Human Rights Institution – *Defensoría del Pueblo*, p. 6.

³²⁴⁸ 2015 Annual Report of the National Human Rights Institution– *Defensoría del Pueblo*, p. 101, 134-147. The 2015 annual report describes the scope of the functions of the National Human Rights Institution – *Defensoría del Pueblo* in relation to the right to personal integrity. In 2015, the Office reported having received 2,187 complaints of violations of the right to personal integrity, including 625 complaints of cruel, inhuman or degrading treatment, 99 of torture, 1,436 of abuse of authority and 27 of death threats.

³²⁴⁹ 2015 Annual Report of the National Human Rights Institution – *Defensoría del Pueblo*, p. 107. The 2015 annual report described violations of the right to personal liberty, indicating that the National Human Rights Institution – *Defensoría del Pueblo* received 223 complaints of unlawful deprivation of liberty, 22 complaints of enforced disappearances and 21 complaints of incommunicado detention.

³²⁵⁰ 2016 Annual Report of the National Human Rights Institution – *Defensoría del Pueblo*, p. 152, 222-223, 236 on “civil rights violations”.

³²⁵¹ 2016 Annual Report of the National Human Rights Institution – *Defensoría del Pueblo*, p. 155, 158, 160-161, 232.

³²⁵² *Ibid.*

<i>Period of the report</i>	<i>Total figures</i> 3241	<i>Personal integrity</i> 3242	<i>Personal freedom</i> ³²⁴³
2017 (April-July)	536 ³²⁵³	(134) ³²⁵⁴	(5) ³²⁵⁵
2018	-	-	-
2019	-	-	-
2020	11,328 ³²⁵⁶	499 ³²⁵⁷	73 ³²⁵⁸
2021	19,080 ³²⁵⁹	874 ³²⁶⁰	127 ³²⁶¹
2022	-	-	-

1478. Regardless of the official data, the Mission's investigations show the lack of response from the *Defensoría del Pueblo* to the complaints presented by relatives and lawyers of victims of human rights violations. The sources interviewed observed that the *Defensoría del Pueblo* responds only to complaints related to failures in public services, and takes measures to resolve these types of issues, ignoring and postponing all complaints that refer to serious violations of human rights.³²⁶²

1479. Several NGOs and lawyers consulted by the Mission indicated that, although they systematically presented a copy of the same complaint to the Public Prosecutor's Office and the *Defensoría del Pueblo*, they had never received a response from these institutions. According to *Foro Penal*, from 18 March 2020 to 2 July 2021, the NGO presented simultaneous complaints to the Public Prosecutor's Office and the *Defensoría del Pueblo* in a total of 15 cases: eight related to short-term enforced disappearances³²⁶³ and seven related to tortures,³²⁶⁴ and received no response in any of these cases.³²⁶⁵ Another activist told the Mission that, since she began working at *Fundaredes* in 2019, she had not received any response to the complaints presented to the *Defensoría del Pueblo*.³²⁶⁶

1480. Among the cases investigated for this session document, corresponding to the period 2020-2023, the Mission verified that in 27 cases, requests, petitions or complaints were presented to the *Defensoría del Pueblo* in Caracas or its state delegations. These were either rejected before being formally registered, or these never received a response, either in writing or through concrete measures.

1481. In at least four cases investigated by the Mission, the staff of the *Defensoría del Pueblo* refused to receive or process the complaints presented, alleging that these were "political cases"³²⁶⁷. According to the testimonies collected, this is also the fundamental reason why the investigation of these petitions does not progress before the

³²⁵³ 2017 Annual Report of the National Human Rights Institution – *Defensoría del Pueblo*, p. 112-113.

³²⁵⁴ The 2017 annual report concludes that in the context of the demonstrations between April and July 2017, there were 134 complaints received for violations of the right to personal integrity and there were 16 Cases of homicide involving public security officials. The National Human Rights Institution – *Defensoría del Pueblo* refers to the Case of Juan Pablo Pernalet and demands the Venezuelan justice system conduct an objective, independent and impartial preliminary investigation to clarify the truth of the facts and determine who was responsible for his death. 2017 Annual Report of the National Human Rights Institution – *Defensoría del Pueblo*, p. 69-73, 112 and 113.

³²⁵⁵ In the 2017 annual report in the context of the demonstrations, the National Human Rights Institution – *Defensoría del Pueblo* reported that there were 5 complaints received for violations of the right to liberty. 2017 Annual Report of the National Human Rights Institution – *Defensoría del Pueblo*, p. 112 and 113.

³²⁵⁶ 2020 Annual Report of the National Human Rights Institution – *Defensoría del Pueblo*, p. 206-208, 210.

³²⁵⁷ 2020 Annual Report of the National Human Rights Institution – *Defensoría del Pueblo*, p. 214.

³²⁵⁸ 2020 Annual Report of the National Human Rights Institution – *Defensoría del Pueblo*, p. 215.

³²⁵⁹ 2021 Annual Report of the National Human Rights Institution – *Defensoría del Pueblo*, p. 264, 266.

³²⁶⁰ 2020 Annual Report of the National Human Rights Institution – *Defensoría del Pueblo*, p. 214.

³²⁶¹ 2020 Annual Report of the National Human Rights Institution – *Defensoría del Pueblo*, p. 267.

³²⁶² Document UUDC003: Discussion organized by the Mission with civil society organisations, 25 July 2023.

³²⁶³ Document UUDC002: Table of Cases of torture and disappearance 2020-2021 reported to the Public Prosecutor's Office and the National Human Rights Institution – *Defensoría del Pueblo*.

³²⁶⁴ Document UUDC003: Discussion organized by the Mission with civil society organisations, 25 July 2023.

³²⁶⁵ *Ibid.*

³²⁶⁶ *Ibid.*

³²⁶⁷ Interview IIIV030; Interview IIIV036; Interview PPIV088; Youtube Video- Vladimir Villegas, Solicitan a Maduro que interceda por la libertad de Carlos Debais y Eurinel Rincón, 8 February 2023. Available at: <https://www.youtube.com/watch?v=KNDGSXpc5CE&t=14s/>.

*Defensoría del Pueblo*³²⁶⁸. One of the relatives of a trade unionist deprived of liberty explained it like this: “we have made many protests and sent letters to the *Defensoría del Pueblo*, but when these are political cases they just ignore them”³²⁶⁹.

1482. The Mission received information about complaints filed with the *Defensoría del Pueblo* of victims of torture and other ill-treatment committed against persons accused in the context of insurgency operations. According to people interviewed by the Mission, the family of John Jairo Gasparini, detained within the framework of Operation *Constitución*,³²⁷⁰ tried to file complaints on several occasions with the *Defensoría del Pueblo*, but they were all rejected.³²⁷¹ In the case of Jhonatan Rangel, detained within the framework of the same operation and victim of torture and sexual violence, a complaint was also filed with the *Defensoría del Pueblo*³²⁷². In this case, the judge sent ex officio the complaint of torture and rape to the Human Rights Directorate of the Public Ministry³²⁷³. In neither of these two cases was the Mission aware that the *Defensoría del Pueblo*, in its capacity as Technical Secretariat of the National Commission against Torture, took action in relation to the complaints.

1483. A similar situation occurred with two civilian women deprived of liberty in 2020 within the framework of Operation *Gedeón*. The mother of one of them presented petitions to the *Defensoría del Pueblo* and the Public Prosecutor’s Office on behalf of the two detainees (on 22 April 2022 in the case of her daughter and on 8 May 2023 in the case of the other women), denouncing violations of their rights to physical and mental integrity and effective judicial protection.³²⁷⁴ According to the information transmitted to the Mission, these complaints have not received a response.³²⁷⁵

1484. In the case of human rights defender Javier Tarazona, civil society groups reported the case to the *Defensoría del Pueblo* and protested about his detention.³²⁷⁶ According to a representative of the NGO Fundaredes, the organisation filed at least 24 complaints with the *Defensoría del Pueblo* after the detention of Javier Tarazona, urging that he should be visited by the institution in the detention centre where he is located, to verify and ensure that his state of health is guaranteed.³²⁷⁷ According to the information received by the Mission, there was no response to the complaints and the *Defensoría del Pueblo* did not visit Tarazona in prison at any time.³²⁷⁸ The only activity reported was a call from the *Defensoría del Pueblo* to the director of *El Helicoide* in 2021, to ask about Tarazona’s health status and the procedural status of his case³²⁷⁹.

1485. In the case of the six union members arrested in July 2022, analysed in depth in chapter III, several rallies were organized at the *Defensoría del Pueblo* demanding their release.³²⁸⁰ Several sources confirmed to the Mission that the relatives and lawyers of the union members filed complaints with the *Defensoría del Pueblo* between July and August 2022, without obtaining a response.³²⁸¹

1486. The criminal lawyer Yasnaia Villalobos Montiel, trial lawyer in criminal cases before the special military jurisdiction and the special jurisdiction in matters of terrorism, presented a complaint to the *Defensoría del*

³²⁶⁸ Interview IIIV036; Interview IIIV030.

³²⁶⁹ Interview IIIV030.

³²⁷⁰ See Case 1: Operation *Constitución*, illustrated by the Cases of John Jairo Gasparini and Jhonatan Rangel.

³²⁷¹ Interview with Sugled Gasparini, 6 June 2023.

³²⁷² Case 1: Operation *Constitución*, illustrated by the Cases of John Jairo Gasparini and Jhonatan Rangel. The Mission believes that he was a victim of torture and cruel, inhuman and degrading treatment, including multiple severe beatings, rape and arbitrary detention.

³²⁷³ *Ibid.* Interview IIIV014; Interview IIDC011; Interview IIDC015.

³²⁷⁴ Document IIDC023; Document IIDC024.

³²⁷⁵ Interview IIIV017.

³²⁷⁶ *El Impulso*, Activistas acuden a la Defensoría del Pueblo para exigir libertad de Tarazona #19Ene, 19 January 2022. Available at: <https://www.elimpulso.com/2022/01/19/activistas-acuden-a-la-defensoria-del-pueblo-para-exigir-libertad-de-tarazona-19ene/>

³²⁷⁷ Document UUDC003: Conversation with civil society organisations organized by the Mission, 25 July 2023.

³²⁷⁸ *Ibid.*

³²⁷⁹ National Human Rights Institution – *Defensoría del Pueblo*, Informe de 2021, p. 187.

³²⁸⁰ Tweet from Provea [@_Provea], 31 August 2022. Available at: https://twitter.com/_Provea/status/1565002416080183296/. Tweet from Contrapunto.com [@contrapuntovzla], 15 May 2023. Available at: <https://twitter.com/contrapuntovzla/status/1658173392502022156>

³²⁸¹ Interview OOIV063; Interview OOIV058; Document OODC001; Interview IIIV030.

Pueblo on 24 February 2022, due to the lack of action by the Public Prosecutor's Office³²⁸². The complaint referred to a series of mistreatment, threats, harassment and physical attacks allegedly committed against her, "by unknown people, by [Bolivarian National Intelligence Service] officials, and also by criminal prosecution officials of National Competence attached to the Public Ministry"³²⁸³. Nor did Villalobos receive a response from the *Defensoría del Pueblo*. The feeling of helplessness in the face of the attacks in which she was a victim and the lack of response from the institutions led her to leave the country³²⁸⁴.

1487. A member of an opposition political party who also suffered several security incidents, as well as death threats and other acts of harassment and intimidation, attempted to file complaints with the Public Prosecutor's Office and the *Defensoría del Pueblo* in April and May 2023³²⁸⁵. Despite the seriousness of the events, the Mission has no evidence that any investigation has been initiated by these institutions³²⁸⁶.

