



ORGANIZATION OF AMERICAN STATES
Inter-American Commission on Human Rights

Application to the Inter-American Court of Human Rights
in the case of
Gabriela Perozo, Aloys Marín, Óscar Dávila Pérez, *et al.*
(Case 12.442)
against the Bolivarian Republic of Venezuela

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**APPLICATION FROM THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
TO THE INTER-AMERICAN COURT OF HUMAN RIGHTS
AGAINST THE BOLIVARIAN REPUBLIC OF VENEZUELA**

**CASE 12.442
GABRIELA PEROZO, ALOYS MARÍN, ÓSCAR DÁVILA PÉREZ, ET AL.**

I. INTRODUCTION

1. The Inter-American Commission on Human Rights (hereinafter the “Inter-American Commission” or “the Commission”) hereby submits to the Inter-American Court of Human Rights (hereinafter “the Inter-American Court” or “the Court”) this application in Case No. 12.442, *Gabriela Perozo, Aloys Marín, Oscar Dávila Pérez, et al.*, against the Bolivarian Republic of Venezuela (hereinafter “the State,” “the Venezuelan State,” or “Venezuela”). This application is related to a series of incidents involving harassment, persecution, and aggression that began in 2001 and that were aimed at 44 individuals with ties to the Globovisión television channel, including reporters, associated technical support staff, employees, and executives (hereinafter “the victims”), and to the subsequent lack of due diligence in investigating those incidents.

2. On account of their activities in seeking, receiving, and imparting information, the victims were subjected to various forms of aggression, including attacks with explosives made against the premises of the Globovisión television channel. The State, in turn, failed to take the steps necessary to prevent the harassment, and it failed to investigate and punish those acts with due diligence.

3. The Commission requests that the Court rule that the Venezuelan State failed to abide by its international obligations by violating Articles 5 (right to humane treatment), 8 (right to a fair trial), 13 (freedom of thought and expression), and 25 (judicial protection) of the American Convention on Human Rights (hereinafter “the American Convention” or “the Convention”), in conjunction with the general obligation of respecting and ensuring human rights set out in Article 1(1) thereof.

4. This case has been processed in accordance with the terms of the American Convention and is submitted to the Court in compliance with Article 33 of its Rules of Procedure. Attached hereto, in the appendixes, is a copy of report No. 61/06, drawn up according to Article 50 of the Convention.¹

5. The Commission believes it is justified in referring this case because of the need to ensure justice and secure redress for the victims. The facts of the case indicate that the Globovisión reporters and support staff were unable to freely seek, receive, and impart information, and had to work under the intimidating effect of attacks intended to hinder the exercise of their freedom of expression. The Commission therefore believes that the case offers an opportunity for developing inter-American jurisprudence regarding the scope of the restrictions that can be placed on free expression by state agents and private citizens through direct or indirect actions that hinder or intimidate media workers and support staff, and about barriers to access to official sources of information.

¹ IACHR, Report No. 61/06 (merits), Case 12.442, *Gabriela Perozo, Aloys Marín, Óscar Dávila Pérez, et al.*, Venezuela, October 26, 2006; APPENDIX 1.

II. PURPOSE OF THE APPLICATION

6. The purpose of this application is to respectfully request that the Court conclude and declare that:

- (a) The Bolivarian Republic of Venezuela is responsible for violating the right to freedom of thought and expression enshrined in Article 13 of the American Convention on Human Rights, in conjunction with the general obligation of respecting and ensuring human rights under Article 1(1) thereof, with respect to the following individuals associated with the Globovisión television channel: Aloys Marín, Ana Karina Villalba, Aymara Anahi Lorenzo Ferrigni, Beatriz Adrián, Carla María Angola Rodríguez, Gabriela Perozo, Gladys Rodríguez, Janeth del Rosario Carrasquilla Villasmil, Jhonny Donato Ficarella Martín, Jesús Rivero Bertorelli, José Vicente Antonetti Moreno, María Arenas, Martha Isabel Palma Troconis, Mayela León Rodríguez, Norberto Mazza, and Yesenia Thais Balza Bolívar, reporters; Angel Mauricio Millán España, Carlos Arroyo, Carlos Quintero, Edgar Hernández, Efraín Henríquez, John Power, Jorge Manuel Paz Paz, José Gregorio Umbría Marín, Joshua Oscar Torres Ramos, and Wilmer Escalona Arnal, camera operators; Ademar David Dona López, Alfredo José Peña Isaya, Carlos José Tovar, Felipe Antonio Lugo Durán, Félix José Padilla Geromes, Miguel Ángel Calzadilla, Oscar Dávila Pérez, Ramón Darío Pacheco, Richard Alexis López Valle, and Zullivan René Peña Hernández, camera assistants; José Natera and Oscar Núñez Fuentes, technicians assigned to news teams; Orlando Urdaneta, news producer; Claudia Rojas Zea and José Inciarte, workers; and Alberto Federico Ravell, Guillermo Zuloaga, and Maria Fernanda Flores, executives;
- (b) The Bolivarian Republic of Venezuela is responsible for violating the right to humane treatment enshrined in Article 5(1) of the American Convention on Human Rights, in conjunction with the general obligation of respecting and ensuring human rights under Article 1(1) thereof, with respect to Alfredo José Peña Isaya, Angel Mauricio Millán España, Janeth del Rosario Carrasquilla Villasmil, Joshua Oscar Torres Ramos, Martha Isabel Palma Troconis, and Oscar Núñez Fuentes; and,
- (c) The Bolivarian Republic of Venezuela is responsible for violating the right to a fair trial and the right to judicial protection set out in Articles 8(1) and 25 of the American Convention on Human Rights, in conjunction with the general obligation of respecting and ensuring human rights under Article 1(1) thereof, with respect to the following individuals associated with the Globovisión television channel: Aloys Marín, Ana Karina Villalba, Aymara Anahi Lorenzo Ferrigni, Beatriz Adrián, Carla María Angola Rodríguez, Gabriela Perozo, Gladys Rodríguez, Janeth del Rosario Carrasquilla Villasmil, Jhonny Donato Ficarella Martín, Jesús Rivero Bertorelli, José Vicente Antonetti Moreno, María Arenas, Martha Isabel Palma Troconis, Mayela León Rodríguez, Norberto Mazza, and Yesenia Thais Balza Bolívar, reporters; Angel Mauricio Millán España, Carlos Arroyo, Carlos Quintero, Edgar Hernández, Efraín Henríquez, John Power, Jorge Manuel Paz Paz, José Gregorio Umbría Marín, Joshua Oscar Torres Ramos, and Wilmer Escalona Arnal, camera operators; Ademar David Dona López, Alfredo José Peña Isaya, Carlos José Tovar, Felipe Antonio Lugo Durán, Félix José Padilla Geromes, Miguel Ángel Calzadilla, Oscar Dávila Pérez, Ramón Darío Pacheco, Richard Alexis López Valle, and Zullivan René Peña Hernández, camera assistants; José Natera and Oscar Núñez Fuentes, technicians assigned to news teams; Orlando Urdaneta, news producer; Claudia Rojas Zea and José Inciarte,

workers; and Alberto Federico Ravell, Guillermo Zuloaga, and Maria Fernanda Flores, executives;

7. In consideration of the above, the Inter-American Commission asks the Court to order that the State:

- (a) take all measures necessary to prevent actions by both state agents and private citizens that could hinder the seeking, receiving, and imparting of information by social communicators and support staff;
- (b) take all measures necessary to respond with due diligence to actions of both state agents and private citizens that hinder the seeking, receiving, and imparting of information by social communicators and support staff;
- (c) conduct an impartial and exhaustive investigation in order to prosecute and punish all those materially and intellectually responsible for the facts described in this case, and publish the results of those investigations;
- (d) guarantee the victims free access to sources of information, free of interference or arbitrary conditions of any kind;
- (e) redress the harm caused to the victims by the actions of state organs; and,
- (f) pay the legal costs and expenses incurred in pursuing this case at the national level, as well as those arising from its processing before the inter-American system.

III. REPRESENTATION

8. Pursuant to the provisions of Articles 22 and 33 of the Rules of Procedure of the Court, the Commission has appointed Commissioner Paulo Sergio Pinheiro, Executive Secretary Santiago A. Canton, and Special Rapporteur for Freedom of Expression Ignacio J. Álvarez as its delegates in this case. Attorneys Ariel E. Dulitzky, Elizabeth Abi-Mershed, Juan Pablo Albán Alencastro, Débora Benchoam, Silvia Serrano, and Alejandra Gonza, specialists with the Executive Secretariat of the Commission, have been appointed to serve as legal advisors.

IV. JURISDICTION OF THE COURT

9. Under Article 62(3) of the American Convention, the Inter-American Court has jurisdiction to hear all cases submitted to it concerning the interpretation and application of the provisions of the Convention, provided that the states parties to the case recognize or have recognized that jurisdiction.

10. The Court has jurisdiction to hear this case. The Venezuelan State ratified the American Convention on August 9, 1977, and it accepted the contentious jurisdiction of the Court on June 24, 1981.

V. PROCESSING BY THE INTER-AMERICAN COMMISSION**A. Petition No. 487/03 and Case No. 12.442²**

11. On June 27, 2003, the Inter-American Commission received a complaint filed by Gabriela Perozo, Aloys Marín, Efraín Henríquez, Oscar Dávila Pérez, Yesenia Thais Balza Bolívar, Carlos Quintero, Felipe Antonio Lugo Durán, Alfredo José Peña Isaya, Beatriz Adrián, Jorge Manuel Paz Paz, Mayela León Rodríguez, Richard Alexis López Valle, Félix José Padilla Geromes, John Power, Miguel Ángel Calzadilla, José Domingo Blanco, Jhonny Donato Ficarella Martín, Norberto Mazza, Gladys Rodríguez, María Arenas, José Vicente Antonetti Moreno, Orlando Urdaneta, Edgar Hernández, Claudia Rojas Zea, José Natera, Aymara Anahi Lorenzo Ferrigni, Carlos Arroyo, Ana Karina Villalba, Wilmer Escalona Arnal, Carla María Angola Rodríguez, and José Iniciarate, all of whom were employees of the Venezuelan television station Globovisión, together with Guillermo Zuloaga Núñez and Alberto Federico Ravell, shareholders in Globovisión and members of its board of directors.

12. The Commission recorded the complaint as No. 487/03 and proceeded to examine it in accordance with the terms of the American Convention and its Rules of Procedure.

13. In communications dated August 19, 2003, the Commission informed the petitioners that processing had begun and it conveyed the relevant parts of the complaint to the State. On that occasion the Government was given a period of two months in which to submit its reply, along with any other information and documents it deemed appropriate.

14. On February 27, 2004, during its 119th regular session, and with no reply having been received from the Venezuelan State, the Commission adopted Report on Admissibility No. 7/04,³ in which it concluded that it had competence to examine the petition as regards the alleged violation of Articles 1(1), 2, 5(1), 8, 13, and 25 of the Convention. It then registered the case as No. 12.442.

15. On March 11, 2004, the Commission forwarded the report on admissibility to the parties, giving the petitioners a period of two months in which to submit comments on the merits. On that same occasion it made itself available to the parties with a view to reaching a friendly settlement of the matter as provided for in Article 48(1)(f) of the American Convention.

16. On April 5, 2004, the Commission received a communication from the petitioners, in which they stated it was not possible to commence friendly settlement proceedings with the State and requested that a Report on the Merits of the case be adopted.

17. On April 28, 2004, the Commission informed the State of the petitioners' communication of April 5, 2004, and asked it to submit its comments on the merits of the case within the following 30 days.

18. On February 2, 2005, the petitioners again asked the Commission to adopt a Report on the Merits in this case, provided updated information on the alleged violations, and requested the inclusion of the following persons among the alleged victims: Ademar David Dona López, José Gregorio Umbría Marín, Oscar José Núñez Fuentes, Angel Mauricio Millán España, Zullivan René

² The formalities described in this section are set out in the case file kept by the Commission; APPENDIX 3.

³ IACHR, Report No. 7/04 (admissibility), Petition 487/03, *Gabriela Perozo, Aloys Marín, Óscar Dávila Pérez, et al.*, Venezuela, February 27, 2004; APPENDIX 2.

Peña Hernández, Martha Isabel Palma, Joshua Oscar Torres Ramos, Pablo Rojas, Bricio Márquez Márquez, Jesús Rivero Bertorelli, Carlos José Tovar, Janeth del Rosario Carrasquilla Villasmil, and Ramón Darío Pacheco, all Globovisión workers, and María Fernanda Flores, vice-president of Globovisión.

19. On May 23, 2005, the Commission conveyed this information to the State and gave it a one-month deadline for submitting its comments. On August 17, 2005, the Venezuelan State presented its observations.

20. On November 15, 2005, the Commission received a communication from the petitioners in which they set out their position on the submission lodged by the State on August 17, 2005. On November 21, 2005, this information was conveyed to the State, along with a period of one month in which to present its comments.

21. On December 5, 2005, a fresh communication was received from the petitioners, in which they reiterated the observations made in their written submission of November 15, 2005, and to which they attached several communications⁴ sent to the Inter-American Court as part of the provisional measures procedure, claiming that they contained information on supervening events that constituted possible violations of the American Convention. This information was conveyed to the State on January 26, 2006, along with a deadline of one month in which to submit its comments; however, as of the date on which Report on Merits No. 61/06 was adopted, no reply from Venezuela had yet been received.

22. At its 126th session on October 26, 2006, the Commission adopted Report on Merits 61/06, drawn up in compliance with Article 50 of the Convention. In that report, it concluded that:

The Venezuelan State is responsible for violating the right to humane treatment (Article 5), to freedom of expression (Article 13), to a fair trial (Article 8), and to judicial protection (Article 25) of the American Convention, in conjunction with the obligation of respecting and ensuring human rights enshrined in Article 1.1 thereof.

23. In that Report on the Merits, the Commission served the following recommendations on the Venezuelan State:

1. Refrain from actions that could unduly restrict or hinder, either directly or indirectly, enjoyment of the right of free expression.
2. Take all measures necessary to prevent actions by both state agents and private citizens that could hinder the seeking, receiving, and imparting of information by the Venezuelan media.
3. Conduct a diligent and appropriate investigation of the facts of this case and publish the result of its inquiries.
4. Ensure, with respect to Gabriela Perozo, Aloys Marín, Yesenia Thais Balza Bolívar, Beatriz Adrián, Mayela León Rodríguez, José Domingo Blanco, Jhonny Donato Ficarella Martín, Norberto Mazza, Gladys Rodríguez, María Arenas, José Vicente Antonetti Moreno, Aymara Anahi Lorenzo Ferrigni, Ana Karina Villalba, Carla María Angola Rodríguez, Martha Isabel Palma, Janeth del Rosario Carrasquilla Villasmil, Efraín Henríquez, Carlos Quintero, Jorge Manuel Paz Paz, John Power, Edgar Hernández, Carlos Arroyo, Wilmer Escalona Arnal, José Gregorio Umbría Marín, Angel Mauricio Millán España, Joshua Oscar Torres

⁴ The documents attached were those dated November 11, 2004, February 3, 2005, May 27, 2005, August 30, 2005, and October 18, 2005; these are now with the Court, as part of the Provisional Measures file.

- Ramos, Oscar Dávila Pérez, Felipe Antonio Lugo Durán, Alfredo José Peña Isaya, Richard Alexis López Valle, Félix José Padilla Geromes, Miguel Ángel Calzadilla, Ademar David Dona López, Zullivan René Peña Hernández, Carlos José Tovar, Ramón Darío Pacheco, Alberto Federico Ravell, Guillermo Zuloaga, and Maria Fernanda Flores, the enjoyment of the right of free expression, particularly free access to information sources in circumstances that reduce the probability of obstacles and possible endangerment of their personal integrity.
5. Redress the harm that the actions of the State's organs have caused to Gabriela Perozo, Aloys Marín, Yesenia Thais Balza Bolívar, Beatriz Adrián, Mayela León Rodríguez, José Domingo Blanco, Jhonny Donato Ficarella Martín, Norberto Mazza, Gladys Rodríguez, María Arenas, José Vicente Antonetti Moreno, Aymara Anahi Lorenzo Ferrigni, Ana Karina Villalba, Carla María Angola Rodríguez, Martha Isabel Palma, Janeth del Rosario Carrasquilla Villasmil, Efraín Henríquez, Carlos Quintero, Jorge Manuel Paz Paz, John Power, Edgar Hernández, Carlos Arroyo, Wilmer Escalona Arnal, José Gregorio Umbría Marín, Angel Mauricio Millán España, Joshua Oscar Torres Ramos, Oscar Dávila Pérez, Felipe Antonio Lugo Durán, Alfredo José Peña Isaya, Richard Alexis López Valle, Félix José Padilla Geromes, Miguel Ángel Calzadilla, Ademar David Dona López, Zullivan René Peña Hernández, Carlos José Tovar, Ramón Darío Pacheco, Claudia Rojas Zea, José Inciarte, Alberto Federico Ravell, Guillermo Zuloaga, and Maria Fernanda Flores.
 6. Fully compensate the victims for the expenses they have incurred in pursuing their case both internally and before the Commission, and pay the reasonable legal fees of their representatives.
 7. Publicly acknowledge its international responsibility for all the human rights violations identified by the Inter-American Commission in this report.

24. The Report on the Merits was conveyed to the State on December 12, 2006, together with a deadline of two months in which to report back on the steps taken toward implementing the recommendations contained therein, in compliance with Article 43(2) of the Commission's Rules of Procedure.

25. Also on November 12, 2006, pursuant to the terms of Article 43(3) of its Rules of Procedure, the Commission informed the petitioners that a Report on the Merits had been adopted and had been conveyed to the State; it also asked them to state their position, within the following month, regarding the possible referral of the case to the Inter-American Court.

26. In a submission dated January 15, 2007, the petitioners informed the Commission of their wish for this case to be referred to the Court.

27. On February 13, 2007, the Venezuelan State sent the Commission a letter requesting an extension of the deadline set under Article 51(1) of the American Convention on Human Rights. On that occasion the State said that it recognized that if the extension was granted, the deadline set by Article 51(1) of the American Convention would be suspended. Consequently, were the matter to be referred to the Inter-American Court of Human Rights, the Venezuelan State would expressly waive the right to file preliminary objections regarding observance of the deadline described in the aforesaid article.

28. On March 7, 2007, the Commission informed the State of its decision to extend the deadline provided for in Article 51(1) of the Convention by a period of one month, to enable it to report on compliance with the recommendations set out in the Report on Merits.

29. On March 23, 2007, the Venezuelan State sent the IACHR a communication in which it provided no information on steps take in compliance with the recommendations contained in the Report on the Merits but did offer a series of comments questioning the merits report itself.

30. On March 26, 2007, the petitioners told the Commission that Mr. José Domingo Blanco had left the Globovisión television channel in April 2001. The incidents described in the “considerations of law” section of this application and on the basis of which the Report on Merits was adopted in the case at hand began in November 2001. Consequently, even though he was named as an alleged victim in the original complaint, the Commission understands that he should not be considered as such.

31. After considering the State’s reports of February 13 and March 23, 2007, and the absence of any reference in them to steps taken or planned in compliance with the recommendations set out in Report on Merits 61/06, and in accordance with the terms of Articles 51(1) of the Convention and 44 of its Rules of Procedure, the Commission resolved to refer the case to the Inter-American Court.

B. Precautionary measures

32. On January 29, 2002, the petitioners asked the Commission to order precautionary measures to protect the personal integrity and freedom of expression of María Fernanda Flores, Mayela León, and Jorge Manuel Paz, employees of Globovisión, along with workers from the Radio Caracas Television channel (RCTV).⁵ On January 30, 2002, the Commission asked the State to adopt measures to protect the lives and persons of these individuals, together with the measures necessary to protect the security of all employees and property of Globovisión and RCTV.⁶

33. On March 11, 2002, the State informed the Commission that it had ordered the commencement of the corresponding investigations.⁷

34. On May 30, 2002, the beneficiaries reported an increase in attacks on journalists following the adoption of the precautionary measures. Given the danger facing the journalists and the absence of measures taken by the State to protect them, the beneficiaries’ representatives

⁵ According to the information sent to the Commission, on January 20, 2002, reporters Luisiana Ríos of RCTV and Mayela León of Globovisión, along with their corresponding technical support staff, went to cover the *Aló Presidente* program at Cajigal Observatory to the west of Caracas. According to their reports, the journalists and their technical teams arrived in the area in vehicles that were marked as belonging to their respective television stations. After the reporters got out of their vehicles, a group of some 50 individuals standing outside the Cajigal Observatory surrounded their cars and began attacking the vehicles, beating the bodywork and shouting insults at the cameramen who were inside with the windows and doors closed. They also report that members of the Presidential Guard (Casa Militar) escorted the journalists Luisiana Ríos and Mayela León to the cars where their colleagues were, so they could leave the area.

⁶ The Commission asked the Venezuelan State to adopt the following precautionary measures:

(1) Adopt all necessary measures to protect the life and the right to humane treatment of Luisiana Ríos, Luis Augusto Contreras Alvarado, Armando Amaya, Eduardo Sapene Granier of Radio Caracas Televisión and Mayela León Rodríguez, Jorge Manuel Paz Paz and María Fernanda Flores of Globovisión as well as the protection required by representatives of Globovisión and Radio Caracas Televisión so as to ensure the safety of the journalists, and the property and facilities of said media;

(2) To abstain from any actions that might have an intimidating effect on the professional work of journalists and other employees of media companies Globovisión and Radio Caracas Televisión; and,

(3) To conduct an extensive investigation of the facts occurred on January 20, 2002 against journalists Luisiana Ríos and Mayela León Rodríguez, of Radio Caracas Televisión and Globovisión, respectively, and the technical teams who were with them at the time.

⁷ In its filing the State indicated that it had commissioned Prosecution Offices 2 and 74 of the Caracas Metropolitan Area Judicial District to begin “the corresponding investigations in order to clarify the events that took place and to establish any applicable responsibilities.” It also reported that the Director General of Political Coordination had met with the three Globovisión workers, who had refused personal protection and simply asked for cellphones with which to contact the police if necessary.

stated they had been forced to adopt protective measures for their workers, providing them with bulletproof vests, helmets, and gas masks.

35. On that same date, the State sent a communication reporting that the case of the RCTV and Globovisión journalists was under investigation and that the corresponding protective measures had been put into effect. This information was conveyed to the beneficiaries on June 19, 2002.

36. On July 17, 2002, the beneficiaries asked the Commission to extend the life of the precautionary measures and to expand them to cover all Globovisión workers and facilities. On July 29, 2002, the Commission extended the precautionary measures for a period of six months, expanded them to cover all employees of the two stations, and gave the State a deadline of 15 days for reporting back on the steps taken.