1488. Civil society's distrust in the *Defensoría del Pueblo* and in the Public Prosecutor's Office has resulted in a lower number of complaints³²⁸⁷. One person interviewed, a victim of a raid on his home and various acts of harassment, told the Mission that he decided not to file a complaint with either the *Defensoría del Pueblo* and the Public Prosecutor's Office because that was "a waste of time."³²⁸⁸ Two victims stated that they had never seen the *Defensoría del Pueblo* as a body to enforce their rights.³²⁸⁹ Roberto Marrero and his family did not report the harassment they have experienced and the illegal search of their house, believing that it would not be effective, due to state bodies' lack of independence.³²⁹⁰

1489. In some cases, lawyers and relatives of victims reported having received explicit or veiled threats from the institution's staff. An NGO mentioned the case of a relative of a person detained for political reasons who went to the *Defensoría del Pueblo* to report his situation. At the *Defensoría del Pueblo* he was told that "if you continue to report on social networks and mention the names of judges, a case will be opened against you for incitement of hatred"³²⁹¹. According to public statements by Alfredo Chirinos, a former PDVSA (Petroleum of Venezuela) manager imprisoned by the Directorate General of Military Counter-intelligence after denouncing acts of corruption within the company, when his relatives went to the *Defensoría del Pueblo* to ask about him, they responded that they could not give them information: "oops, you should be grateful that they let you see your family member, we can't get involved in that."³²⁹²

6. Conclusions

1490. Based on the preceding analysis, the Mission has reasonable grounds to believe that the National Human Rights Institution – namely, the *Defensoría del Pueblo* has routinely and deliberately failed to take action regarding gross violations of human rights, either ex officio or in response to requests presented by the relatives and representatives of the victims, including in the cases documented in this conference room paper. From the Mission's perspective, the lack of action reflects the bias and lack of independence of the Ombudsperson Ruíz Angulo, and that the *Defensoría del Pueblo* has been used in a partisan and selective manner, in contravention of his mandate.

³²⁸² Document SSDC004.

³²⁸³ *Ibid.*

³²⁸⁴ Interview with Yasnaia Villalobos Montiel, 27 June 2023; Interview with Yasnaia Villalobos Montiel, 12 July 2023; Document SSDC010.

³²⁸⁵ Interview PPIV063.

³²⁸⁶ *Ibid.*

³²⁸⁷ Interview PPIV084; Document UUDC003: Conversation with civil society organisations organized by the Mission, 25 July 2023; Interview PPIV049.

³²⁸⁸ Interview PPIV064.

³²⁸⁹ Interview PPIV090; Interview PPIV089

³²⁹⁰ Interview PPIV071; Interview PPIV064.

³²⁹¹ Document UUDC003: Conversation with civil society organisations organized by the Mission, 25 July 2023.

³²⁹² Tweet by Vladimir Villegas TV [@Vladivillegastv], 5 April 2023. Available at: <https://twitter.com/Vladivillegastv/status/1643613375593697281/>.

C. The National Electoral Council

1. Mandate

1491. The Constitution of the Bolivarian Republic of Venezuela defines the Electoral Branch as one of the five national public powers (Legislative, Executive, Judicial, Citizen and Electoral)³²⁹³ and establishes that it is exercised by the National Electoral Council.³²⁹⁴ According to the applicable legal framework, the National Electoral Council, as the governing body of the Electoral Branch³²⁹⁵ is governed by the “principles of organic independence, functional and budgetary autonomy, non-partisanship of electoral organisations, impartiality and citizen participation; decentralization of electoral administration, transparency and speed of voting and scrutiny.”³²⁹⁶ The initiative to propose laws on electoral matters is within its jurisdiction;³²⁹⁷ “the organisation, administration, direction and surveillance of all acts related to the election of positions of popular representation of public powers, as well as referendums; organizing elections of unions, professional unions and organisations with political purposes in the terms established by law.”³²⁹⁸

2. Organisation

1492. The National Electoral Council is made up of five principal rectors and ten substitute rectors, elected for seven years.³²⁹⁹ The process of electing rectors is defined in detail in the Organic Law of the Electoral Power.³³⁰⁰ The rectors are tasked to participate in the ordinary and extraordinary sessions of the National Electoral Council, to sign with the full board of directors of the governing body the minutes of the sessions and all other acts of the National Electoral Council that require it, to integrate the subordinate bodies of the National Electoral Council, and to comply with and enforce the Constitution and the laws in the exercise of their functions.³³⁰¹

1493. The last five rectors of the CNE were appointed in May 2021, three of them nominated by civil society, one by the faculties of legal and political sciences of national universities, and one by the Citizen Power.³³⁰² In June 2023, four main rectors and six substitutes resigned, putting their positions at the disposal of the National Assembly.³³⁰³ The rectors who have resigned chose to offer their positions with the purpose of collaborating in achieving the political, social and economic stability of Venezuela. On 24 August 2023, the National Assembly appointed new National Electoral Council authorities for the period 2023-2030. Elvis Eduardo Hidrobo Amoroso, who until that date was the Comptroller General of the Republic, was appointed president of the CNE.³³⁰⁴ The appointment of Elvis Amoroso was rejected by civil society, given his militancy in the Unified Socialist Party of Venezuela and his career in the Comptroller General of the Republic— including his responsibility in cases of disqualification of opposition politicians (*see* Chapter IV.E, *supra*)³³⁰⁵.

³²⁹³ 1999 Constitution, art. 136.

³²⁹⁴ *Ibid.*, art. 292

³²⁹⁵ *Ibid.*, Organic Law of the Electoral Power, art. 7.

³²⁹⁶ *Ibid.*, art. 294; Electoral Power, National Electoral Council, instead, concept. Available at: http://www.cne.gob.ve/web/la_institucion/concepto.php/.

³²⁹⁷ 1999 Constitution, art. 204.

³²⁹⁸ *Ibid.*, art. 293.

³²⁹⁹ *Ibid.*, art. 296; Organic Law of the Electoral Power, art. 8.

³³⁰⁰ Organic Law of the Electoral Power, art. 17-33

³³⁰¹ *Ibid.*, art. 15.

³³⁰² *Ibid.* However, over the last few years, both the National Electoral Council members and their election have been the subject of complaints by civil society, political parties and human rights defenders; four of them, including its president, for allegations of being linked, at different levels of affinity with the government of President Maduro.

³³⁰³ National Electoral Council, Statement by CNE President Pedro Calzadilla, 15 June 2023. Available at: http://www.cne.gob.ve/web/sala_prensa/noticia_detallada.php?id=4202/. D, Available at: http://www.cne.gob.ve/web/sala_prensa/noticia_detallada.php?id=4202/. XXXX

³³⁰⁴ National Assembly, Jorge Rodríguez: Nuevo CNE es resultado de un amplio consenso, 24 August 2023.

³³⁰⁵ *Venezuela Red informativa*, Andrés Velásquez calificó de «aberración inconstitucional» descargo nombramiento de Elvis Amoroso como nuevo presidente del CNE, 25 August 2023. Available at:

Chart 5:

Principal rectors of the National Electoral Council

<i>Period</i>	<i>President</i>	<i>Principal rectors</i>
2023 –	Elvis E. Amoroso ³³⁰⁶	Carlos Enrique Quintero Cuevas Rosalba Gil Pacheco Juan Carlos Delpino Boscán Acme Clarisa Nogal Méndez
2021- 2023	Pedro Enrique Calzadilla Pérez ³³⁰⁷	Enrique Márquez Roberto Picón Alexis Corredor Tania D'Amelio (until 26 April 2022)
2020- 2021	Indira Maira Alfonso Izaguirre ³³⁰⁸	Rafael Simón Jiménez Tania D'Amelio Gladys María Gutiérrez José Luis Gutiérrez Leonardo Morales Poleo
	Tibisay Lucena Ramírez ³³⁰⁹	Sandra Oblitas ³³¹⁰ Socorro Hernández Luis Emilio Rondón González Tania D'Amelio Janeth Hernández

<https://venezuelaredinformativa.us/andres-velasquez-califico-de-aberracion-inconstitucional-descarado-nombramiento-de-elvis-amoroso-como-nuevo-presidente-del-cne/>. *Nova Venezuela*, Nuevo CNE: duro rechazo al nombramiento de Amoroso como rector principal de la entidad, 25 August. Available at: *Nova Venezuela*, “Nuevo CNE: duro rechazo al nombramiento de Amoroso como rector principal de la entidad”, 25 August 2023, Available at: https://www.novavenezuela.info/nota.asp?t=Nuevo-CNE-duro-rechazo-al-nombramiento-de-Amoroso-como-rector-principal-de-la-entidad&id=22150&id_tiponota=4/.

³³⁰⁶ Elvis Amoroso is a lawyer and economist. He is a former deputy of the National Assembly for the Unified Socialist Party of Venezuela representing the State of Aragua in the 2010-2015 period, and for the Electoral Victors Unit in the 2005-2010 period. Then, Amoroso was first vice-president of the National Constituent Assembly (ANC) between August and October 2017 and second vice-president of the ANC until October 2018. On 9 November 2017, it became known that the U.S. Treasury Department sanctioned him for allegedly being related to electoral frauds and for censorship of the media. On 30 March 2018, he was sanctioned by the Panamanian government for being considered high-risk for money laundering.

³³⁰⁷ Pedro Calzadilla is a historian, former president of the National Electoral Council and member of the Political Participation and Financing Commission. Calzadilla has served as Minister of Popular Power for Culture and for University Education. Calzadilla has been Vice Minister for the Promotion of Cultural Economy and President of the National History Centre.

³³⁰⁸ Indira Maira Alfonso Izaguirre is currently the acting president of the Electoral Chamber of the Supreme Electoral Tribunal. Alfonso was a deputy to the National Assembly between 2000 and 2005, and 2006-2010 for the Unified Socialist Party of Venezuela.

³³⁰⁹ The sociologist Tibisay Lucena Ramírez was appointed by the National Assembly as alternate member of the National Electoral Council in 1997 and served as president of the CNE from May 2006 to June 2020. Ramírez was professor of the specialization program in Electoral Systems at the School of Political and Administrative Studies of the Central University of Venezuela (UCV), Dean of the *Universidad Experimental de las Artes*. Her last responsibility was at the head of the Ministry of Popular Power for University Education. Ramírez passed away in April 2023.

³³¹⁰ Sandra Oblitas, educator and sociologist, was chief member of the National Electoral Council between 2016 and 2020, a period marked by seven elections, three referendums and many controversial moments. Oblitas participated in the 2004 Presidential Recall Referendum. In 2005 she was director of the Regional Electoral Office of the Capital District. Between 2006 and 2009 she was president of the Civil and Electoral Registry Commission.

3. Allegations received and cases documented by the Mission

1494. A source with internal knowledge of the National Electoral Council interviewed by the Mission commented that “*the constitutional mandate as an autonomous power of the Electoral Branch has not been implemented in its entirety, because the Electoral Branch is controlled by the ruling party,*” upon the appointment of the National Electoral Council by the National Assembly, whose majority is controlled by parties related to the Government³³¹¹. Likewise, the Mission recorded the intervention in which the Executive has publicly announced intentions to call the next presidential elections, despite the fact that this prerogative falls, by constitutional mandate, exclusively on the National Electoral Council³³¹².

1495. The Mission also received allegations about the lack of transparency in the actions of the National Electoral Council and information about its role in the rejection of the registration, substitution and resignation of candidates in the framework of the 2021 regional and municipal elections³³¹³. In this regard, the report of the Carter Centre's mission of electoral experts concluded that political and government intervention weakened the National Electoral Council³³¹⁴.