37. On January 28, 2003, the beneficiaries asked the IACHR for another extension of the precautionary measures, which was granted on February 5 of that year. On October 20, 2003, the beneficiaries requested a further extension, claiming that attacks against them were continuing and that the State had not complied with the Commission's requests. On October 22, 2003, the Commission extended the precautionary measures for an additional six months and set a deadline of 15 days for the State to submit its comments on the beneficiaries' allegations about shortcomings in the enforcement of those measures.

38. On November 20, 2003, the beneficiaries submitted additional information, which was conveyed to the State along with a request for its comments within the following 15 days. On April 26, 2004, the Commission received additional information from the beneficiaries regarding new incidents of harassment and attacks on Globovisión workers. On April 12, 2004, the Commission forwarded the additional information to the State and asked it for its comments.

39. On April 22, 2004, the beneficiaries requested an additional extension in the term of the precautionary measures. On April 23, 2004, the Commission granted a further six-month extension and set another deadline of 15 days for the State to submit the corresponding information.

C. Provisional measures

40. On July 2, 2004, the petitioners in case No. 12.442 asked the IACHR to submit to the Court a request for provisional measures to prevent irreparable harm to all the journalists, executives, shareholders, and other workers of Globovisión, particularly as regards the right to life, personal integrity, and freedom of expression.

41. On July 16, 2004, taking into consideration the seriousness of the ongoing harassment of and attacks against Globovisión's workers and facilities, together with the failure to investigate those incidents and to adopt concrete measures to protect the lives, persons, and freedom of expression of the beneficiaries of the precautionary measures, the Commission asked the Inter-American Court to adopt provisional measures.

42. On July 21, 2004, the Court set the deadline of July 28, 2004, for the State to submit its comments on the request for provisional measures lodged by the Commission in the case at hand. The State submitted no comments whatsoever on the subject.

43. On August 3, 2004, the President of the Court, in consultation with all the other judges, adopted an order granting the requested measures.⁸

44. On August 30, 2004, the State submitted a filing indicating that on March 5, 2004, the Fourth Oversight Functions Court of the Carabobo State Criminal Circuit had ordered protective measures for Mrs. Janeth Carrasquilla, assigning the Carabobo State Police for its compliance. It also reported that the beneficiary had not appeared before the Public Prosecution Service (MP). With regard to the other beneficiaries, it reported that at the request of the Public Prosecution Service, the 13th and 33rd Oversight Functions Courts of the Caracas Metropolitan Area Criminal Circuit had, on February 26 and March 15, 2002, respectively, ordered protective measures on their behalf and had assigned various state security agencies to implement them. This protection was expanded by those same courts on April 11, and October 20, 2002, including both Globovisión's headquarters and its microwave repeater stations. In addition, on May 6, 2004, the 33rd Control Functions Court of the Caracas Metropolitan Area Criminal Circuit ratified the measures as previously agreed on and ordered the Third Prosecutor of the Public Prosecution Service of the Carabobo State Judicial District to investigate the events of March 1, 2004, involving Janeth Carrasquilla, who was also ordered to undergo a medical/forensic examination.

45. Later, on September 3, 2004, the State said that during the investigations it had pursued formalities such as interviews of the plaintiffs and of some 40 citizens, medical/forensic examinations of the victims, technical examinations of objects gathered, photographic evidence collecting, and visual inspections. It also said that on May 21, 2004, it asked Globovisión to submit a list of the company's vehicles that had been damaged during the incidents in question.

46. On September 4, 2004, the Court issued an order ratifying all points of the President's order. It also said that the State had not reported its progress with the implementation of the protection measures, nor had it made any reference to the involvement of the beneficiaries.

47. Since then the State has been submitting regular reports on its implementation of the provisional measures, and both the beneficiaries and the Commission have given comments on those reports, the contents of which are known to the Inter-American Court.

VI. CONSIDERATIONS OF FACT

A. The political situation and the context of threats against social communicators

48. At the time when the incidents addressed in this case began, Venezuela was going through a period of institutional and political conflict that led to an extreme polarization of society.⁹

⁸ The following appeared among the operative paragraphs of the order issued by the President of the Court:

Require the State to adopt, without delay, the measures necessary to safeguard and protect the life, personal integrity, and freedom of expression of the reporters, executives, and workers of Globovisión and of other persons found at the facilities of that media company or who have a direct relationship to the journalistic operations of the station.

Require the State to adopt, without delay, the measures necessary to provide perimeter protection for the headquarters of the Globovisión media company.

Require the State to investigate the incidents that led to the adoption of these measures, in order to identify those responsible and to impose the corresponding sanctions.

Require the State to involve the beneficiaries' representatives in the planning and implementation of the measures and, in general, to keep them apprised of progress with the measures ordered by the President of the Inter-American Court of Human Rights.

⁹ IACHR, *Report on the Situation of Human Rights in Venezuela 2003*, paragraphs 75 *et seq.*

The prevailing situation in Venezuela fueled a climate of constant aggression and threats against reporters, camera operators, photographers, and other media workers.¹⁰

49. On April 9, 2002, a strike called by the Workers' Confederation of Venezuela and Fedecámaras began. On April 11, 2002, an opposition march took place, demanding the resignation of President Hugo Chávez Frías.¹¹ This situation led to tragic acts of violence that culminated with a large number of injuries and deaths, an attack on the constitutional government through a coup d'état, and the subsequent restoration of the constitutional order.¹²

50. These incidents led to the coup d'état and subsequent restoration of democracy in Venezuela. Most of the violence against the media and journalists occurred during the period of greatest social and political turmoil in the country.¹³ In some cases the security forces played an active role in the attacks, and, in others, their passivity allowed individuals to initiate and continue them.¹⁴

51. The Commission noted its concern about the constant, systematic threats being made against the media and workers in that sector.

52. The uninterrupted continuation of these acts of aggression and intimidation against social communicators in Venezuela fueled a level of danger for the lives, persons, and freedom of expression of the case's victims. These attacks included stonings, beatings with pipes, vehicular arson, bomb attacks, assaults against teams of journalists covering marches and other kinds of demonstrations,¹⁵ the fatal shooting of news photographer Jorge Tortosa on April 11, 2002, personal attacks including gunshot wounds, threats, and bombs at media facilities.¹⁶ This context

¹⁰ IACHR, *Report on the Situation of Human Rights in Venezuela 2003*, paragraph 378.

¹¹ IACHR, *Report on the Situation of Human Rights in Venezuela 2003*, paragraph 79.

¹² IACHR, *Report on the Situation of Human Rights in Venezuela 2003*, paragraph 81.

¹³ IACHR, *Annual Report 2004*, Chapter V, Follow-up of Recommendations, Venezuela, paragraph 284.

¹⁴ IACHR, *Annual Report 2004*, Chapter V, Follow-up of Recommendations, Venezuela, paragraph 276.

¹⁵ IACHR, *Report on the Situation of Human Rights in Venezuela 2003*, paragraphs 375, 379, and 381.

¹⁶ The following paragraphs describe some of the attacks dealt with in the Commission's Annual Reports over 2002 to 2004:

On April 11, 2002, Luis Hernández of the official agency Venpres and Jonathan Freitas of the newspaper *Tal Cual* were wounded by gunshots after covering the general strike organized by the Workers Confederation of Venezuela (CTV) and the industry association Fedecámaras. See: IACHR, *Annual Report 2002*, Volume II, paragraph 228.

In August 2002, Antonio José Monroy, a camera technician for RCTV, was hit by a bullet in the right calf as he covered a disturbance near the Supreme Tribunal of Justice, when the court's decision acquitting four military officers of charges in connection with a coup d'état in April 2002 was handed down. See: IACHR, *Annual Report 2002*, Volume II, paragraph 229.

On November 4, 2002, Salvadoran journalist Mauricio Muñoz Amaya, a correspondent for Associated Press Television News (APTN), was hit by a bullet while on the job in the Venezuelan capital. The incident took place as the reporter was recording images of a disturbance that took place in the afternoon of Monday, November 4, near the National Electoral Council (CNE), in the center of Caracas. Muñoz was wounded by a bullet from a 9mm pistol, which hit him in the right portion of his chest. See: IACHR, *Annual Report 2002*, Volume II, paragraph 230.

On December 3, 2002, Fernando Malavé, a reporter for *Diario 2001*, was hit by a rubber bullet as he and journalist Félix Azuaje were covering a demonstration by a group of government opponents, outside the headquarters of the state company Petróleos de Venezuela, located in Chuao, to the east of Caracas. Malavé was taken to Domingo Luciani Hospital in Caracas. Other media representatives covering the events were also affected. The microwave technician for television station CMT, José Antonio Dávila, was wounded by shotgun pellets in the neck and chest. Journalist Rafael Fuenmayor, also of CMT, was

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had a direct impact on the victims in this case, who feared reprisals and attacks on their persons when they were identified as reporters or Globovisión workers.

53. In August 2003, the National Electoral Council was presented with some 3.2 million signatures requesting a referendum to recall the president's mandate. This application was initially rejected. In November 2003, a new set of signatures was collected for the same purpose. The application was again rejected by the National Electoral Council, in light of the fact that a high number of the signatures were invalid. The Council later stated that it would allow a verification process whereby the questionable signatures could be confirmed. That process took place in May 2004. Finally, on August 15, 2004, after it had been officially called by National Electoral Council, the referendum was held and its results upheld Hugo Chávez's presidential mandate.

B. The Globovisión television channel and its workers

54. Globovisión is a private television channel that is legally registered in the Merchant Register of the Federal District and Miranda State Judicial District.¹⁷

55. It is a media company that broadcasts 24-hour news programming, with an editorial line that is critical of the government. It was one of the four private Venezuelan television channels identified as active political participants in such upheavals as the April 2002 coup d'état and the general strike of December of that year. The channel has also been singled out domestically on

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kicked and affected by a tear gas bomb that fell at his feet as he was reporting live from the scene. See: IACHR, *Annual Report 2002*, Volume II, paragraph 232.

In the state of Carabobo, a vehicle belonging to PuertoVisión was stoned; inside was a team of reporters headed up by Humberto Ambrosino. Javier Gutiérrez and Antonio Rodríguez of *El Regional* were assaulted in the state of Zulia. See: IACHR, *Annual Report 2003*, Volume III, paragraph 295.

On February 27, 2004, in the context of a march in opposition to President Hugo Chávez, cameraman Carlos Montenegro of the TeleVén network suffered a gunshot wound to the leg, in the Bello Monte area of Caracas. Information from IPYS, March 5, 2004. See: IACHR, *Annual Report 2004*, Volume III, paragraph 185.

On February 27, 2004, during a march in opposition to the Chávez government, photographer Luis Wladimir Gallardo of the regional daily *El Impulso* was wounded by shot in the back and face when a tear-gas bomb hit him in the back. Information from IPYS, March 1, 2004. See: IACHR, *Annual Report 2004*, Volume III, paragraph 185.

On February 29, 2004, Juan Barreto, a photographer with Agence France Presse (AFP), received a bullet wound while covering disturbances in the Plaza Altamira in Caracas. That same day Felipe Izquierdo, cameraman for the international television network Univisión, received a bullet wound in the foot while covering a protest staged by the opposition to the government of President Hugo Chávez near the Plaza Francia in Altamira, in eastern Caracas. See: IACHR, *Annual Report 2004*, Volume III, paragraph 189.