1496. The Mission has documented allegations from political actors and public figures regarding the establishment by the National Electoral Council of excessively restrictive procedures for the registration of new political parties, which makes it difficult for new political forces to participate in the electoral system³³¹⁵. A source indicated to the Mission that, after having complied with all legal procedures and having sent the registration request to the National Electoral Council, for more than ten years *Vente Venezuela* has not received a definitive response.³³¹⁶

1497. In June 2020, the National Electoral Council unanimously agreed to change the composition of the National Assembly from 167 deputies to 277 (an increase of 66% of assembly members), in view of the parliamentary elections of December 2020 for the period 2021-2026. This was done in compliance with ruling number 68 of 5 June 2020 of the Constitutional Chamber of the Supreme Court of Justice.³³¹⁷ This modification also changed the proportion of deputies eligible for the National Assembly, which comprises the 52% assigned for proportional voting, represented by 144 assembly members elected through list votes; and 48% assigned to the nominal vote, represented by 133 assembly members elected through personalized votes.³³¹⁸

1498. The opposition - which was the majority in the National Assembly – viewed these changes in a negative light and pointed out that the National Electoral Council increased the number of deputies to favour the government party.³³¹⁹ According to a source, the number of deputies increased in areas with a historical tendency to vote for the Unified Socialist Party of Venezuela and decreased in areas with an opposition tendency.³³²⁰

4. Conclusions

1499. As mentioned previously, the protection of the right of every citizen to participate in the direction of public affairs and to associate for political purposes, together with the right to vote and be elected, constitute the

³³¹¹ Interview QQIV002.

³³¹² *Europa Press*, Maduro no descarta un adelanto de las elecciones presidenciales en Venezuela, 14 April 2023. Available at: <https://www.europapress.es/internacional/noticia-maduro-no-descarta-adelanto-elecciones-presidenciales-venezuela-20230414054028.html/>.

³³¹³ Interview QQIV003; Interview QQIV004; Interview QQIV005; Interview QQIV012.

³³¹⁴ The Carter Centre Mission of Electoral Experts on Venezuela's Regional and Municipal Elections, Preliminary Report on Venezuela's Regional and Municipal Elections, Preliminary Report on Venezuela's Regional and Municipal Elections, 3 December 2021. Available at: <https://www.cartercentre.org/news/pr/2021/venezuela-120321.pdf/>.

³³¹⁵ Interview QQIV007; Interview QQIV009; Interview QQIV008; Interview QQIV005; Interview QQIV004.

³³¹⁶ Interview QQIV007; Interview QQIV009.

³³¹⁷ Constitutional Chamber of the Supreme Tribunal of Justice, Judgement 068 Exp. 20-0215, 5 June 2020.

³³¹⁸ National Electoral Council, Press Release: CNE aprobó normativa especial para Elecciones Parlamentarias 2021-2026, 30 June 2020. Available at:

http://www.cne.gob.ve/web/sala_prensa/noticia_detallada.php?id=3790/. See <https://accesoaljusticia.org/tsj-ordena-al-ilegitimo-cne-cambiar-el-mejor-sistema-electoral-del-mundo/>

³³¹⁹ See <https://accesoaljusticia.org/wp-content/uploads/2021/06/Resumen-ejecutivo-informe-anual-2020.pdf>

³³²⁰ Interview QQIV005.

essence of a democratic government and are essential for the consolidation of a democratic society.³³²¹ Political rights are not absolute and may be subject to limitations provided by law, provided that these are not abusive or arbitrary, and that these pursue a legitimate purpose. Furthermore, its regulations must comply with the principles of legality, necessity and proportionality in a democratic society.³³²²

1500. Based on the facts described above, the Mission has reasonable grounds to believe that the National Electoral Council, made up of an ongoing majority of rectors related to the Government party, lacks the necessary independence to carry out its constitutional functions and that its actions have been subject to undue influence by other powers of the State. Similarly, the Mission has reasonable grounds to believe that the National Electoral Council has implemented rules and practices that have impeded, disproportionately and in violation of current legislation, the registration and free functioning of political parties opposed to the Government. These measures have made it difficult for these parties to participate in the country's political life, which has resulted in a weakening of confidence in the electoral system.

D. The Office of the Comptroller General of the Republic

1. Mandate

1501. As analysed in the 2020 Mission report,³³²³ the Comptroller General of the Bolivarian Republic of Venezuela is an organ of the Citizen Power established in the 1999 Constitution.³³²⁴ Its powers include fiscal control, supervision and management of the surveillance and inspection of income, expenses, public assets and national assets, as well as activities related to them.³³²⁵ The Constitution also grants it the authority to inspect and supervise public sector bodies, entities and legal persons, conduct audits, initiate investigations into irregularities against public property and apply administrative sanctions.³³²⁶ The Comptroller General of the Republic has functional, administrative and organisational autonomy to carry out its functions.³³²⁷

1502. The powers of the Comptroller's Office are developed in the Organic Law of the Comptroller General and the National System of Fiscal Control of 2010.³³²⁸ Under the law, the Head of the Comptroller General of the Republic has the powers to require public officials to periodically submit the sworn declaration of assets, declare administrative liability, impose fines, sanctions and, exclusively, impose suspension from office without remuneration, as well as disqualification from the exercise of public office for up to a maximum of 15 years.³³²⁹

2. Organisational structure

1503. The organisational structure of the Comptroller General of the Republic is under the direction and responsibility of the Comptroller, who is part of the Republican Moral Council of the Citizen Power, together with the Ombudsman, and the Attorney General of the Republic.³³³⁰

1504. The Head of the Comptroller General of the Bolivarian Republic of Venezuela between 23 October 2018 and 25 August 2023 was Elvis Eduardo Hidrobo Amoroso, appointed by the National Constituent Assembly to

³³²¹ International Covenant on Civil and Political Rights, art. 25; Human Rights Committee, General Comments under article 40, paragraph 4, of the International Covenant on Civil and Political Rights, para. 1. Available at: CCPR/C/21/Rev.1/Add.7.

³³²² Inter-American Court of Human Rights, Case Yatama v. Nicaragua. Preliminary Objections, Merits, Reparations and Costs. Judgment of 23 June 2005. Series C No. 127, paras. 206, 207.

³³²³ A/HRC/48/CRP.5, para. 75.

³³²⁴ 1999 Constitution, art. 163.

³³²⁵ *Ibid.*, art. 287.

³³²⁶ *Ibid.*, arts. 287, 289; Organic Law of the Comptroller General of the Republic and the National System of Fiscal Control published in Official Gazette No. 6.013 Extraordinary, 23 December 2010, art. 2.

³³²⁷ *Ibid.*, art. 3.

³³²⁸ Organic Law of the Comptroller General of the Republic and the National System of Fiscal Control published in Official Gazette No. 6.013 Extraordinary, 23 December 2010, arts. 14-16 and arts. 75 and 76.

³³²⁹ *Ibid.*, art. 14-16.

³³³⁰ 1999 Constitution, art. 273; Organic Law of Citizens' Power published in Official Gazette No. 6.013 Extraordinary, 23 December 2010, art. 9.

replace Manuel Galindo.³³³¹ At the time of concluding this document, the position of the deputy Comptroller General, in his capacity as leader, is held by Colonel Jhosnel Peraza Machado, who was appointed to the position by Elvis Amoroso on 8 April 2019.³³³²

3. The role of the Comptroller's Office in political disqualifications

1505. The Comptroller General of the Republic has ordered political disqualifications against political representatives of the opposition and public officials. These disqualifications have been applied to officials and politicians accused of alleged administrative irregularities or acts of corruption.

1506. For this conference room paper, the Mission has documented three illustrative cases of disqualification from holding political office (Chapter IV.E *supra*). These disqualifications fell upon opposition politicians Juan Guaidó (Voluntad Popular), María Corina Machado (Vente Venezuela), Freddy Superlano (Voluntad Popular); the last two were candidates for the next primary elections of the *Plataforma Unitaria* of 2023 (See Chapter IV, Cases 22, 37 and 38). According to estimates by the NGO CEPAZ, between 2002 and 2021, 1457 civil servants and public officials have been disqualified from exercising public positions by the Comptroller General of the Republic, including an undetermined number of political opposition leaders.³³³³ There are no official figures for the years 2016-2020 and 2022-2023.

1507. A representative of a political party interviewed by the Mission has questioned the independence of the Comptroller General's Office, arguing that it is influenced by the executive branch, indicating that this affects its ability to carry out impartial and objective investigations into alleged administrative irregularities and acts of corruption.³³³⁴ The same source pointed out the selectivity in the investigations carried out by the Comptroller General's Office, focusing on certain political actors or officials, while other alleged cases of corruption or administrative irregularities do not receive the same attention.³³³⁵

4. Conclusions

1508. The Mission has reasonable grounds to believe that the political disqualifications issued by the Comptroller General of the Republic have been issued arbitrarily, without providing the opportunity to those affected to adequately exercise the right to defence and without due publicity. The Mission also has reasonable grounds to believe that the disqualifications have been selectively applied against leaders and prominent figures of the opposition to the Government, with the aim of persecuting and silencing the opposition. The Mission has reasonable grounds to believe that these measures have limited the possibility of opposition leaders holding public office and participating in Venezuelan political and democratic life, weakening political pluralism, the space for citizen participation and the possibility of alternation in power.

E. The National Telecommunications Commission (CONATEL)

1. Mandate

1509. The National Telecommunications Commission was created on 5 September 1991 by Decree No. 1826, as a non-legal entity with autonomy of administrative, financial and budgetary management and with the rank of Sector General Directorate and the function of Autonomous Service.³³³⁶ The Organic Law of Telecommunications of Venezuela, approved on 12 June 2000, transformed the National Telecommunications Commission into a legal entity,

³³³¹ Elvis Amoroso has been subject to international sanctions by Canada, the United States of America, the United Kingdom, Panama, Switzerland and the European Union. See <https://www.opensanctions.org/entities/Q38454394/>.

³³³² Official Gazette No. 41700, 22 August 2019. Available at: http://spgoin.imprentanacional.gob.ve/cgi-win/be_alex.cgi?Documento=T028700030444/0&Nombred=spgoin&CodAsocDoc=1910&t04=14-15&t05=png&Sesion=92984361/.

³³³³ CEPAZ, Primer Paso en la Ruta Electoral, March 2022. Available at: https://cepaz.org/wp-content/uploads/2022/04/Informe-Electoral-Final-21N-2022Final_compressed.pdf.

³³³⁴ Interview QQIV002.

³³³⁵ *Ibid.*

³³³⁶ Bolivarian Government of Venezuela, Ministry of People's Power of the Office of the Presidency and Follow-up of Government Management, Conatel cumple 31 años administrando y regulando el espacio radioeléctrico venezolano. Available at: http://www.presidencia.gob.ve/Site/Web/Principal/paginas/classMostrarEvento3.php?id_evento=22012.

with its own assets and attached to the Ministry of Infrastructure.³³³⁷ The Commission has the mandate to manage the planning, administration, regulation and supervision of the radio spectrum throughout the territory of the Bolivarian Republic of Venezuela, as well as the various telecommunications services.³³³⁸ On 9 December 2013, through Presidential Decree No. 641, the National Telecommunications Commission became dependent on the Ministry of People's Power for Communication and Information³³³⁹.

1510. As analysed in Chapter IV, the Law of Social Responsibility in Radio and Television (RESORTE Law) of 2004,³³⁴⁰ and its 2010 amendment,³³⁴¹ expanded the regulatory and sanctioning powers of the National Telecommunications Commission. The RESORTE Law also created the Directorate of Social Responsibility, chaired by the Director General of the National Telecommunications Commission and made up of representatives of various ministries and other organisations, with the power to impose sanctions in accordance with the law and discuss and approve recommendations regarding renewals of authorizations and revocations of concessions.³³⁴²

2. Organisation

1511. The National Telecommunications Commission is managed by its Board of Directors,³³⁴³ chaired by a Director-General appointed by the President of the Republic.³³⁴⁴ One of the requirements to hold this position is to have "proven technical and professional experience and suitability in the telecommunications sector."³³⁴⁵

1512. During the period covered by the Mission's mandate, that is, since 2014, the Director-Generals of the National Telecommunications Commission have been William Castillo (February 2014-October 2016),³³⁴⁶ Andrés Eloy Méndez (October 2016-June 2017),³³⁴⁷ Enrique José Quintana Sifontes (June 2017-August 2017),³³⁴⁸ and Jorge Eliezer Márquez (August 2017-present).³³⁴⁹ All of them belong to President Maduro's close circle: Castillo is the

³³³⁷ Organic Law on Venezuelan Telecommunications, 12 June 2000, available at:

https://www.oas.org/juridico/spanish/cyb_ven_ley_telecomunicaciones.pdf;

³³³⁸ Bolivarian Government of Venezuela, Ministry of People's Power of the Office of the Presidency and Follow-up of Government Management, Conatel cumple 31 años administrando y regulando el espacio radioeléctrico venezolano, available at:

http://www.presidencia.gob.ve/Site/Web/Principal/paginas/classMostrarEvento3.php?id_evento=22012.

³³³⁹ Bolivarian Government of Venezuela, Ministry of People's Power of the Office of the Presidency and Follow-up of Government Management, Conatel cumple 25 años al servicio de las telecomunicaciones en Venezuela, 5 September 2016, available at: <http://www.minci.gob.ve/conatel-cumple-25-anos-al-servicio-de-las-telecomunicaciones-en-venezuela/>.

³³⁴⁰ *Official Gazette* no. 38,333 of 12 December 2005

³³⁴¹ Law on Social Responsibility in Radio and Television, *Official Gazette* no. 39,610 of 7 February 2011.

Available at: <http://www.conatel.gob.ve/files/lehrs.pdf>.

³³⁴² Art. 20, Law on Social Responsibility in Radio and Television, *Official Gazette* no. 39,610 of 7 February 2011. Available at: <http://www.conatel.gob.ve/files/lehrs.pdf>.

³³⁴³ Art. 39, Organic Law on Venezuelan Telecommunications, 12 June 2000. Available at:

https://www.oas.org/juridico/spanish/cyb_ven_ley_telecomunicaciones.pdf

³³⁴⁴ Art. 40, Organic Law on Venezuelan Telecommunications, 12 June 2000. Available at:

https://www.oas.org/juridico/spanish/cyb_ven_ley_telecomunicaciones.pdf.

³³⁴⁵ Art 42 (4), Organic Law on Venezuelan Telecommunications, 12 June 2000. Available at:

https://www.oas.org/juridico/spanish/cyb_ven_ley_telecomunicaciones.pdf.

³³⁴⁶ *Poderopedia*, biografía William Castillo, Funcionario público/Viceministro. Available at:

<https://poderopediave.org/persona/william-castillo/>. <https://poderopediave.org/persona/william-castillo/>.

³³⁴⁷ Official Gazette Publication System from 2021 to date, Decree No. 2,494, whereby Andrés Eloy Méndez González is appointed as General Director of the National Telecommunications Commission (CONATEL).

Available at: http://spgoin.imprentanacional.gob.ve/cgi-win/be_alex.cgi?Acceso=T028700007638/0&Nombrebd=spgoin&Sesion=1696255337.

³³⁴⁸ Bolivarian Government of Venezuela, Ministry of People's Power for Communication and Information, Enrique Quintana appointed new Director General of CONATEL by Decree No. 2,922, published in Official Gazette 41.177 dated 21 June 2017, 23 June 2017. Available at: <http://www.conatel.gob.ve/enrique-quintana-designado-nuevo-director-general-de-conatel/>.

³³⁴⁹ Bolivarian Government of Venezuela, Ministry of People's Power for Communication and Information, Appoint Jorge Eliezer Márquez as new director general of CONATEL, by means of decree 3,017 published in Official Gazette 41,208 dated 7 August 2017. Available at: <http://www.conatel.gob.ve/designan-a-jorge-elieser-marquez-como-nuevo-director-general-de-conatel/>.

current Vice Minister of Anti-Blockade Policies;³³⁵⁰ Méndez was a former deputy of the National Constituent Assembly and is currently a deputy of the National Assembly for the Unified Socialist Party of Venezuela;³³⁵¹ and Quintana is the current President of the National Transportation Institute.³³⁵²

1513. The General Director of the National Telecommunications Commission, Jorge Elisier Márquez, has the rank of General of the Bolivarian National Guard and is a person trusted by President Maduro. Simultaneously, he holds the position of head of the Ministry of People's Power for the Office of the Presidency and Monitoring of Government Management.³³⁵³ Between 2017 and 2020, along with other Venezuelan officials, Jorge Elisier Márquez was sanctioned by various governments, including the United States of America, Canada, Panama, the European Union and Switzerland for alleged responsibilities related to acts of censorship.³³⁵⁴

3. Sanctions and precautionary measures

1514. Article 33 of the *RESORTE* Law empowers the National Telecommunications Commission to issue precautionary measures to order the media to refrain from disseminating messages considered contrary to the same law, or “in order to protect the rights of users [...] especially those inherent to [...] the security of the Nation.”³³⁵⁵ The National Telecommunications Commission also has the power to implement sanctions against suppliers who do not comply with its directives, such as revoking their administrative authorization and/or concession.³³⁵⁶ The law establishes that any precautionary measure must be issued by means of a reasoned order within two business days of the alleged violation.³³⁵⁷

1515. However, according to the cases documented by the Mission, the precautionary measures, sanctions, denial of permits, and closures ordered by the National Telecommunications Commission have often not been carried out through official letters or minutes, but rather through informal telephone calls, or, in specific cases, by inspections by officials who followed the procedures established by law. The Mission investigated 12 cases that occurred between 2021 and 2023 in which the National Telecommunications Commission sanctioned stations or programs without respecting due process. These cases include nine closures of radio stations and television media shortly after they disseminated information that could be considered critical of the Government, or when these were linked to an

³³⁵⁰ National Assembly, Legislative Power, Bolivarian Republic of Venezuela, Viceministro William Castillo: Venezuela sigue creciendo a pesar del bloqueo, 11 July 2023. Available at: <https://www.asambleanacional.gob.ve/noticias/viceministro-william-castillo-venezuela-sigue-creciendo-a-pesar-del-bloqueo>.

³³⁵¹ National Assembly, Legislative Power, Bolivarian Republic of Venezuela, Andrés Eloy Méndez González. Available at: <https://www.asambleanacional.gob.ve/diputado/mendez-gonzalezandres-eloy>.

³³⁵² *Pandectas Digitals*, Decreto N° 3.242, mediante el cual se nombra a Enrique José Quintana Sifontes, como Presidente del Instituto Nacional de Transporte Terrestre (INTT). Available at: <https://pandectasdigital.blogspot.com/2018/01/decreto-n-3242-mediante-el-cual-se.html>.

³³⁵³ Bolivarian Government of Venezuela, Ministry of People's Power for Communication and Information, Designan a Jorge Elisier Márquez como nuevo director general de Conatel, mediante el decreto 3,017 published in Official Gazette 41,208 dated 7 August 2017. Available at: <http://www.conatel.gob.ve/designan-a-jorge-elieser-marquez-como-nuevo-director-general-de-conatel/>.

³³⁵⁴ *Poderopedia*, biografía Jorge Elisier Márquez Available at: <https://poderopediave.org/persona/jorge-elieser-marquez/>; Transparenciave.org, Los militares y su rol en las empresas propiedad del estado, October 2020. <https://transparenciave.org/wp-content/uploads/2020/10/Los-militares-y-su-rol-en-las-Empresas-Propiedad-del-Estado.pdf>; CNN, EE.UU. sanciona a 10 altos funcionarios y exfuncionarios venezolanos, 9 November 2017. Available at: <https://cnnespanol.cnn.com/2017/11/09/ee-uu-sanciona-a-10-altos-funcionarios-venezolanos/>; France 24, La UE sanciona a Luis Parra y a funcionarios de Venezuela por decisiones contra oposición, 29 June 2020. Available at: <https://www.france24.com/es/20200629-la-ue-sanciona-a-luis-parra-y-a-funcionarios-de-venezuela-por-decisiones-contra-oposición>; Runrun.es, Detrás de las sanciones. El ojo de la comunidad internacional está en 92 funcionarios venezolanos, 13 March 2018. Available at: <https://runrun.es/tr-es-plus/341231/detras-de-las-sanciones-el-ojo-de-de-estados-unidos-canada-y-la-union-europea-esta-en-74-funcionarios-venezolanos/>.

³³⁵⁵ Law on Social Responsibility in Radio and Television, *Official Gazette* no. 39,610 of 7 February 2011, art. 33. Available at: <http://www.conatel.gob.ve/files/leyrs.pdf>;

³³⁵⁶ *Ibid.*

³³⁵⁷ *Ibid.*

opposition political party. This also includes three cases of suspension of programs or dismissal of announcers for violating the informal censorship imposed by the National Telecommunications Commission.³³⁵⁸

4. Conclusions

1516. The Mission has reasonable grounds to believe that, on a recurring basis, the National Telecommunications Commission, uses administrative procedures in an arbitrary manner with the purpose of limiting the operation of media outlets that adopt a critical stance towards the Government. The National Telecommunications Commission exercises control over the type of content that media can broadcast and accuses stations of being illegal for publishing “inappropriate” content, according to a vague and discretionary interpretation of the law, negatively impacting the exercise of freedom of expression regarding issues of general interest and its independent functioning. This dynamic has resulted in a tendency toward self-censorship by the media that seeks to avoid sanctions that could even lead to the closure of their activities.

F. Security forces

1517. The Mission's investigation for this conference room paper has identified seven security and intelligence bodies of the Venezuelan State involved in human rights violations due to the acts of their officials. These military, police and civil entities are: the Bolivarian National Guard (GNB), the Bolivarian National Police (PNB),³³⁵⁹ the Scientific, Criminal and Forensic Investigations Corps (CICPC), the Bolivarian National Intelligence Service (SEBIN), the Directorate General of Military Counter-intelligence (DGCIM), the Strategic Operations Group (GOES by its Spanish acronym) and the Chacao Municipal Police (Polichacao).

1518. In this section, and building on its previous reports, the Mission provides a brief update, where appropriate, of the institutional reforms that have occurred since 2020 in these security and intelligence bodies, as well as the changes at the hierarchical level of their respective chains of command. Likewise, the section makes a numerical count of the gross human rights violations and crimes covered by the Mission's mandate, when it has reasonable grounds to believe that these were committed by officials of these security and intelligence bodies and, as such, can be attributed to the Venezuelan State. The individual criminal responsibility of said officials must be determined by the competent authorities in accordance with the guarantees of due process. Their names are on file in the Mission's archives and may be disclosed at a later date or shared with the respective prosecutorial and judicial authorities at the discretion of the Mission and in accordance with the guidelines applicable to United Nations fact-finding missions.

1. The Bolivarian National Guard (GNB)

1519. The Bolivarian National Guard³³⁶⁰ is one of the five components of the National Bolivarian Armed Forces of Venezuela (FANB)³³⁶¹ and its tasks are to maintain the internal order of the country³³⁶². According to the Constitutional Law of the National Bolivarian Armed Forces of Venezuela, the Bolivarian National Guard (GNB) performs general functions in matters of security and public order, including the fight against terrorism³³⁶³.