On March 2, 2004, Frank Molina, a TeleVén cameraman, was beaten and had his camera taken from him. See: IACHR, *Annual Report 2004*, Volume III, paragraph 191.

On March 3, 2004, Ana Marchese, a photographer with the daily *Correo de Caroni*, was wounded while covering a march called by the opposition in Ciudad Bolívar, capital of the state of Bolívar, in southern Venezuela. She was injured by a tear-gas canister that was fired to disperse the demonstrators. Information from IPYS, March 5, 2004. See: IACHR, *Annual Report 2004*, Volume III, paragraph 195.

¹⁷ Articles of incorporation of Globovisión, Tele. C.A., and its corresponding entry in the merchant register; ANNEX 1.

account of the way it covers certain stories, arguing that it incites violence, is disrespectful toward the President of the Republic, and broadcasts false and biased information.¹⁸

56. During that period, the Commission noted the actions of some private media outlets that hindered Venezuelan society's access to vital information during those tragic events. As a result, in the press release that it issued on the occasion, the IACHR said that "although there may be any number of justifications to explain this lack of information, to the extent that the suppression of information resulted from politically-motivated editorial decisions, this should be the subject of an essential process of reflection by the Venezuelan media about their role at that moment (IACHR, Report on the Situation of Human Rights in Venezuela 2003, paragraph 471.)

C. Declarations by the President of the Republic and other officials

57. The President of the Republic and other government officials make regular statements on national blanket broadcasts and on the weekly television program *Aló Presidente*. The contents of these declarations are public and can be found on various official government pages.

58. In several of these statements, President Hugo Chávez referred to the media in general and to Globovisión in particular.

59. In a speech given on October 5, 2001, the President of the Republic said that:

Globovisión has become [...] a nest where they conspire against the revolution. [...] Globovisión, whose owner is aligned with Democratic Action, with the nation's oligarchy and with interests contrary to those of the people [...] the enemies of the revolution must be identified, yes, the people have to know who they are [...] I am here, unmasking one of them [...] one of them is called Alberto Federico Ravell and that's not new [...] okay, so who are the real friends of the revolution, and who are its real enemies? There are enemies who have been eternal and who will be eternal, there are others who are circumstantial, there are others with real and lasting power [...] but for example, some owners of media companies, some media owners are enemies of the revolution... so here, some gentlemen like this friend of Carlos Andrés Pérez and friend of Jaime Lusinchi, who is the owner or one of the owners of Globovisión, he is the owner of that, I'm not going to deny that, no, no. He has his installations, he has his [sic] ... well, there are several owners, one is the banker Nelson Mezerhane who has a bank, he has a bank [...] and the other gentleman is called Alberto Federico Ravell, a friend of Carlos Andrés Pérez, a friend of Jaime Lusinchi; an Adeco, then; to put it more clearly, he's an Adeco, Mr. Alberto Federico Ravell, who's on the Globovisión camera here? OK! How's it going, brother? A round of applause for the cameraman of Globovisión, for the cameraman. Are there any Globovisión journalists here? Let's welcome her, the reporter.¹⁹

60. On January 27, 2002, Venezolana de Televisión, a state television channel, broadcast a kind of documentary called *The Masters of Disinformation*, and the President of the Republic was invited to the transmission. The documentary shows images of transmissions from various private media outlets, including Globovisión, and later shows private citizens insulting, shouting, and hindering the work of journalists and media workers on the streets. The former images appear under the title "action," while the latter are titled "reaction." When the President of the Republic had finished watching the broadcast, he said:

¹⁸ Summary and recommendations of the Human Rights Watch report *Caught in the Crossfire. Freedom of Expression in Venezuela*, Vol. 15, No. 3 (B) – May 2003; ANNEX 4.

¹⁹ Transcript of the speech of the President of the Republic, October 5, 2001; ANNEX 17.

Globovisión's programs are an affront to millions of people and not just an affront, they are a provocation, and that is very dangerous [...] that is called provocation [...] that is a provocation to millions of human beings, a social provocation, a provocation of a country.²⁰

61. On June 9, 2002, in his program *Aló Presidente*, the President of the Republic said:

The media produce terrorist propaganda, forgetting that they are merely making use of a concession [...] they edit the news to report falsehoods, to invent lies, to spread panic and terror.²¹

62. On June 13, 2002, the President of the Republic addressed the reporters of Globovisión and *El Nacional* in the following terms:

You should be ashamed to work there; if I were a journalist I wouldn't work there [...] that's up to you, but working for lies and deception, for terrorism, that's kind of sad [...] Studying to end up there is sad [...] Think about it, because they're using you, and that is sad; you know that, and accept it, and that's the saddest thing, and that's your fault, you're not entirely innocent.²²

63. In a speech on September 18, 2002, the President of the Republic said:

Yes, you come and take photos and all, and the cameras, there are our countrymen, the camera operators and some reporters [...] I say hello to them all and some get restless and give me ugly looks, they take it personally [...] some day they'll realize it's not them, it's the evil that's behind those who control and dominate the mass media in Venezuela; that's how it is. A perversion, a real fascist, putschist perversion behind the major mass media, television networks, newspapers, with the occasional exception [...] the rest are useless; rubbish, that's what they are! Rubbish! Rubbish and nothing else! Lies, perversion, immorality. Someone has to tell them... truth of the matter is, what they've got is rubbish.²³

64. Speaking on December 7, 2002, the President of the Republic referred to the private media in the following fashion:

They gave the country a kind of shock therapy that filled the Venezuelan people with distress, with terror [...] That's why action is needed and I'd like to end this comment about the terrible damage they're doing to Venezuela with their media campaigns and violence and, above all, to our children. I urge the Venezuelan people and the nation's institutions, I call on them to defend the mental health of our people.²⁴

65. On December 8, 2002, in his program *Aló Presidente*, the President of the Republic said:

The private television networks, without exception, the main television stations that work for a destabilization plan, I say it again to the country and to the world, they doing the same as in

²⁰ Video containing two speeches by the President of the Republic, January 27 and June 13, 2002; ANNEX 2.

²¹ Video containing two speeches by the President of the Republic, January 27 and June 13, 2002; ANNEX 2; transcript of the *Aló Presidente* program, June 9, 2002; ANNEX 19.

²² Video containing two speeches by the President of the Republic, January 27 and June 13, 2002; ANNEX 2.

²³ Video containing two speeches by the President of the Republic, January 27 and June 13, 2002; ANNEX 2. Transcript of the speech of the President of the Republic, September 18, 2002; ANNEX 20.

²⁴ Video containing two speeches by the President of the Republic, January 27 and June 13, 2002; ANNEX 2; transcript of press conference held outside the Miraflores Palace by the President of the Republic, December 7, 2002; ANNEX 21; and transcript of the speech of the President of the Republic, December 7, 2002; ANNEX 22.

the coup d'état in April: out of control, led by a few people who have lost any ability to dialogue, to listen, to rectify [...] to be aware of the tremendous responsibility they have when the State gave them their concessions for [...] running or managing a television station, which is a tremendous power, and they put out wild lies, campaigns, editorials [...] this frantic, unhealthy activity, which is inflicting serious psychological harm on the Venezuelan people [...] it is a terrorist plan [...] don't be taken in by this new, savage, runaway media assault by the four major television stations, along with their regional television allies. Using all their technological power, their reporters, editorialists, production teams, because they produce, they [...] are in a laboratory, inserting music, inserting pictures, producing, on the air, and shocking and assailing the population, who are at times defenseless, unarmed [...] we cannot allow the population to be affronted like that.²⁵

66. On December 10, 2002, the Interior and Justice Minister, speaking about the demonstrations held at the premises of various media companies, said that "the people on the streets are defending their values, defending their principles."²⁶

67. On December 15, 2002, in his program *Aló Presidente*, the President of the Republic said:

It has been shown to the world that channels 2 (RCTV), 4 (Venevisión), 10 (Televén), and 33 (Globovisión) are in collusion against the Government of Venezuela – tell the world! [...] Committed to destabilizing the country, the people, its laws, and the Republic. Once again I tell the country and the entire world.²⁷

68. On January 12, 2003, in his program *Aló Presidente*, the President of the Republic said:

Some media owners align themselves with blackmail, with lies, with malice, with malicious intent, not because they're making a mistake, but because they are laboratories for psychological warfare, in the employ of lies, in the employ of subversion, in the employ of terrorism, in the employ of destabilization [...] Some of them have installed genuine dictatorships in the companies they run [...] a journalist who doesn't follow orders is forced to leave. We can't even say that they are the owners; no, they are the owners of the cameras [...] but what's most important for a television station, the important thing for a radio station is a frequency, the radio spectrum [...] At some point the State gave them a permit to use the radio spectrum [...] and they might have the best reporters [...] but if the State doesn't give them a permit signed by the State [...] by the government [...] by the President of the Republic [...] they cannot transmit [...] So, they are using them, the radio frequencies, which belong to us, in other words, to the State [...] with the aim of destabilization."

69. In the same broadcast, referring to Globovisión president Guillermo Zuloaga, he said:

A Venezuelan who has a permit to use a signal, and that gave rise to the lie. But just as he was given it, it can be taken away at any time that the State decides, and it is being processed: complaints, evidence, all that are being processed very carefully. They set about transmitting messages of violence, war propaganda, seeking confrontation [...] injected from

²⁵ Video containing two speeches by the President of the Republic, January 27 and June 13, 2002; ANNEX 2; initial petition of June 27, 2003; ANNEX 41.

²⁶ Transcript of statements by the Minister of the Interior and Justice, December 10, 2002; ANNEX 26.

²⁷ Video containing two speeches by the President of the Republic, January 27 and June 13, 2002; ANNEX 2; Transcript of the *Aló Presidente* program, December 15, 2002; ANNEX 24.

war laboratories [...] and there they are, the four concession holders, the four horsemen of the Apocalypse.²⁸

70. In his *Aló Presidente* program of November 9, 2003, the President of the Republic said:

Now, I'm telling you, I'm telling you again, and don't take this as a threat. No. I'm doing this with respect and I'm doing this in fulfillment of my duty; I'm not going to let you do it again, but I swear, look, I swear by God and my mother, that I will not allow it, I swear by my children and by the children of Venezuela, if you, Globovisión, Televén, Venevisión, and RCTV, tomorrow or the day after [...] Jesse Chacón, I gave him an order, you must have a team of analysts and observers, 24 hours a day, watching all the channels simultaneously, and we must be clear, I am clear about the line they must not pass, and they should know that, it is the line drawn by the law [...] When they go past the line drawn by the law they will automatically be closed, to ensure peace in Venezuela, to ensure calm in Venezuela [...] I don't care what you say tomorrow or the day after about me; plus, they've said it, what they were going to say about me they've already said it. In other words, they are already in my debt, ahead of time; so I don't care at all about what they may say tomorrow, if the inter-American something committee of I don't know what, if the government of somewhere or other, I just don't care. What I care about is the peace of Venezuela, the future of Venezuela and, in this case, everyone's Christmas.²⁹

71. On January 12, 2004, the President of the Republic told the newspaper *El Universal* that:

If any television stations urge the people toward rebellion again, I'll take them away too [...] I have the decree ready [...] it'd be better for me if they did, because they'd be under military occupation, come what may. I would immediately give an order: take it by force, and those inside, if they've got weapons, defend yourselves, but we're going in with weapons because that's how a country defends itself.³⁰

72. On February 15, 2004, in his program *Aló Presidente*, the President of the Republic said:

We should have prevented the media from becoming the main centers of violent disturbance, as happened with Globovisión, Venevisión, and almost all the channels. I am not willing, distinguished owners of Globovisión, [...] to let that happen again. So you know, the day before yesterday we were ready to take you off the air, operation ready, armed forces ready, to take down your antennas on my orders. And we are ready, 24 hours a day, you can tell the world what you like but I am meeting a responsibility [...] You have returned, Globovisión and Venevisión, along the same path of coups, and if we have to take you by force – listen very carefully to what I'm saying, if we were forced to take you in a military operation, were you to rise up again like you did on April 11 [...] if you did that again [...] you would be taken by the military, no matter what the cost.³¹

²⁸ Video containing two speeches by the President of the Republic, January 27 and June 13, 2002; ANNEX 2. Transcript of the *Aló Presidente* program, January 12, 2003; ANNEX 25.