1520. The operational command structure of the Bolivarian National Guard (GNB), like that of the rest of the National Bolivarian Armed Forces of Venezuela (FANB), includes the Strategic Regions of Comprehensive Defence (REDI), the Integral Defence Operations Zones (ZODI), and the Integral Defence Areas (ADI).³³⁶⁴ In the period covered by this investigation, 2020-2023, three Major Generals have been in charge of the Bolivarian National Guard (GNB): Fabio Zavarce Pabón, until July 2021; Juvenal Fernández López, until July 2023, and Elio Ramon Estrada Paredes, currently in office.

³³⁵⁸ See Chapter IV.F, *supra*.

³³⁵⁹ As it has done since its previous reports, the Mission will henceforth use the acronym PNB to identify the Bolivarian National Police Corps.

³³⁶⁰ The Mission provided an overview of the Bolivarian National Guard in its 2020 report. See A/HRC/45/CRP.11, paras 168-182.

³³⁶¹ The other four are the Bolivarian Army, the Bolivarian Navy, the Bolivarian Military Aviation and the Bolivarian Militia.

³³⁶² 1999 Constitution, art. 329.

³³⁶³ Constitutional Law of the Bolivarian National Armed Forces, Official Gazette No. 6.608 (Extraordinary), of 30 January 2020, Art. 73(6).

³³⁶⁴ A/HRC/45/CRP.11, paras. 188-189, 2028-2030.

Chart 6:

**Commanders of the Bolivarian National Guard (GNB)
(2014-2023)**

<i>Period</i>	<i>Commander</i>	<i>Military rank</i>
October 2014 - July 2016	Néstor Luis Reverol Torres	Major General ³³⁶⁵
July 2016 - June 2017	Antonio José Benavides Torres	Major General ³³⁶⁶
June 2017 - January 2018	Sergio José Rivero Marcano	General ³³⁶⁷
January 2018 - July 2019	Richard López Vargas	Major General ³³⁶⁸
July 2019 - July 2021	Fabio Zavarce Pabón	Major General ³³⁶⁹
July 2021 - July 2023	Juvenal Fernández López	Major General ³³⁷⁰
July 2023 – present	Elio Ramon Estrada Paredes	Major General ³³⁷¹

1521. Regarding the cases investigated for this conference room paper, the Mission has reasonable grounds to believe that the GNB has participated in the violation of the rights of 10 people (all men) who have been victims of arbitrary detention (10), of torture (1) and arbitrary deprivation of life (1). The responsibility of the direct and intellectual authors (or mediators) in these violations must be investigated by the competent criminal authorities.

2. Bolivarian National Police (PNB)

1522. The Bolivarian National Police (PNB) is the main nationwide security force.³³⁷² It is governed by the Organic Law of the Police Service of 2008³³⁷³ and its General Regulations of 2017³³⁷⁴. In 2021, through Decree number 4582 of 13 April, President Maduro ordered the PNB restructuring.³³⁷⁵ This task was entrusted to a commission chaired by the then Minister of People’s Power for Interior, Justice and Peace (Minister of the Interior), Carmen Teresa Meléndez Rivas.³³⁷⁶ According to the decree, the restructuring had to be carried out “within the

³³⁶⁵ Ministry of Defence, Resolution No. 7525, dated 24 October 2014, *Official Gazette* No. 40.530, dated 30 October 2014.

³³⁶⁶ Ministry of Defence, Resolution No. 14877, of 7 July 2016, *Official Gazette*. No. 40.942 of 12 July 2016.

³³⁶⁷ Bolivarian National Guard, M/G Sergio José Rivero Marcano nuevo Comandante General de la GNB, of 24 June 2017. Available at: <http://www.guardia.mil.ve/web/mg-sergio-jose-rivero-marcano-nuevo-comandante-general-de-la-gnb/>.

³³⁶⁸ Ministry of Communications, Presidente Maduro designó al M/G Sergio Rivero Marcano Inspector General de la FANB, 16 January 2018. Available at: <http://www.minci.gob.ve/presidente-maduro-designo-al-mg-sergio-rivero-marcano-inspector-general-la-fanb/>.

³³⁶⁹ Ministry of Defence, Resolution No. 31086, of 7 July 2019, *Official Gazette*. No. 6.465, of 9 July 2019, Ministry of Ecosocialism, Ratificado Ministro de Defensa y designados nuevos comandantes generales del Ejército, GNB y milicia, 8 July 2019. Available at: <http://www.minec.gob.ve/ratificado-ministro-de-defensa-y-designados-nuevos-comandantes-generales-del-ejercito-gnb-y-milicia/>.

³³⁷⁰ Ministry of Communications, Jefe de Estado anuncia cambios en el Estado Mayor de la FANB, 7 July 2021. Available at: <http://www.minci.gob.ve/jefe-de-estado-anuncia-cambios-en-el-estado-mayor-de-la-fanb/>.

³³⁷¹ Ministry of Ecosocialism, Presidente Maduro designó nuevos comandantes de las REDI, 13 July 2023. Available at: <http://www.minec.gob.ve/presidente-maduro-designo-nuevos-comandantes-de-las-redi-2/>.

³³⁷² The Mission provided an overview of the PNB in its 2020 report. See A/HRC/45/CRP.11, paras. 200-204.

³³⁷³ Decree no. 6895 with rank, value and force of Organic Law of the Police Service and the National Police Corps, *Official Gazette* No. 5880 (with amendments).

³³⁷⁴ Decree no. 2765 of 21 March 2017.

³³⁷⁵ Decree no. 4582, *Official Gazette* No. 42.105, 13 April 2021.

³³⁷⁶ *Ibid.*, arts. 3 and 4; *Acceso a la Justicia*, Reestructuración del Cuerpo de Policía Nacional Bolivariana, CPNB, 1 May 2021. Available at: <https://accesoaljusticia.org/reestructuracion-del-cuerpo-de-policia-nacional-bolivariana-cpnb/>.

framework of the parameters of respect for human rights³³⁷⁷ in an initial period of six months, which was extended for another six.³³⁷⁸

1523. On 27 July 2022, the PNB General Commander at that time, Elio Ramón Estrada Paredes, presented a new police directorate, the Directorate of Strategic and Tactical Actions (DAET) created within the framework of the plan “Great Mission Quadrant of Peace”³³⁷⁹ and linked to vertex 2 of the quadrant, against corruption³³⁸⁰, and vertex 7, for the strengthening and expansion of the PNB.³³⁸¹ The DAET brought together all the special immediate action divisions of the Police to centralize all special operations.³³⁸² Some of these divisions were previously PNB directorates under the direct command of its General Commander.³³⁸³

1524. As explained in detail in the other conference room paper accompanying the Mission report, the Mission has reasonable grounds to believe that the DAET is the result of a transition from the Special Action Forces (FAES) that operated as a component of the Police between July 2017 and July 2022, and that were identified by the Mission for their role in serious violations of human rights and crimes against humanity of extrajudicial executions within the framework of security and social control operations,³³⁸⁴ as well as in arbitrary arrests within the framework of the repression of real or perceived opponents of the Government.

1525. The PNB reports directly to the Minister of the Interior. During the research period covered by this conference room paper, the Ministers of the Interior in command of the PNB were the General in Chief of the National Bolivarian Armed Forces of Venezuela, Néstor Luis Reverol Torres, until October 2020; the Admiral in Chief of the Navy Carmen Teresa Meléndez Rivas, until August 2021, and the Admiral in Chief of the Navy Remigio Ceballos Ichaso, until the present.³³⁸⁵

1526. The Director of the PNB is appointed directly by the Minister of the Interior. Since 2015, the position has been held by senior GNB officers (Table 4). As of December 2022, changes were made to the PNB’s operational chains of command which translated into new ranks at the operational, tactical, strategic and senior management levels.³³⁸⁶ There was also a rotation of hierarchical personnel in July 2023, affecting the Director and Deputy Director of the police force. During the period covered by this conference room paper, the PNB General Commanders have been Major General Elio Ramón Estrada Paredes, replaced in July 2023, and Brigadier General Rubén Darío Santiago Servigna, currently in office. According to the Mission's investigations, the formal chain of command within the PNB has remained operational at all times.

³³⁷⁷ Decree no. 4582, *Official Gazette* no. 42.105, 13 April 2021.

³³⁷⁸ *Ibid.*

³³⁷⁹ Peace Quadrant is understood as the basic unit of territorial organisation, geographically delimited, as part of the Popular Protection System for Peace (SP3) and the Integral Defence of the Nation; where the functions that guarantee the development of the socio-cultural, educational, economic, environmental and political spheres are executed, as well as the safeguarding of the physical, psychological, moral and spiritual integrity of people and property in the face of any risk or vulnerability. Ministry of People's Power for Interior Relations, Justice and Peace, *Gran Misión Cuadrantes de Paz*, p. 9, 16 July 2018. Available at: http://www.mppriyp.gob.ve/wp-content/uploads/2019/07/CUADRANTES_DE_PAZ.pdf.

³³⁸⁰ Ministry of the Interior, “Gran Misión Cuadrantes de Paz”, p. 14, vertex 2, 16 July 2018. Available at: http://www.mppriyp.gob.ve/wp-content/uploads/2019/07/CUADRANTES_DE_PAZ.pdf.

³³⁸¹ Ministry of the Interior, “Gran Misión Cuadrantes de Paz”, p.18, vertex 7, 16 July 2018. Available at: http://www.mppriyp.gob.ve/wp-content/uploads/2019/07/CUADRANTES_DE_PAZ.pdf.

³³⁸² Interview OOIV053; *Venezolana de Televisión*, Inauguran Dirección de Acciones Estratégicas y Tácticas de la Policía Nacional Bolivariana, 27 July 2022. Available at: <https://www.vtv.gob.ve/direccionacciones-estrategicas-tacticas-policia-nacional-bolivariana/>.

³³⁸³ Interview OOIV053; *Venezolana de Televisión*, Inauguran Dirección de Acciones Estratégicas y Tácticas de la Policía Nacional Bolivariana, 27 July 2022. Available at: <https://www.vtv.gob.ve/direccionacciones-estrategicas-tacticas-policia-nacional-bolivariana/>.

³³⁸⁴ A/HRC/CRP:11, paras. 2058-2060.

³³⁸⁵ Presidency of the Republic, Decree No. 4.565, *Official Gazette* No. 6.638, 19 August 2021; Publication on Instagram [mijpvzla] (Official account of the Ministry of People's Power for Internal Relations, Justice and Peace), 25 July 2023, Available at: <https://www.instagram.com/p/CvGREtDof4A/?hl=es>

³³⁸⁶ Publicación on Instagram PNB, [dipcpnb.official], 31 December 2021. Available at: https://www.instagram.com/p/Cm1YYHEuyAf/?img_index=4. *Noticodigo*, Por si no lo sabías! Estos son los nuevos rangos dentro de la PNB, adiós a las jerarquías de comisionados, 21 March 2023. Available at: <https://web.archive.org/web/20230325160557/https://noticodigo.com/por-si-no-lo-sabias-estos-son-los-nuevos-rangos-dentro-de-la-pnb-adios-a-las-jerarquias-de-comisionados/>

Chart 7:
Ministers of People’s Power for Interior, Justice and Peace (2014-2023)

<i>Period</i>	<i>Minister</i>	<i>Military rank</i>
October 2014- March 2015	Carmen Teresa Meléndez Rivas	Admiral in Chief of the Navy, National Bolivarian Armed Forces of Venezuela (FANB) ³³⁸⁷
March 2015- August 2016	Gustavo Enrique González López	Chief General, National Bolivarian Armed Forces of Venezuela (FANB) ³³⁸⁸
August 2016- October 2020	Néstor Luis Reverol Torres	Chief General, National Bolivarian Armed Forces of Venezuela (FANB) ³³⁸⁹
October 2020- August 2021	Carmen Teresa Meléndez Rivas	Admiral in Chief of the Navy National Bolivarian Armed Forces of Venezuela (FANB) ³³⁹⁰
August 2021- present	Remigio Ceballos Ichaso	Admiral in Chief of the Navy, National Bolivarian Armed Forces of Venezuela (FANB) ³³⁹¹

1527. The Mission identified a link in the coordination of security operations between the National Bolivarian Armed Forces of Venezuela (FANB) and the other State security bodies, including the PNB. The military affiliation of the high command of these security forces facilitates coordination between the Minister of People’s Power for Defence (Minister of Defence), General in Chief of the Bolivarian Army Vladimir Padrino López, and the Minister of the Interior, Admiral in Chief Remigio Ceballos Ichaso, who was previously commander of the Strategic Operational Command (CEOFANB)³³⁹², highest body for planning, programming, direction, execution and specific, joint and combined operational strategic control of the FANB.

1528. Among the cases investigated by the Mission for this report, there are 12 cases in which the PNB or its components were involved, particularly the Special Action Forces (FAES), the directorates that became part of the Directorate of Strategic and Tactical Actions (DAET) since July 2022 (i.e. the Directorate against Organized Crime (DCDO), the Directorate of Strategic Intelligence (DIE), and the Directorate of Criminal Investigations (DIP)), and the DAET itself. These cases include 41 people: 19 for arbitrary detention, 7 for short-term enforced disappearance (including one woman), 13 for torture or other cruel, inhuman or degrading treatment (including 5 women), and 2 women for sexual or gender-based violence. The responsibility of direct and intellectual authors (or mediators) in these violations must be investigated by the competent criminal authorities.

Chart 8:
Directors of the Bolivarian National Police (PNB) (2014-2023)

<i>Period</i>	<i>Director</i>	<i>Military rank</i>
January 2014 – April 2015	Manuel Eduardo Pérez Urdaneta	Army Brigadier General ³³⁹³

³³⁸⁷ Presidency of the Republic, Decree No. 1.345, *Official Gazette* No. 40.526 of 24 October 2014.

³³⁸⁸ Presidency of the Republic, Decree No. 1.644, of 9 March 2015, *Official Gazette* No. 40616, of 9 March 2015

³³⁸⁹ Presidency of the Republic, Decree No. 2.405, *Official Gazette* No. 40.957, of 2 August 2016.

³³⁹⁰ Presidency of the Republic, Decree No. 4.356, *Official Gazette* No. 6586, of 25 October 2020

³³⁹¹ Presidency of the Republic, Decree No. 4.565, *Official Gazette* No. 6.638, of 19 August 2021

³³⁹² Ministry of Defence, Resolution no. 19748, of 3 July 2017, *Official Gazette* No. 41.187 of 6 July 2017.

³³⁹³ Ministry of the Interior, Resolution No. 16 of 7 January 2014, *Official Gazette* No. 40.328 of 7 January 2014.

<i>Period</i>	<i>Director</i>	<i>Military rank</i>
April 2015 – September 2016	Juan Francisco Romero Figueroa	Major General, Bolivarian National Guard (GNB) ³³⁹⁴
September 2016 - March 2017	Franklin García Duque	Major General, Bolivarian National Guard (GNB) ³³⁹⁵
March 2017 - May 2019	Carlos Alfredo Pérez Ampueda	Brigadier General, Bolivarian National Guard (GNB) ³³⁹⁶
May 2019 - July 2023	Elio Ramon Estrada Paredes	Major General, Bolivarian National Guard (GNB) ³³⁹⁷
July 2023 – up to date	Rubén Darío Santiago Servigna	Brigadier General, Bolivarian National Guard (GNB) ³³⁹⁸

3. Scientific, Criminal and Forensic Investigations Corps (CICPC) ³³⁹⁹

1529. The Ministry of the Interior has under its dependence, in addition to the PNB, the Bolivarian National Intelligence Service (SEBIN by its Spanish acronym), the Strategic Operations Group (GOES), and the Scientific, Criminal and Forensic Investigations Corps (CICPC). The CICPC Organic Law ³⁴⁰⁰ provides that the Ministry of the Interior is the body in charge of supervising and applying all police policies applicable to this body ³⁴⁰¹. As the Mission noted in its 2020 report, ³⁴⁰² the CICPC is responsible for carrying out criminal investigations, in coordination and under the functional direction of the Public Prosecutor's Office. ³⁴⁰³

³³⁹⁴ Ministry of the Interior, Decree No. 1.707, of 7 April 2015, *Official Gazette* No. 40.634, of 7 April 2015; En Gaceta Oficial nombramiento de Juan Francisco Romero como director de la PNB, 8 April 2015. Available at: <https://confirmado.com.ve/en-gaceta-oficial-nombramiento-de-juan-francisco-romero-como-director-de-la-pnb/>.

³³⁹⁵ *Minci*, Designado Franklin García Duque como nuevo director general de la PNB, 15 September 2016. Available at: <http://www.minci.gob.ve/designado-franklin-garcia-duque-como-nuevo-director-general-de-la-policia-nacional-bolivariana/>.

³³⁹⁶ Ministry of the Interior, Resolution No. 66, of 27 March 2017, *Official Gazette* No. 41.123, of 28 March 2017

³³⁹⁷ *Asociación Civil Control Ciudadano*, Designado el Mayor General de la GNB, Elio Ramón Estrada Paredes, como Viceministro del Sistema Integrado de Policía, del Ministerio del Poder Popular para Relaciones Interiores, Justicia y Paz, 7 September 2022. Available at: <https://www.controlciudadano.org/noticias/designado-el-mayor-general-de-la-gnb-elio-ramon-estrada-paredes-como-viceministro-del-sistema-integrado-de-policia-del-ministerio-del-poder-popular-para-relaciones-interiores-justicia-y-paz/>.

³³⁹⁸ Tweet by Nicolas Maduro [@NicolasMaduro], 18 July 2023. Available at: <https://twitter.com/NicolasMaduro/status/1681425037985759233>; National Directorate of Civil Protection and Disaster Management, General de Brigada Rubén Santiago designado como nuevo Comandante de la PNB, 19 July 2023. Available at: <https://www.pcivil.gob.ve/2023/07/general-de-brigada-ruben-santiago-nuevo-comandante-de-la-pnb/>.

³³⁹⁹ CICPC, Línea de mando, 4 February 2022. Disponible: <https://www.cicpc.gob.ve/index.php/about/linea-de-mando.html>.

³⁴⁰⁰ Decree No. 1511, of the Law on Scientific, Criminal and Criminalistic Investigation Organs (9 November 2001). Law of the Scientific, Criminal and Criminalistic Investigations Corps to regulate the organisation, operation and competence of the Scientific, Criminal and Criminalistic Investigations Corps (came into force on 5 January 2007), art. 19, Available at: http://www.oas.org/juridico/spanish/mesicic2_ven_anexo_24_sp.pdf

³⁴⁰¹ Organic Law of the Scientific, Criminal and Forensic Investigations Corps, arts. 18 and 20.

³⁴⁰² The Mission gave a general description of the CICPC in its 2020 report. See A/HRC/45/CRP.11, paras. 205-208.

³⁴⁰³ 1999 Constitution art. 285.

1530. The CICPC Organic Law appoints in its chain of command, first, its director, who is appointed by the Minister of the Interior³⁴⁰⁴. Since 2016, the director of this entity is the Commissioner General Douglas Arnaldo Rico González, sanctioned on 22 February 2021 by the European Union by Council Decision (CFSP) 2017/2074, for considering him responsible for serious human rights violations committed by agents under his command.³⁴⁰⁵

Chart 9:

Directors of the Scientific, Criminal and Forensic Investigations Corps (CICPC) (2014-2023)

<i>Period</i>	<i>Commandor</i>	<i>Police rank</i>
May 2013 – February 2016	José Gregorio Sierralta Rodríguez ³⁴⁰⁶	Commissioner
February 2016 – present	Douglas Arnaldo Rico González ³⁴⁰⁷	Commissioner General

1531. One of the cases investigated by the Mission for this report, related to the arbitrary detention and torture of a man, involves the CICPC.

4. Bolivarian National Intelligence Service (SEBIN)³⁴⁰⁸

1532. Since the creation of this security body on 30 August 2009, until 6 December 2012, the Bolivarian National Intelligence Service (SEBIN) was attached to the Ministry of the Interior³⁴⁰⁹, to the Vice Presidency of the Republic³⁴¹⁰ (between 2012 and 2021) and, as of 29 April 2021, back to the Ministry of the Interior.³⁴¹¹

1533. The current Director of Bolivarian National Intelligence Service (SEBIN) is General Gustavo González López, who was restored to this position in 2019, after the departure of Manuel Ricardo Cristopher Figuera.³⁴¹² At the next levels of the chain of command are the Deputy Director General, the Secretary General and the Directors of the substantive units, including the Intelligence, Counter-intelligence, Strategic Investigations, and Immediate Actions Directorate.³⁴¹³ According to the information obtained by the Mission, this hierarchical structure has been maintained.

1534. According to the cases investigated for this conference room paper, the Mission has reasonable grounds to believe that the Bolivarian National Intelligence Service (SEBIN) has been involved in the cases of 18 people who were victims of violations of their rights: 8 (2 women) due to arbitrary detention, 1 (man) for arbitrary deprivation of life, 4 (all men) for short-term enforced disappearance, 4 (1 woman) for torture or cruel, inhuman or degrading

³⁴⁰⁴ *Ibid.*, art. 55.

³⁴⁰⁵ Official Journal of the European Union, L 60 I, of 22 February 2021. Available at: <https://eur-lex.europa.eu/legal-content/ES/TXT/PDF/?uri=OJ:L:2021:060I:FULL&from=EN>

³⁴⁰⁶ Ministry of the Interior, Resolution No. 143, of 16 May 2013, *Official Gazette* No. 40.168 of 16 May 2013

³⁴⁰⁷ Ministry of the Interior, Resolution No. 4, of 5 February 2016, *Official Gazette* No. 6.216, of 5 February 2016.

³⁴⁰⁸ Presidency of the Republic, Decree No. 4.601 of 29 April 2021, *Official Gazette* No. 42.116 of 29 April 2021.

³⁴⁰⁹ Presidency of the Republic, Decree No. 9.308, of 5 December 2012, *Official Gazette* No. 4066, of 6 December 2012.

³⁴¹⁰ Presidency of the Republic, Decree No. 9.446, of 1 April 2013, Organic Regulations of the Bolivarian National Intelligence Service (SEBIN), *Official Gazette* No. 40.153, of 24 April 2013.

³⁴¹¹ *Official Gazette* No. 42.116. *Impacto Venezuela*, El SEBIN cambia de despacho y ahora depende del ministerio de Relaciones Interiores, 6 May 2021. Available at: <https://impactovenezuela.com/el-sebin-cambia-de-desapacho-y-ahora-depende-del-ministerio-de-relaciones-interiores-gaceta/>.

³⁴¹² Presidency of the Republic, Decree No. 3.647, of 26 October 2018, *Official Gazette* No. 41.511, of 26 October 2018, Interview LJH5227; Interview XRMQ8853; *La Nación*, Habrían destituido a González López como Director del Sebin, 28 October 2018. Available at: <https://lanacionweb.com/nacional/habrian-destituido-a-gonzalez-lopez-como-director-del-sebin/>; *Efecto Cocuyo*, González López salió del SEBIN por incidente con caravana presidencial asegura Rangel, 18 November 2018. Available at: <https://efectococuyo.com/sucesos/gonzalez-lopez-salio-del-sebin-por-incidente-con-caravana-presidencial-asegura-rangel/>.