²⁹ Transcript of *Aló Presidente* program #171, November 9, 2003, available on March 19, 2007, at http://www.gobiernoenlinea.ve/docMgr/sharedfiles/Alo_Presidente_171.pdf; ANNEX 36.

³⁰ Transcript of interview with President Hugo Chávez for the newspaper *El Universal*, available on March 19, 2007, at http://buscador.eluniversal.com/2004/01/12/pol_art_12154A2.shtml; ANNEX 35.

³¹ Transcript of *Aló Presidente* program #182, February 15, 2004, available on March 19, 2007, at http://www.gobiernoenlinea.ve/docMgr/sharedfiles/Alo_Presidente_182.pdf; ANNEX 37.

73. On May 9, 2004, in his program *Aló Presidente*, the President of the Republic said:

Here those who violate the right of information, the right of free expression, are the owners of the private media, with a few exceptions, but especially the main television channels, Venevisión, Globovisión, RCTV [...] The owners of those media companies are committed to coups, to terrorism, and to destabilization, and at this stage in the game, I have no doubts at all that we could very well declare those media owners the enemies of the Venezuelan people.³²

74. On August 16, 2004, one day after the recall referendum, the President of the Republic made the following statements in a press conference for the domestic and foreign press at the Miraflores Palace:

They were there this morning at Globovisión, I know they were, full names; I am almost certain that the managers of that television channel are incapable of reflection. That channel has been the leader in the attempts to destabilize the country; how much damage has Globovisión done to this country. No doubt this afternoon they'll say I am attacking them; no, I am not attacking them, they have attacked millions of Venezuelans [...] I was watching Globovisión because that same channel – it's a curious thing: every time, or almost always, when something historical happens, Globovisión's cameras are there, in a good position, they arrive before everyone else; it's very curious, it makes you think [...] They always tell me, Globovisión was there before it began, no other station; then along come some others, as they say, others turn up, but I saw the pictures on Globovisión, the same music, the same effect, provoking violence. So you could suspect that the channel's directors might be involved in those plans, like they were with the coup d'état. They met at their coup headquarters, transmitted microwaves to the coup-plotters, reporters, and all the technical resources, they put them at the disposal of the coup d'état, that's been proved [...] You'll be wondering why they're still on the air and not in prison. Well, during the Fourth Republic, they were deeply involved with the judiciary and the judiciary acquitted them [...] perhaps Globovisión will charge again, perhaps Globovisión will again be the vanguard of destabilization in the country; if that's the case, I don't see a good future for Globovisión. I call on the owners to reflect; if they are thinking about that letter again, we would be forced to respond in the way that the State has to respond to guarantee the country's stability [...] no State can permit a television channel that incites the population.³³

75. In a speech broadcast on all television and radio stations on October 4, 2005, the President of the Republic said that:

Globovisión had a campaign, trying to fan the flames. Globovisión trying to create conflict, to get someone killed [...] What Globovisión is is a lackey of imperialism – a television station that is a lackey of U.S. imperialism. And I'll say that to the country and to the world. That's what it is. So, gentlemen of Globovisión, let's see which is the stronger: your madness, or the love of the Venezuelan people and our resolve to build a homeland. Globovisión sent cameras and reporters and satellite equipment, because they wanted Azpúrua to leave there dead, to turn this into a war between the army and the vigilantes and the people with weapons.³⁴

³² Transcript of *Aló Presidente* program #191, May 9, 2004, available on March 19, 2007, at http://www.minci.gov.ve/aló-presidente/16/6647/alpresidente_n191.html; ANNEX 38.

³³ Transcript of a press conference of August 16, 2004, available on March 19, 2007, at <http://www.mci.gob.ve/alocuciones1.asp?id=171>; ANNEX 39.

³⁴ Video containing a recording of the speech given by President of the Republic, October 4, 2005, in a national blanket broadcast; ANNEX 33.

D. Incidents during 2001

76. On November 22, 2001, reporter Gabriela Perozo, producer Aloys Marín, cameraman Efraín Henríquez, and camera assistant Oscar Dávila went to the La Hoyada district in central Caracas to cover a march. When the team got out of their vehicle, a group of individuals began to rain blows on the car and on the camera while the cameraman was holding it. They also pulled on the microwave cable. Globovisión workers covered the incident from a nearby rooftop.³⁵

77. On December 10, 2001, reporter Yesenia Balza, cameraman Carlos Quintero, and camera assistant Felipe Lugo were about to begin their coverage of a demonstration when they were surrounded by a group of some 20 people who shouted “liars,” “manipulators,” “traitors,” “frauds,” and similar insults at them. Some of these individuals tried to cover the cameras with their hands and white handkerchiefs. They then surrounded them to force them to abandon the area and surrounded the car in which they attempted to leave. This prevented the team of reporters from covering the demonstration.³⁶

E. Incidents during 2002

78. On January 9, 2002, reporter Beatriz Adrián, cameraman Jorge Paz, and camera assistant Alfredo Peña Isaya were on their way to the Miraflores Palace to cover a story when their vehicle was surrounded by a group of some 30 men who kicked the vehicle and threatened to “burn them along with their car.” Some members of the group opened the door where Alfredo Peña Isaya was sitting and hit him a number of times. At that moment the police arrived and enabled the team of journalists to return to Globovisión headquarters. They were unable to cover the story.³⁷

79. On January 11, 2002, cameraman Richard López and his assistant were in a car marked with a Globovisión logo, on their way to cover an event involving the President of the Republic. While in their car they were confronted by a group of individuals who kicked the vehicle and shouted names like “liars,” “rubbish,” and “sellouts” at the occupants. They managed to escape the area thanks to the intervention of the Metropolitan Police, but they were unable to cover the event.³⁸

³⁵ Request for justification of June 17, 2003, lodged on June 20, 2003, with the 20th Municipal Court of the Caracas Metropolitan Area Judicial District, containing the following declarations: Gabriela Perozo, Aloys Marín, Efraín Henríquez, and Oscar Dávila; ANNEX 5. Complaint before the Public Prosecution Service, received on January 31, 2002, by the Directorate of Common Crime; ANNEX 7. Submission to the 2nd and 74th Prosecutors of the Caracas Metropolitan Area; ANNEX 8. Complaint lodged with People’s Defender German Mundaraín for the violation of basic rights; ANNEX 9. Document sent on June 13, 2003, to the Municipal Distribution Judge of the Caracas Metropolitan Area Judicial District, included in the record of the judicial inspection carried out on June 16, 2003, at the office of the 3rd Notary Public of Chacao municipality in Miranda State, at the office of the 6th Notary Public of Chacao municipality in Miranda State, and at the office of the 9th Notary Public of Chacao municipality in Miranda State, reporting the difficulties encountered by the victims in their requests for the authentication of powers of attorney and statements; ANNEX 27.

³⁶ Video containing recorded scenes of several attacks on Globovisión reporting teams; ANNEX 3. Request for justification of June 17, 2003, lodged on June 20, 2003, with the 20th Municipal Court of the Caracas Metropolitan Area Judicial District, containing the following declarations: Yesenia Thais Balza, Carlos Quintero, and Felipe Antonio Lugo Durán; ANNEX 5. Complaint before the Public Prosecution Service, received on January 31, 2002, by the Directorate of Common Crime; ANNEX 7. Submission to the 2nd and 74th Prosecutors of the Caracas Metropolitan Area; ANNEX 8. Complaint lodged with People’s Defender German Mundaraín for the violation of basic rights; ANNEX 9.

³⁷ Request for justification of June 17, 2003, lodged on June 20, 2003, with the 20th Municipal Court of the Caracas Metropolitan Area Judicial District, containing the following declaration: Jorge Manuel Paz; ANNEX 5. Complaint before the Public Prosecution Service, received on January 31, 2002, by the Directorate of Common Crime; ANNEX 7. Complaint lodged with People’s Defender German Mundaraín for the violation of basic rights; ANNEX 9.

³⁸ Request for justification of June 17, 2003, lodged on June 20, 2003, with the 20th Municipal Court of the Caracas Metropolitan Area Judicial District, containing the following declaration: Felix Padilla Geromes; ANNEX 5.

80. On January 20, 2002, reporter Mayela León, cameraman Jorge Paz, and an assistant were at the Cajigal Observatory to cover an *Aló Presidente* broadcast. Before they could get out of their vehicle, they were surrounded by a group of about 50 people shouting slogans like “tell the truth,” “frauds,” “liars,” and “traitors.” On the Globovisión newscast, Mayela León made the following statement:

The Presidential Guard said they had been ordered to work with the journalists and offer them help [...] when the attackers saw cameras, they become more aggressive [...] what we decided was that they would me escort me to my van and that we weren’t going in because they were determined not to let us.

During the same program, Jorge Paz said that: “we felt we were surrounded [...] I’ve never felt like that before [...] when I tried to pick up the camera they became more aggressive.”³⁹

81. On February 18, 2002, unidentified individuals broke the windows of a van bearing a Globovisión logo that was parked while reporter Jhonny Ficarella, cameraman John Power, and assistant Miguel Ángel Calzadilla covered a story.⁴⁰

82. On April 3, 2002, reporter José Vicente Antonetti, cameraman Edgar Hernández, and assistant Ericsson Alvis were covering a demonstration at the Venezuelan Social Security Institute, when a group of individuals, upon noticing their presence, began to shout “go away, go away,” and struck their cameras. Among the group was the institute’s personnel director; subsequently, the director of the institute gave a statement saying he could not be held responsible for a subordinate’s behaving in that way. Reporter José Vicente Antonetti received a wound on his forehead.⁴¹

83. On June 13, 2002, a Globovisión team comprising reporter Beatriz Adrián, cameraman Jorge Paz, and assistant Alfredo Peña was at the federal parliament building covering a session of the National Assembly. As the media workers were preparing to leave, the Assembly building was surrounded by a group of some 40 individuals whose shouts and threatening attitude hindered their exit. The Globovisión journalist was interviewing one of these individuals, asking him to explain why he was behaving like that, when another person struck her microphone and knocked

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Submission to the 2nd and 74th Prosecutors of the Caracas Metropolitan Area; ANNEX 8. Complaint lodged with People’s Defender German Mundaraín for the violation of basic rights; ANNEX 9.

³⁹ Video containing recorded scenes of several attacks on Globovisión reporting teams, and containing the narration of one of the incidents given by Mayela León in a Globovisión newscast; ANNEX 3. Request for justification of June 17, 2003, lodged on June 20, 2003, with the 20th Municipal Court of the Caracas Metropolitan Area Judicial District, containing the following declaration: Mayela León; ANNEX 5. Complaint before the Public Prosecution Service, received on January 31, 2002, by the Directorate of Common Crime; ANNEX 7. Submission to the 2nd and 74th Prosecutors of the Caracas Metropolitan Area; ANNEX 8. Complaint lodged with People’s Defender German Mundaraín for the violation of basic rights; ANNEX 9.