³⁴¹³ Interview LJH5227; Interview XRMQ8853; *La Nación*, Habrían destituido a González López como Director del Sebin, 28 October 2018. Available at: <https://lanacionweb.com/nacional/habrian-destituido-a-gonzalez-lopez-como-director-del-sebin/>.

treatment, and 1 (woman) for sexual or gender-based violence. The responsibility of direct and intellectual authors (or mediators) in these violations must be investigated by the competent criminal authorities.

5. Directorate General of Military Counter-intelligence (DGCIM)

1535. The Directorate General of Military Counter-intelligence (DGCIM) is a State security organisation that depends functionally and organisationally on President Maduro as Commander in Chief of the Bolivarian National Armed Forces, and administratively on the Ministry of Defence.³⁴¹⁴ Its mission is to “conduct, coordinate and execute activities aimed at discovering, preventing and stopping enemy activity, contributing to the security of the [FANB], as well as the security and protection of the President of the Republic and serving as an auxiliary body of the military and ordinary justice”³⁴¹⁵.

1536. As documented in the 2020 Mission report, the Director General of DGCIM is Iván Rafael Hernández Dala, appointed by President Maduro in January 2014.³⁴¹⁶ The President of the Republic coordinates military counter-intelligence tasks with this security body.³⁴¹⁷

1537. Under orders from the Director General are the Deputy Director with several directorates that report to him: the Special Directorate of Criminal Investigations (DEIPC); the Operations Directorate; the Communications Directorate; the Technical Operations Directorate; the Directorate of External Affairs, and the Regional Directorates of Counter-intelligence.³⁴¹⁸

1538. Of the cases investigated for the report, the Mission has reasonable grounds to believe that the DGCIM was involved in the cases of 52 people who were victims of violations of their rights: 2 (men) for arbitrary deprivation of life, 19 (4 women) for short-term enforced disappearance, 17 (2 women) for arbitrary detention; 11 (all men) for torture and/or cruel, inhuman or degrading treatment, 3 (all men) for sexual or gender-based violence. The responsibility of direct and intellectual authors (or mediators) in these violations must be investigated by the competent criminal authorities.

6. Strategic Operations Group (GOES)

1539. On 5 April 2022, through Decree 4668, President Maduro ordered that the Special Brigade against the Actions of Violent Groups (BEGV), created on 14 May 2014³⁴¹⁹, would be renamed the Strategic Operations Group (GOES) reporting directly to the Minister of the Interior³⁴²⁰. The General Director of the former BEGV, between 14 May 2022 and 5 April 2022, was José Daniel Hernández Valdez³⁴²¹.

1540. According to Decree No. 4668, the purpose of the GOES is:

To coordinate, analyze, evaluate, organize, direct, execute and collect information and actions from all the Citizen Security and Intelligence Bodies of the State and other public and private entities, to neutralize and control the activities that could be carried out related to the actions of groups that generate violence, which allow the exercise of

³⁴¹⁴ Constitutional Law of the Bolivarian National Armed Force, published in *Official Gazette* No. 6.508 Extraordinary, 30 July 2020, art. 1. 1, Available at: <https://www.mindefensa.gob.ve/mindefensa/wp-content/uploads/2020/02/GACETA-OFICIAL-Nr-6.508-Extraordinario-de-fecha-30.01.2020-Ley-Constitucional-de-la-FANB.pdf> (hereinafter “2020 Constitutional Law of the FANB”).

³⁴¹⁵ A/HCR/51/CRP.3, para. 32, Organic Regulations of the General Directorate of Military Counterintelligence, *Official Gazette* No. 31.806, of 24 August 1979, art. 2.; Interview DZZV3789, Organic Regulations of the General Directorate of Military Counterintelligence, Presidential Decree No. 1.605, *Official Gazette* No. 40.599, 10 February 2015, art. 2 (hereinafter “2015 Organic Regulations of the DGCIM”), 2015 Organic Regulations of the DGCIM, art. 2.

³⁴¹⁶ A/HCR/51/CRP.3, para 36; Ministry of Defence, Resolution No. 3546 of 13 January 2014, *Official Gazette* No. 40.333 of 15 January 2014.

³⁴¹⁷ 2015 Organic Regulations of the DGCIM, art. 7, available at: <https://www.franciscosantana.net/2016/02/reglamento-organico-de-la-direccion.html#:~:text=Art%C3%ADculo%206%C2%B0,la%20Fuerza%20Armada%20Nacional%20Bolivariana.>

³⁴¹⁸ Interview DZZV3789, Organisational chart provided by source interviewed by the Mission.

³⁴¹⁹ Presidency of the Republic, Decree No. 1.014, 30 May 2014, *Official Gazette* No. 40.440, 25 June 2014.

³⁴²⁰ Presidency of the Republic, Decree No. 4.668, of 5 April 2022, *Official Gazette* No. 42.352, of 5 April 2022.

³⁴²¹ Presidency of the Republic, Decree No. 3.863, of 3 June 2019, *Official Gazette* No. 41.646, of 3 June 2022.

*criminal action in accordance with the Constitution of the Bolivarian Republic of Venezuela and the respective Laws.*³⁴²²

1541. Since its creation, the GOES General Director is José Humberto Ramírez Márquez, who was appointed to the position by President Maduro on 5 April 2022 by Decree No. 4669.³⁴²³

1542. In the period covered by this investigation, the GOES General Director participated in a case of short-term enforced disappearance involving 4 people (1 woman). The responsibility of the direct and intellectual authors (or mediators) in these violations must be investigated by the competent criminal authorities.

7. The Municipal Police of Chacao

1543. The Municipal Police of Chacao (Polichacao) is a police force assigned to the Mayor of the Municipality of Chacao, Miranda State. Since 2017, the major is Gustavo Adolfo Duque³⁴²⁴. Polichacao was created through the Extraordinary Municipal Ordinance No. 022 of March 1993.³⁴²⁵ The director of this security body is Chief Commissioner Rúbel Vásquez, appointed by Resolution No. 098-19, issued by Mayor Duque in October 2019³⁴²⁶.

1544. The Mission has reasonable grounds to believe that the Municipal Police of Chacao had direct participation in the arbitrary detention of four political activists during the investigation period of this report.

1545. The following table (Table 10) illustrates the gross human rights violations and crimes expressly stated in the Mission's mandate that were investigated by it in the period 2020-2023 in relation to the seven State security and intelligence bodies addressed in this section.

Table 10

Gross human rights violations and/or crimes committed by security forces investigated by the Mission between 2020 and 2023

<i>Security body</i>	<i>PNB</i>	<i>SEBIN</i>	<i>DGCIM</i>	<i>GNB</i>	<i>CICPC</i>	<i>GOES</i>	<i>Polichacao</i>	<i>Total</i>
Violations								
Arbitrary detention	19	8	17	9	1	0	4	58
Short-term enforced disappearance	7	4	19	0	0	4	0	34
Torture and ill-treatment	13	4	11	1	1	0	0	30
Arbitrary deprivation of life	0	1	2	1	0	0	0	4
Sexual or gender-based violence	2	1	3	0	0	0	0	6
Total	41	18	52	11	2	4	41	132

Source: elaborated by the Mission.

³⁴²² Presidency of the Republic, Art.3, Decree No. 4.669, of 5 April 2022, *Official Gazette* No. 42.352, of 5 April 2022.

³⁴²³ Presidency of the Republic, Decree No. 4.669, of 5 April 2022, *Official Gazette* No. 42.352, of 5 April 2022.

³⁴²⁴ Website of the Chacao mayor's office, El alcalde- Gustavo Duque Sáez, 16 May 2022. Available at: <https://www.chacao.gob.ve/alcalde-de-chacao/1/gustavo-duque-saez>

³⁴²⁵ Website of the Chacao mayor's office, Como nace la Policía de Chacao. 10 October 2022. Available at: <https://www.chacao.gob.ve/polichacao/288/como-nace-la-policia-de-chacao>.

³⁴²⁶ Municipal Council of Chacao, Municipal Gazette Municipality of Chacao, No. 8901, Resolution No. 098-19.

VIII. Conclusions and recommendations

A. Conclusions

1546. For this report, the Mission focused its investigations and analysis on the gross violations of human rights and crimes committed in the Bolivarian Republic of Venezuela since 1 January 2020. The Mission's focus was limited to violations committed in relationship with the State policy to "silence, discourage and quash opposition to the Government of President Maduro" identified in the first report of the Mission³⁴²⁷.

1547. The Mission has reasonable grounds to believe that some of the gross human rights violations documented by the Mission in Chapter III of this report, which took place between 2020 and early 2021, represent a continuation of the same attack against the civilian population that was previously identified by the Mission and that, in this sense, are part of the same line of conduct previously classified by the Mission as crimes against humanity.³⁴²⁸ These violations include arbitrary detention, torture and sexual violence, especially in the context of responding to alleged insurgencies (such as Operation *Gedeón* and Operation *Constitución*).

1548. As analysed in this report, the period between the end of 2020 and the beginning of 2021 marked a change in the political and human rights crisis in the country, which reached its periods of maximum intensity in 2014 and between 2017 and 2019. The year 2020, with the onset of the COVID-19 pandemic, marked the end of mass protests called by opposition parties, the reduction of the practice of mass arrests of protesters followed by torture in detention, as well as the end of large-scale counterinsurgency operations in response to efforts to overthrow or destabilize the Government.

1549. In relation to the period after early 2021, the Mission received fewer reports of arbitrary deprivations of life committed against real or perceived opponents of the Government; as well as arbitrary detentions, short-term enforced disappearances, torture and other cruel, inhuman or degrading treatment, and sexual and gender-based violence also committed against people with this profile. Regarding violations in the context of security operations to combat crime, particularly extrajudicial executions - such as those previously documented by the Mission - the Mission cannot conclude whether there was an increase or decrease in the numbers, as such acts were outside the current research focus.

1550. The Mission has reasonable grounds to believe, however, that some of the gross human rights violations committed after early 2021, which were documented in this report, contain some of the same elements as the acts previously identified by the Mission as crimes against humanity, including their *modus operandi*, the State security forces allegedly involved in their commission, and to a large extent, the victim profiles themselves - even though the victims have been chosen more selectively. In particular, the Mission has continued to receive reports of arbitrary detentions and torture of real or perceived opponents of the Government, including sexualized torture, committed after early 2021, reflecting the continuation of practices previously documented by the Mission.

1551. In relation to acts committed after the beginning of 2021, the Mission was unable to reach sufficiently detailed conclusions on key issues that would allow it to link such acts to decisions and plans that had been made at a higher level, in other words, to establish that they were committed pursuant to a "State policy" within the meaning of article 7 of the Rome Statute. Those key questions include how the structures of the State institutions allegedly involved in the commission of the crimes functioned during this period; their decision-making processes; the issuance and receipt of orders, and other lines of communication and information, which would be necessary to determine who could be considered responsible. Furthermore, more time and investigation are needed to determine precisely whether the lower number of allegations received in relation to certain crimes affects the "systematic" nature of the "attack against the civilian population", within the scope of application of Article 7 of the Statute of Rome, as previously identified by the Mission.

³⁴²⁷ A/HRC/45/33, para. 160.

³⁴²⁸ The Mission's first report documented Cases that, according to the Mission, qualified as crimes against humanity, up to and including August 2020. See A/HRC/45/33, para. 161; A/HRC/45/CRP.11, paras. 2084-2085. In the 2021 and 2022 Mission reports, the Mission expressed concern about other Cases that occurred in 2020 and early 2021. See, for example, A/HRC/48/69, para. 69; A/HRC/48/CRP.5, paras. 468-469; A/HRC/51/43, paras. 9, 45-50; A/HRC/51/CRP.2, paras. 709-724; A/HRC/51/CRP.3, paras. 416-419, 457-460.

1552. Although the Mission has received fewer complaints of this type of violations, these have been carried out in a more targeted manner against specific and well-known leaders of civil society, such as journalists, union leaders and human rights defenders, as well as others that serve as a deterrent example to dissidents, with differentiated impacts on women and the LGBTBIQ+ community. In fact, the Mission has reasonable grounds to believe that the repressive apparatus of the State in the Bolivarian Republic of Venezuela, which was developed to nullify threats to the Government, is still in force today. Throughout the period investigated in the report, a coordinated assault on civic and democratic space has continued and even intensified across the country, while the policy of repressing real or perceived opposition to the Government has been normalized. Under these conditions, the Mission considers that the machinery used by the State to repress dissent and commit crimes in the past has not been dismantled, leaving the latent but undeniable threat that it could be reactivated at any time.

1553. The persistence of this same state machinery is associated with the inability of the Bolivarian Republic of Venezuela to address previous patterns of violations and the responsibilities associated with them, and to follow recommendations for the restructuring of civil and military bodies. The continued de facto impunity of members of the State security forces, considered by the mission as responsible for the crimes documented in its previous reports, including members of the Bolivarian National Guard, the Bolivarian National Police, the Directorate General of Military Counter-intelligence and the Bolivarian National Intelligence Service, exemplifies the unwillingness of national authorities to genuinely investigate and prosecute these crimes.

1554. The Mission has reasonable grounds to believe that the other mechanisms of repression documented in Chapter IV of this report contribute to the same State policy to silence, discourage and quash real or perceived opposition to the Government of President Maduro. The actions and omissions of the State authorities since 1 January 2020, including both the security forces and other public entities, such as the National Human Rights Institution – the *Defensoría del Pueblo*, the National Electoral Council, the Comptroller General of the Republic and the National Telecommunications Commission (CONATEL), contributed to the serious restrictions of civic and democratic space and the repression of dissent in the country. As a result, the fundamental principles of a pluralistic society, such as the existence of free and independent media or the autonomous capacity of civil society, including human rights organisations, unions and political parties, to mediate and represent interests of society, have been severely restricted.

1555. In conclusion, the Mission's investigations for this report have constructed a complete picture of the “hard” and “soft” mechanisms of repression that have been deployed in the Bolivarian Republic of Venezuela against real or perceived opponents of the Government. Together, these two components make up an oppressive apparatus of the State, which has been used with different levels of intensity, depending on the perceived nature and relevance of social dissent. On the one hand, during the previous peak of mass protests in the Venezuelan streets between 2014 and 2019, the most violent, “iron fist” tactics of repression were actively used to silence opposition voices at any cost, including through the commission of crimes against humanity. On the other hand, the State’s use of “softer” coercive tactics of repression, although present previously, has become more noticeable in recent years. The “hard” and “soft” mechanisms of repression feed off each other and have been used since 2014, whenever it was deemed necessary to do so at any given time.

1556. The Government's use of the oppressive State apparatus has become more targeted due in part to the success of its previous efforts to quash the opposition, generating a “chilling effect” on it. Furthermore, given that the state’s history of violence is widely known, the use of “soft” mechanisms of repression carries the latent threat that harsher forms of repression could be used. This change has occurred in the context of greater international scrutiny of the violations committed and the mass exodus of Venezuelans, including the emigration of many people who left for fear of being identified as opponents of the Government. Many of them were granted refugee status based on a well-founded fear of being persecuted for political reasons. The Mission's investigations show that the Government continues to have the ability to resort to the “hard line” as a means of quashing the opposition, should situations arise in which the authorities consider it necessary. Therefore, it is essential that real and effective justice, as well as accountability, continue to be the parameters used to evaluate the current situation of human rights in Venezuela.

B. Recommendations

1557. The Mission recalls that it has made several recommendations to the Bolivarian Republic of Venezuela in its previous reports, most of which have not been implemented and are relevant to the findings of this report. For this reason, the Mission has decided to reiterate some of its previous recommendations and formulate new ones, relevant both to the central theme of this report, the closure of civic and democratic space, and to the crimes and violations that constitute the basis of its mandate.

1. Recommendations to the Bolivarian Republic of Venezuela

1. Carry out prompt, effective, thorough, independent, impartial and transparent investigations into all violations and crimes documented in the Mission's reports, including the 2023 report, and their respective conference room papers.

In relation to arbitrary detention and due process violations

2. Conduct an analysis of the legality of the detentions in the cases mentioned in the Mission's previous reports and in the present report and immediately release all persons arbitrarily detained, or on whom alternative precautionary measures have been imposed or release orders have been issued.³⁴²⁹

3. Adopt the necessary measures to review the legal basis of the Specialized Terrorism Jurisdiction created by administrative act of the Supreme Tribunal of Justice. The State must guarantee that this jurisdiction complies with human rights standards and ensure that the crimes included in the accusations are adequately qualified.

4. Guarantee that the Specialized Terrorism Jurisdiction has the necessary conditions to be independent and impartial, ensuring that its judges are appointed on a permanent basis, and that they can only be dismissed in accordance with the requirements of a disciplinary procedure established by law, which must be compatible with international human rights standards on the matter.

5. Guarantee that preventive detention is duly substantiated, ordering detention only in strict accordance with the Organic Code of Criminal Procedure, that is, only when there is a crime that warrants a custodial sentence, as well as sufficient evidence of authorship or participation in the crime. and when there is a reasonable presumption of danger of flight or obstruction of the investigation.³⁴³⁰

6. Guarantee to each and every person brought before the courts and accused, the possibility to appoint a defence attorney of their choice and refraining from the practice of imposing public defenders as representatives, against the express wishes of the accused persons or their relatives.³⁴³¹

7. Ensure that officials of Judiciary take all necessary measures to facilitate the right of defence, informing the defence about the status of the proceedings, allowing them access to the courtrooms and providing them with judicial files without undue restrictions.³⁴³²

8. Immediately execute outstanding court release orders related to individuals who have been granted non-custodial alternative measures or who have fully completed their sentences but remain detained, including those identified in this report as well as in previous reports.³⁴³³

9. Guarantee that judges stop issuing arrest warrants ex post facto and guarantee due verification of the information presented by the Public Ministry and the authorities in charge of detention in relation to the date and time of the detentions³⁴³⁴.

About torture and other cruel, inhuman or degrading treatment

10. Issue a directive at the highest political level to the authorities of the SEBIN, the DGCIM, the DAET or any other State security force to immediately cease and desist from any practice, including those described in this report and in previous ones, that constitutes torture or cruel, inhuman, or degrading treatment, including acts of sexual and gender-based violence. Investigate and prosecute the use of torture, including during interrogations.³⁴³⁵

11. Guarantee that detained persons appear at the hearing before the competent tribunals with well-founded charges, within the 48 hours established by law. Refrain from requesting arrest warrants once the arrests have passed and safeguard the right of detained persons not to suffer acts of torture and sexual violence in the delicate period that elapses between their arrest and their appearance in court.³⁴³⁶

³⁴²⁹ A/HRC/48/CRP. 5, para. 509.

³⁴³⁰ *Ibid.*, para. 498.

³⁴³¹ *Ibid.*, para. 501.

³⁴³² *Ibid.*, para. 502.

³⁴³³ A/HRC/45/CRP.11, Recommendation 12.

³⁴³⁴ A/HRC/48/CRP.5, para. 497.

³⁴³⁵ A/HRC/45/CRP.11, Recommendation 29.

³⁴³⁶ A/HRC/48/CRP.5, para. 514.

12. Act immediately on allegations of torture and sexual and gender-based violence presented to the tribunals and conduct a review of all cases documented in this report and in previous reports of the Mission, to properly investigate such complaints and ensure that survivors have access to comprehensive assistance and reparation.

13. Dismiss evidence and accusations based on evidence from investigations by State security forces when there are indications that the information was obtained through torture or coercion.

14. Take immediate measures to ensure that all detainees, regardless of their gender, are protected from sexual and gender-based violence while in detention, and that, when such acts occur, perpetrators are appropriately punished.

15. Address and rectify the inhumane detention conditions documented by the Mission. This includes, but is not limited to, problems such as sleep deprivation, constant lighting, prolonged isolation, unsanitary conditions, overcrowding, invasive searches and forced nudity, inadequate access to medical care, discriminatory treatment against LGBTQI+ people and inadequate access to essential hygiene and sexual and reproductive health products.

16. Refrain from carrying out invasive body searches on detainees and visitors of detention centres, guaranteeing full respect for the privacy and dignity of the person.

17. Adopt concrete, measurable, and timely measures to follow up on human rights violations ex officio or as a result of allegations and complaints received, including, when relevant, the presentation of complaints against public officials who have violated human rights in the exercise of their functions. Follow up on complaints and include in publicly accessible annual reports quantitative and qualitative information on the specific measures adopted and the results obtained.³⁴³⁷

Regarding the restrictions of civic and democratic space.

18. Guarantee that the rights to freedom of expression and opinion, of association, of peaceful assembly and to participate in public affairs of the entire population are respected and protected; and that human rights defenders (including indigenous leaders and environmental activists), humanitarian workers, journalists, political opponents and trade unionists can carry out their activities in safe conditions, free of harassment, intimidation, surveillance and retaliation.

19. Guarantee effective remedies to all real or perceived opponents of the Government, who have suffered human rights violations or have been victims of international crimes, due to their social, political, economic or civil activities; and that they be guaranteed comprehensive reparation, including the establishment of guarantees of non-repetition and the protection of the right to know the truth.

20. Repeal laws or suspend the legislative process of bills that hinder the activities of civil society, as well as those that are used to criminalize opponents or those perceived as such, including the Law against Hate, by the Peaceful Coexistence and Tolerance; the Draft Law on Control, Regularization, Performance and Financing of Non-Governmental and Related Organisations; and the draft law on International Cooperation.

21. Stop using existing laws to criminalize human rights defenders, journalists, political opponents, including, among others, the Organic Law against Organized Crime and the Financing of Terrorism and the regulations related to terrorism, defamation, and slander under the Penal Code.

22. Guarantee that the State adopts comprehensive measures to prevent attacks - including online violence - directed at people critical of the Government, due to their gender and/or sexual orientation or gender identity, safeguarding their freedom of expression and political participation, while combating the systemic problems of sexism, misogyny and homophobia that underlie these attacks.

With regard to cooperation with international human rights mechanisms

23. Actively cooperate with United Nations human rights bodies and mechanisms, both inside and outside the Bolivarian Republic of Venezuela, including the OHCHR and the mandates established by the Human Rights Council, including Special Procedures. Provide them with unrestricted access to places where human rights violations have been committed and to victims (including official and clandestine places of detention) and give them access to all relevant information.

³⁴³⁷A/HRC/48/CRP.5, para. 522

24. Actively cooperate with the Inter-American system for the protection of human rights and with the bodies of the Organisation of American States. Comply with the precautionary measures issued by the Inter-American Commission, as well as the provisional measures issued by the Inter-American Court. Comply with the rulings of the Inter-American Court related to the Bolivarian Republic of Venezuela.

2. Recommendations to the international community

25. Ensure that future security cooperation and transfers of police and military equipment are conditional on the commitment of the Bolivarian Republic of Venezuela to ensure that its security forces comply with their international obligations under international human rights instruments.

26. Guarantee that international cooperation and investment projects in the Bolivarian Republic of Venezuela include guarantees of respect and protection of human rights.

27. Initiate legal actions against individuals responsible for international crimes and human rights violations investigated by the Mission, in accordance with the domestic legal system of the country in question.

28. All States Parties to the Rome Statute must actively and fully cooperate with the investigation of the Office of the Prosecutor of the International Criminal Court on Situation I in the Bolivarian Republic of Venezuela.