⁴⁰ Video containing recorded scenes of several attacks on Globovisión reporting teams; ANNEX 3. Request for justification of June 17, 2003, lodged on June 20, 2003, with the 20th Municipal Court of the Caracas Metropolitan Area Judicial District, containing the following declarations: John Power, Jhonny Donato Ficarella, and Miguel Angel Calzadilla; ANNEX 5. Submission to the 2nd and 74th Prosecutors of the Caracas Metropolitan Area; ANNEX 8. Document lodged with People’s Defender German Mundaraín, received on March 13, 2002, seeking to expand the earlier complaint; ANNEX 10.

⁴¹ Video containing recorded scenes of several attacks on Globovisión reporting teams; ANNEX 3. Request for justification of June 17, 2003, lodged on June 20, 2003, with the 20th Municipal Court of the Caracas Metropolitan Area Judicial District, containing the following declarations: José Vicente Antonetti and Edgar Hernández; ANNEX 5. Submission to the 2nd and 74th Prosecutors of the Caracas Metropolitan Area; ANNEX 8. Document lodged with People’s Defender German Mundaraín, received on April 24, 2002, seeking to expand the earlier complaint; ANNEX 11.

it to the floor. Members of the Metropolitan Police who were on the scene finally enabled the Globovisión workers to leave. Their vehicle, which was marked with the station's logo, was scratched, beaten, and sprayed with paint.⁴²

84. On July 9, 2002, a grenade was thrown into the parking lot of Globovisión's main building which, along with a number of vehicles belonging to station employees, suffered material damage. Members of the Directorate of Intelligence Services and Prevention ("DISIP") came to the incident site and collected evidence.⁴³

85. On July 17, 2002, a tear-gas canister was thrown at Globovisión's headquarters; it fell into the station's car park, where it activated. There were no injuries or material damage.⁴⁴

86. On September 4, 2002, while reporter Aymara Lorenzo, cameraman Carlos Arroyo, and their assistant Félix Padilla were covering a demonstration, some of the protesters shouted at them and tried to take away their reporting equipment. One woman, identified in the video, stole Lorenzo's microphone and headphones; the journalist then approached one of the Military Police officers who were there, told him what was happening, explaining that they "were surrounded," and requesting protection for the entire Globovisión team;⁴⁵ the officer did not, however, intervene.

87. On September 11, 2002, reporter Ana Karina Villalba, cameraman Alí Vargas, and assistant Anthony Infantino were on the Llaguno Bridge, in the city of Caracas, trying to cover an gathering to commemorate the events of April 11, 2002. As Ana Karina Villalba approached one of the people there to conduct an interview, a woman with a wooden stick dealt a heavy blow to the microphone she was holding, shouted at the interviewee to demand that he "give no statement to them," and threatened the young man who was about to be interviewed with the same stick. Although a police officer who was on site stopped the woman, she returned when she realized the Globovisión team was still in the area. "Are you going to carry on filming?" asked the woman, threatening to hit Ana Karina Villalba in the face with her stick. The police stopped her again and the reporter had to cover the story as she walked away from the site.⁴⁶

⁴² Video containing recorded scenes of several attacks on Globovisión reporting teams; ANNEX 3. Request for justification of June 17, 2003, lodged on June 20, 2003, with the 20th Municipal Court of the Caracas Metropolitan Area Judicial District, containing the following declarations: Beatriz Adrián and Alfredo José Peña Isaya; ANNEX 5. Submission to the 2nd and 74th Prosecutors of the Caracas Metropolitan Area; ANNEX 8. Document sent on June 13, 2003, to the Municipal Distribution Judge of the Caracas Metropolitan Area Judicial District, included in the record of the judicial inspection carried out on June 16, 2003, at the office of the 3rd Notary Public of Chacao municipality in Miranda State; at the office of the 6th Notary Public of Chacao municipality in Miranda State; and at the office of the 9th Notary Public of Chacao municipality in Miranda State, reporting the difficulties encountered by the victims in their requests for the authentication of powers of attorney and statements; ANNEX 27.

⁴³ Video containing recorded scenes of several attacks on Globovisión reporting teams; ANNEX 3. Request for justification of June 17, 2003, lodged on June 20, 2003, with the 20th Municipal Court of the Caracas Metropolitan Area Judicial District, containing the following declaration: José Inciarte; ANNEX 5. Document lodged with the 68th Caracas Metropolitan Area Prosecutor of the office of the Prosecutor General of the Republic; ANNEX 28.

⁴⁴ Request for justification of June 17, 2003, lodged on June 20, 2003, with the 20th Municipal Court of the Caracas Metropolitan Area Judicial District, containing the following declarations: Claudia Rojas Zea and José Inciarte; ANNEX 5. Document lodged with the 68th Caracas Metropolitan Area Prosecutor of the office of the Prosecutor General of the Republic; ANNEX 28.

⁴⁵ Video containing recorded scenes of several attacks on Globovisión reporting teams; ANNEX 3. Request for justification of June 17, 2003, lodged on June 20, 2003, with the 20th Municipal Court of the Caracas Metropolitan Area Judicial District, containing the following declarations: Félix Padilla Geromes, Carlos Arroyo, and Aymara Lorenzo; ANNEX 5. Submission to the 2nd and 74th Prosecutors of the Caracas Metropolitan Area; ANNEX 8. Document lodged with the 68th Caracas Metropolitan Area Prosecutor of the office of the Prosecutor General of the Republic; ANNEX 28.

⁴⁶ Video containing recorded scenes of several attacks on Globovisión reporting teams; ANNEX 3. Request for justification of June 17, 2003, lodged on June 20, 2003, with the 20th Municipal Court of the Caracas Metropolitan Area Judicial District, containing the following declaration: Ana Karina Villalba; ANNEX 5. Submission to the 2nd and 74th

88. On September 21, 2002, when reporter Rossana Rodríguez Gudiño,⁴⁷ cameraman Felipe Lugo Durán, and assistant Wilmer Escalona Arnal were in a Globovisión vehicle on their way to cover a story in central Caracas, the vehicle was surrounded by a group of individuals armed with bottles, one of whom also had a firearm. They struck the vehicle, broke its windows, and forced the Globovisión employees to get out and surrender their equipment. They then took the car to a nearby location before returning it, now damaged, to the media workers; the reporters were then able to leave, without having covered the story, thanks to the intervention of a ruling party official. The assailants kept a videotape and some of the equipment they had seized, and they threatened the reporters that if they didn't leave, "they would be burned."⁴⁸

89. On November 18, 2002, at around midday, unidentified individuals threw another grenade at Globovisión's headquarters. The explosion caused a fire in the parking lot and entrance to the station, damaging the building and several vehicles.⁴⁹

90. On December 3, 2002, reporter Aymara Lorenzo, cameraman Richard López, and camera assistant Félix Padilla were covering a small demonstration that had started in connection with a strike called by the Democratic Coordination opposition umbrella group, the Venezuelan Workers' Confederation, and the Federation of Chambers of Commerce, protesting the intervention of the Metropolitan Police and the militarization of the country's main cities.⁵⁰ When the journalist approached a person to ask some questions, the National Guard fired baton rounds at the news team after it had succeeded in dispersing the demonstrators.⁵¹

91. On December 10, 2002, several groups of people organized protests at the entrances to various media companies, including Globovisión. At the station's headquarters in Caracas, one group remained in front of the main entrance for hours, shouting at the channel and its workers.⁵²

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Prosecutors of the Caracas Metropolitan Area; ANNEX 8. Document lodged with the 68th Caracas Metropolitan Area Prosecutor of the office of the Prosecutor General of the Republic; ANNEX 28.

⁴⁷ The reporter Rossana Rodríguez Gudiño died in a traffic accident shortly after this incident; consequently, she does not appear as either a joint petitioner or an alleged victim. Document lodged with the 68th Caracas Metropolitan Area Prosecutor of the office of the Prosecutor General of the Republic; ANNEX 28.

⁴⁸ Request for justification of June 17, 2003, lodged on June 20, 2003, with the 20th Municipal Court of the Caracas Metropolitan Area Judicial District, containing the following declarations: Felipe Antonio Lugo Durán and Wilmer Escalona Arnal; ANNEX 5. Submission to the 2nd and 74th Prosecutors of the Caracas Metropolitan Area; ANNEX 8. Document lodged with the 68th Caracas Metropolitan Area Prosecutor of the office of the Prosecutor General of the Republic; ANNEX 28.

⁴⁹ Video containing recorded scenes of several attacks on Globovisión reporting teams; ANNEX 3. Request for justification of June 17, 2003, lodged on June 20, 2003, with the 20th Municipal Court of the Caracas Metropolitan Area Judicial District, containing the following declaration: José Inciarte; ANNEX 5. Document lodged with the 68th Caracas Metropolitan Area Prosecutor of the office of the Prosecutor General of the Republic; ANNEX 28.

⁵⁰ IACHR, *Report on the Situation of Human Rights in Venezuela 2003*, paragraph 115.

⁵¹ Video containing recorded scenes of several attacks on Globovisión reporting teams; ANNEX 3. Request for justification of June 17, 2003, lodged on June 20, 2003, with the 20th Municipal Court of the Caracas Metropolitan Area Judicial District, containing the following declarations: Félix Padilla Geromes and Aymara Lorenzo; ANNEX 5. Submission to the 2nd and 74th Prosecutors of the Caracas Metropolitan Area; ANNEX 8. Document lodged with the 68th Caracas Metropolitan Area Prosecutor of the office of the Prosecutor General of the Republic; ANNEX 28.

⁵² Video containing recorded scenes of several attacks on Globovisión reporting teams; ANNEX 3. Submission to the 2nd and 74th Prosecutors of the Caracas Metropolitan Area; ANNEX 8. Document lodged with the 68th Caracas Metropolitan Area Prosecutor of the office of the Prosecutor General of the Republic; ANNEX 28.

F. Incidents during 2003

92. On January 3, 2003, while reporter Carla María Angola was covering a march, a group of individuals began to shout insults at the news team – “coup plotters,” “liars” – and made obscene gestures at the camera. A container of liquid, which she identified as urine, was thrown at the journalist.⁵³

93. On August 9, 2003, a group of protesters gathered at the entrance to Globovisión’s headquarters for the space of several hours, shouting slogans at the station and preventing workers from entering or leaving.⁵⁴

94. On December 3, 2003, a Globovisión news team comprising reporter Beatriz Adrián, Oscar Núñez, and Ángel Millán was attempting to cover rioting that had broken out in central Caracas. The rioters approached the cameraman and his assistant, who was on a motorcycle, and began to shout at them: “Go away, imbeciles.” Before leaving the news team attempted to conduct an interview, whereupon some individuals, riding a motorcycle, pushed the cameraman and forced him to hand over his camera. The cameraman surrendered the camera and his assailants sped off on the motorcycle. The Globovisión reporter and cameraman followed their assailants and sought assistance from a group of National Guard members who were in the area. However, when they caught up with the assailants who had taken the Globovisión camera, a group of individuals attacked the Globovisión reporter and camera, threatened them with firearms, took their motorcycle, radio, and gas masks, without the National Guard intervening. At that moment the political leader Lina Ron arrived on the scene and intervened to prevent the Globovisión team from receiving further blows and threats.⁵⁵

95. On December 3, 2003, a Globovisión news team comprising Ademar Dona, José Umbría, and reporter Martha Palma Troconis were covering a demonstration by employees of the Venezuelan Social Security Institute. A group of people were in the area, engaged in an argument; on seeing the Globovisión team, they began to throw bottles at them. Some insulted the cameraman and his assistant, and attempted to hit them. The Globovisión workers withdrew without being able to cover the story.⁵⁶

G. Incidents during 2004

96. On January 18, 2004, a Globovisión news team comprising cameraman Joshua Torres and camera assistant Zullivan Peña were in a station-owned vehicle on Avenida Urdaneta in central Caracas, on their way to Plaza Bolívar to cover a rally of the Movement toward Socialism political party. The cameraman began to film an attack on a passer-by and, when the individual in question noticed, he and other people began to beat the Globovisión vehicle with pipes and stones. The Globovisión workers heard gun shots, with which one of the vehicle’s tires deflated and the

⁵³ Video containing recorded scenes of several attacks on Globovisión reporting teams; ANNEX 3. Request for justification of June 17, 2003, lodged on June 20, 2003, with the 20th Municipal Court of the Caracas Metropolitan Area Judicial District, containing the following declaration: Carla María Angola; ANNEX 5. Submission to the 2nd and 74th Prosecutors of the Caracas Metropolitan Area; ANNEX 8. Document lodged with the 68th Caracas Metropolitan Area Prosecutor of the office of the Prosecutor General of the Republic; ANNEX 28.

⁵⁴ Document lodged with the 68th Caracas Metropolitan Area Prosecutor of the office of the Prosecutor General of the Republic; ANNEX 28.

⁵⁵ Document lodged with the 68th Caracas Metropolitan Area Prosecutor of the office of the Prosecutor General of the Republic; ANNEX 28.

⁵⁶ Document lodged with the 68th Caracas Metropolitan Area Prosecutor of the office of the Prosecutor General of the Republic; ANNEX 28.

vehicle's rear right-hand mudguard suffered an impact. They also broke the passenger-side window and dented the roof and driver's door. The Globovisión team managed to stop far away from where their assailants were, under the protection of the Metropolitan Police.⁵⁷

97. On February 19, 2004, a Globovisión news team comprising reporter Jesús Rivero Bertorelli, Efraín Henríquez, and Carlos Tovar was at the Labor Ministry, covering a demonstration during which a member of the Worker Justice Organization was injured. As the Globovisión workers were filming the attack, they began to receive insults and death threats. To escape the area, the Globovisión team sought protection from a National Guard contingent that was on site. The guards initially refused to escort them, but they finally agreed and accompanied them to their vehicle.⁵⁸

98. On February 27, 2004, a Globovisión news team comprising Mayela León and Miguel Ángel Calzadilla was covering a Democratic Coordination march in Caracas. The National Guard installed a barricade to halt the progress of the demonstrators, and also deployed tear-gas canisters and shotgun pellets. Attacks were also directed at the media workers covering the march, and Globovisión's Miguel Ángel Calzadilla was injured.⁵⁹

99. On March 1, 2004, reporter Janeth Carrasquilla was with her news team on Avenida Bolívar Norte in the city of Valencia, covering a demonstration protesting a National Electoral Council decision related to the recall referendum. A contingent of the National Guard arrived on scene and began to throw tear-gas canisters, some of which also went toward where the reporters were; the journalists fled from the attack and were pursued by a group of National Guards. During the National Guard's onslaught, Janeth Carrasquilla was hit in the head by a tear-gas canister, as a result of which she required six stitches.⁶⁰

100. On March 1, 2004, a Globovisión news team comprising reporter Johnny Ficarella, cameraman John Power, and assistant Darío Pacheco were in the Caurimare district, to the east of Caracas, covering a demonstration protesting a National Electoral Council decision relating to the recall referendum, when a National Guard contingent began firing shotgun pellets and tear gas. One tear-gas canister scored a direct hit on Johnny Ficarella.⁶¹

101. On March 1, 2004, a news team comprising Carla Angola and her cameraman and camera assistant went to the town of Baruta to cover a clash between a group of government supporters and an opposition group. Upon arriving, the cameraman began to film and, a few minutes later, he was surrounded by a group of individuals who wanted to keep him from doing his job. As the situation became violent, the camera assistant helped him escape and the three media workers ran toward their vehicle while a hail of objects fell onto it, damaging its bodywork.⁶²

⁵⁷ Document lodged with the 68th Caracas Metropolitan Area Prosecutor of the office of the Prosecutor General of the Republic; ANNEX 28.

⁵⁸ Document lodged with the 68th Caracas Metropolitan Area Prosecutor of the office of the Prosecutor General of the Republic; ANNEX 28.

⁵⁹ Document lodged with the 68th Caracas Metropolitan Area Prosecutor of the office of the Prosecutor General of the Republic; ANNEX 28.

⁶⁰ Document lodged with the 68th Caracas Metropolitan Area Prosecutor of the office of the Prosecutor General of the Republic; ANNEX 28.

⁶¹ Document lodged with the 68th Caracas Metropolitan Area Prosecutor of the office of the Prosecutor General of the Republic; ANNEX 28.

⁶² Document lodged with the 68th Caracas Metropolitan Area Prosecutor of the office of the Prosecutor General of the Republic; ANNEX 28.

102. On May 29, 2004, a news team comprising reporter Martha Palma Troconis, cameraman Joshua Torres, and assistant Víctor Henríquez went to La Lucha district in Caracas to cover the recall referendum signature verification process. Upon seeing that a team from the station was present, one female demonstrator approached the reporter and threatened to attack her if they did not leave immediately. When the cameraman got out of the vehicle to try and film what was happening, he was struck in the head with a pipe and his camera was snatched from him. The reporter tried to stop the attack and she was also beaten, kicked, and pushed to the ground by the demonstrators. Both went to a health center for a medical check-up. The camera was recovered later.⁶³

103. On May 29, 2004, a Globovisión news led by reporter Carla Angola went to the El Valle area of Caracas to cover the recall referendum signature verification process. At one of the three establishments they visited, the monitor representing the government tried to prevent the reporter and her team from entering; however, a member of the military who had been assigned protective duties allowed them to enter and they were thus able to film what was going on and to conduct interviews. As they emerged onto the street, the news team members were insulted and threatened by four unidentified individuals. The cameraman filmed part of the incident as the assailants tried to hit his camera. The government monitor threatened the reporter with calling more attackers, making specific reference to the “Tupamaros” group associated with the government of President Hugo Chávez. As the reporter and her team got back into the station vehicle the assailants began to kick it, denting the bodywork.⁶⁴

104. On November 12, 2004, a Globovisión team was refused entry to an event at the Ministry of Defense, which is headquartered at the Army General Command; this was in spite of the fact that the Ministry of Communication and Information had extended an invitation to all the private media companies and that Globovisión had met the requirements for admission to the event. Official media companies Venprés, Venezolana de Televisión, and national radio station YVKE were allowed in.⁶⁵

H. Incidents during 2005

105. On January 23, 2005, while covering a march, a Globovisión team went to Avenida Francisco de Miranda in Caracas to film from the roof of the Embassy Suites hotel. As they were working, a group of marchers approached the Globovisión vehicle and damaged its bodywork.⁶⁶

106. On January 28, 2005, a Globovisión team was denied access to the Tiuna Fort on the occasion of a hearing in the trial of alleged Colombian paramilitaries captured in Venezuela. The coverage of the event had to be carried out over the telephone, since members of the Military Police who were protecting the site prevented them from installing their cameras and microwave equipment for transmitting live images, even though Globovisión had submitted the letter that was

⁶³ Document lodged with the 68th Caracas Metropolitan Area Prosecutor of the office of the Prosecutor General of the Republic; ANNEX 28.

⁶⁴ Document lodged with the 68th Caracas Metropolitan Area Prosecutor of the office of the Prosecutor General of the Republic; ANNEX 28.

⁶⁵ Video dealing with the refusal of access to an official information source, November 12, 2004, to the detriment of a Globovisión news team, at the headquarters of the Ministry of Defense. The video shows the transmission of the news story describing how the Globovisión team was denied entry to the facility; ANNEX 29.

⁶⁶ Video dealing with the violence against the car of a Globovisión news team on January 23, 2005, on Avenida Francisco de Miranda in Caracas. The video shows the damage done to the vehicle’s bodywork; ANNEX 31.

required as a condition for access. Official channel Venezolana de Televisión was allowed in to cover the event.⁶⁷

107. On February 15, 2005, a Globovisión team was denied access to the Miraflores Palace to cover a visit by Colombian President Álvaro Uribe. Reporter Aymara Lorenzo and her assistants, who were planning to broadcast live via microwave and had met the requirements for them and their equipment to be allowed entry, were told at the door that they were not on the list of accreditations and could not go in, and that they had to wait for their equipment to be inspected. They were later able to enter but, unable to transmit live via microwave, they had to delay their transmission.⁶⁸

108. On February 16, 2005, a Globovisión news team led by reporter Ruth Villalba was refused permission to enter the Miraflores Palace and install their microwave equipment there in order to cover a cabinet meeting.⁶⁹

109. On April 11, 2005, in the vicinity of the Llaguno Bridge in downtown Caracas, where a commemoration of the events of April 11, 2002, was being held, a Globovisión news team led by Mayela León encountered problems in covering the event because some of the people attending kept shouting at her. The Globovisión workers were forced to withdraw without covering the story.⁷⁰

110. On July 11, 2005, a team of journalists led by reporter Mayela León went to the Miraflores Palace to cover a protest by a group of individuals left homeless following heavy rains who were asking the President of the Republic to provide them with housing. The team did not cover the story because they felt intimidated by insults leveled at them by people who were there and by threats made against the cameraman and his assistant, followed by the removal of the video containing the images of the protest. All this took place in the vicinity of the Miraflores Palace, because of which the National Guard, covered by a security zone decree, was able to recover and confiscate the cassette. The National Guard allowed them to enter at their own risk and later asked them to leave.⁷¹

111. On August 17, 2005, a Globovisión team led by Mayela León was prevented from covering the meeting between the President of the Republic and former president of Nicaragua Daniel Ortega. Upon arriving at the palace, the presidential press office told them the meeting was private and that the only reporters who could come in were from state media.⁷²

⁶⁷ Video dealing with the refusal of access to an official information source, January 28, 2005, to the detriment of a Globovisión news team, at Tiuna Fort. The video shows the subsequent reporting of the incident; ANNEX 30.

⁶⁸ Video containing recordings of several incidents in which Globovisión news teams were denied access to official sources of information; ANNEX 34.

⁶⁹ Video containing recordings of several incidents in which Globovisión news teams were denied access to official sources of information; ANNEX 34.

⁷⁰ Video containing recordings of several incidents in which Globovisión news teams were denied access to official sources of information; ANNEX 34.

⁷¹ Video, ANNEX 14 of ANNEX E of the filing made by the beneficiaries' representatives on August 30, 2005, in the provisional measures proceedings (already with the Court).

⁷² Video dealing with the refusal of access to an official information source, August 17, 2005, to the detriment of a Globovisión news team, at Miraflores Presidential Palace. The video shows the telephone narration of what happened given by Mayela León; ANNEX 32.

112. On August 27, 2005, when a Globovisión news team was covering an opposition march at the corner of Corazón de Jesús and Avenida Universidad in Caracas, clashes broke out between demonstrations and a group of government supporters during which stones and other projectiles were thrown and a series of gunshots were heard. Individuals on motorcycles threw objects, including rocks, at the Globovisión team, who were forced to leave the area and continue to cover the event from inside their car on a street corner. Members of the security forces were on site and were attempting to resolve the public order situation.⁷³

113. On an undetermined date, the President of the Caracas Judicial Criminal Circuit ordered that chains be deployed in various areas of the Palace of Justice, in order to prevent access by the media, including Globovisión workers. This took place even though the President of the Supreme Court of Justice had said he would guarantee the media's freedom of movement and passage through all areas of the palace.⁷⁴

I. Investigations carried out in connection with some of the incidents

114. On February 18, 2002, an investigation was begun in connection with the complaint filed on January 31, 2002, by José Vicente Antonetti, Mayela León Rodríguez, Pedro Luís Flores, Carla María Angola Rodríguez, Aloys Emmanuel María Díaz, Jhonny Ficarella Martín, Aymara Lorenzo Ferrigui, Yesenia Thais Balza Bolívar, Martha Isabel Palma Troconis, Jhon William Power Perdomo, Alfredo José Peña Isaya, José Alberto Inicarte, Ángel Mauricio Millán, Joshua Oscar Torres Ramos, Félix José Padilla Geromes, Miguel Ángel Calzadilla Piñero, Jorge Manuel Paz, Edgar Alfredo Hernández Parra, Efraín Antonio Henríquez Contreras, José Gregorio Urbina Marín, Carlos Javier Quintero, Felipe Antonio Lugo Duran, and Carlos José Tovar, related to various acts of intimidation and violence committed against them.⁷⁵

115. During that investigation, Ángel Álvarez Colmenares, Alfredo José Peña Isaya, Carlos Javier Quintero, Felipe Antonio Lugo Duran, Efraín Antonio Henríquez Contreras, Jhonny Ficarella Martín, Gabriela Perozo, and Oscar Dávila were summoned to give statements by the Public Prosecution Service.⁷⁶

116. The prosecutors asked the Scientific, Criminal, and Criminalistic Investigations Corps to submit the results of the technical coherence experiment conducted on a Sony brand VHS videotape, model T-120EDC, which showed a series of scenes relating to the investigation. At the same time, Globovisión was asked to submit a list of the vehicles that had suffered material damages.⁷⁷ Following this, no further actions were taken in the proceedings.

⁷³ Video, ANNEX 16 of ANNEX F, of the filing made by the beneficiaries' representatives on October 18, 2005, in the provisional measures proceedings (already with the Court).

⁷⁴ Video containing recordings of several incidents in which Globovisión news teams were denied access to official sources of information; ANNEX 34.

⁷⁵ Submission from the Venezuelan State of July 25, 2005, received by the IACHR on August 17, 2005, indicating the current status of the investigations begun on February 18, 2002, specifically into the actions committed against Alfredo José Peña, Carlos Quintero, Felipe Lugo, Efraín Henríquez, Janeth Carrasquilla, and Joshua Torres; ANNEX 40.

⁷⁶ Submission from the Venezuelan State of July 25, 2005, received by the IACHR on August 17, 2005, indicating the current status of the investigations begun on February 18, 2002, specifically into the actions committed against Alfredo José Peña, Carlos Quintero, Felipe Lugo, Efraín Henríquez, Janeth Carrasquilla, and Joshua Torres; ANNEX 40.

⁷⁷ Submission from the Venezuelan State of July 25, 2005, received by the IACHR on August 17, 2005, indicating the current status of the investigations begun on February 18, 2002, specifically into the actions committed against Alfredo José Peña, Carlos Quintero, Felipe Lugo, Efraín Henríquez, Janeth Carrasquilla, and Joshua Torres; ANNEX 40.

117. Later, statements were taken from Carlos Javier Quintero and Felipe Lugo as a part of another investigation into the events of December 10, 2001. That investigation, as was reported by the State itself during processing before the IACHR, was still awaiting its resolution in August 2005.⁷⁸

118. With reference to the incident against Janeth Carrasquilla on March 1, 2004, the 3rd Prosecutor of the Carabobo State Public Prosecution Service was assigned her case and began the investigation. Several witnesses and the victim were interviewed, and the victim was ordered to undergo a forensic medical examination. On June 6, 2005, the prosecutor requested that the proceedings be dismissed because he had been unable to determine the identity of the person(s) responsible.⁷⁹

119. As described above, on March 1, 2004, a news team made up of Carla Angola, her cameraman, and a camera assistant were attacked while they were covering a confrontation between opposition and pro-government groups.⁸⁰ The prosecutor's office ordered the corresponding investigation sent to the archive on September 10, 2005.⁸¹

120. Above it was explained how, on May 29, 2004, a news team comprising reporter Martha Palma Troconis, cameraman Joshua Torres, and assistant Víctor Henríquez was attacked as they were covering a story in the La Lucha district of Caracas.⁸² The investigation of the incident is still in the initial phase. Forensic medical examinations of each were requested, as were technical coherence tests and frame-by-frame analyses of the videos, and two witnesses were interviewed.⁸³

VII. CONSIDERATIONS OF LAW

A. Violation of the right to humane treatment (Article 5 of the Convention)

121. Article 5.1 of the American Convention provides that:

Every person has the right to have his physical, mental, and moral integrity respected.

122. The "considerations of fact" section of this application describes the constant physical attacks suffered by several of the victims – some at the hands of State security forces, others committed by private citizens.

⁷⁸ Submission from the Venezuelan State of July 25, 2005, received by the IACHR on August 17, 2005, indicating the current status of the investigations begun on February 18, 2002, specifically into the actions committed against Alfredo José Peña, Carlos Quintero, Felipe Lugo, Efraín Henríquez, Janeth Carrasquilla, and Joshua Torres; ANNEX 40.

⁷⁹ Submission from the Venezuelan State of July 25, 2005, received by the IACHR on August 17, 2005, indicating the current status of the investigations begun on February 18, 2002, specifically into the actions committed against Alfredo José Peña, Carlos Quintero, Felipe Lugo, Efraín Henríquez, Janeth Carrasquilla, and Joshua Torres; ANNEX 40.

⁸⁰ Document lodged with the 68th Caracas Metropolitan Area Prosecutor of the office of the Prosecutor General of the Republic; ANNEX 28.

⁸¹ Report from the State in the provisional measures proceedings of August 29, 2006 (already with the Court).

⁸² Document lodged with the 68th Caracas Metropolitan Area Prosecutor of the office of the Prosecutor General of the Republic; ANNEX 28.

⁸³ Submission from the Venezuelan State of July 25, 2005, received by the IACHR on August 17, 2005, indicating the current status of the investigations begun on February 18, 2002, specifically into the actions committed against Alfredo José Peña, Carlos Quintero, Felipe Lugo, Efraín Henríquez, Janeth Carrasquilla, and Joshua Torres; ANNEX 40.

123. These attacks varied in their intensity. For example, reporter Janeth Carrasquilla was struck in the head by a tear-gas canister thrown by a member of the National Guard, and she required emergency hospital treatment and several stitches. At the same time, other media workers – such as Alfredo José Peña, Oscar Núñez, and Ángel Millán – were beaten by private citizens and had their working equipment and/or protective gear stolen. Joshua Torres was hit in the head with a pipe, and Martha Palma Troconis was beaten and kicked to the ground; these last two victims required emergency hospital treatment.

124. The Commission holds that the use of force by state security agents in situations of public unrest must not only be necessary – meaning that there is no other effective and less repressive way to uphold law and order – but that it must be proportionate in terms of the means it uses and their intensity. These principles of need and proportion have been developed by both the Commission and the Court in cases in which the excessive use of force has led to loss of life on the part of the victim.⁸⁴ However, the Commission believes they are equally applicable to situations in which an individual's physical integrity could be endangered through state agents' use of force.

125. This is also supported by the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, which regulate not only the lethal use of firearms, but also the use of incapacitating weapons in situations involving possible disturbances of public order. In particular, the Basic Principles provide that:

3. The development and deployment of non-lethal incapacitating weapons should be carefully evaluated in order to minimize the risk of endangering uninvolved persons, and the use of such weapons should be carefully controlled.

4. Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.

126. The Commission believes that in the case of Janeth Carrasquilla (*supra*, paragraph 99) it has been shown that the tear-gas canister fired by the National Guard struck her body and caused her an injury, at a time when the demonstration had dispersed, which implies an excess in the amount of force permissible in situations in which law and order are upset.

127. In this regard, the Court has ruled that:

Article 1(1) is essential in determining whether a violation of the human rights recognized by the Convention can be imputed to a State Party. In effect, that article charges the States Parties with the fundamental duty to respect and guarantee the rights recognized in the Convention. Any impairment of those rights which can be attributed under the rules of international law to the action or omission of any public authority constitutes an act imputable to the State, which assumes responsibility in the terms provided by the Convention.

According to Article 1(1), any exercise of public power that violates the rights recognized by the Convention is illegal. Whenever a State organ, official or public entity violates one of those rights, this constitutes a failure of the duty to respect the rights and freedoms set forth in the Convention.

⁸⁴ I/A Court H. R., *Neira Alegria et al. Case*, Judgment of January 19, 1995, Series C No. 20, paragraph 75; IACHR, Case 11.291, Report No. 34/00, *Carandiru* (Brazil), Annual Report of the IACHR 2000, paragraph 62. See also: I/A Court H. R., *Case of Montero Aranguren et al. (Detention Center of Catia)*, Judgment of July 5, 2006, Series C No. 150, paragraph 67.

This conclusion is independent of whether the organ or official has contravened provisions of internal law or overstepped the limits of his authority: under international law a State is responsible for the acts of its agents undertaken in their official capacity and for their omissions, even when those agents act outside the sphere of their authority or violate internal law.⁸⁵

128. With reference to the other physical attacks described in the “considerations of fact” section of this application, it has been established that Alfredo Peña Isaya, Oscar Núñez, Ángel Millán, Martha Palma Troconis, and Joshua Torres, in their respective incidents, were beaten by unidentified individuals as they attempted to perform their journalistic duties.

129. In connection with that, it must be recalled that under the system’s constant jurisprudence, a state may be deemed responsible – even when the act in question was committed by a private citizen, or if responsibility has not yet been clearly established – if it can be shown that the state in question failed to meet its duty of due diligence in preventing the violation or failed to respond to it in the fashion set out in the American Convention.

130. Venezuela must organize the governmental apparatus and, in general, all the structures through which public power is exercised, so that they are capable of juridically ensuring the free and full enjoyment of human rights. In accordance with what the Inter-American Court has said, this:

applies independently of whether those responsible for violation of said rights are agents of public authority, **private individuals, or groups of individuals**⁸⁶as according to the rules of International Human Rights Law, action or omission by any public authority is an act attributable to the State, one that involves its responsibility under the terms set forth in that Convention.⁸⁷ (emphasis added)

131. The duty of preventing violations “includes all those means of a legal, political, administrative and cultural nature that promote the protection of human rights and ensure that any violations are considered and treated as illegal acts, which, as such, may lead to the punishment of those responsible and the obligation to indemnify the victims for damages.”⁸⁸

132. In examining the positive duty of adopting measures to protect basic rights, the European Court of Human Rights studies “whether in the circumstances the authorities failed in a positive obligation to protect [the victim] from a risk.”⁸⁹ When these defects in the state response “removed the protection which [the victim] should have received by law,” the European Court

⁸⁵ I/A Court H. R., *Case of the Gómez Paquiyauri Brothers*, Judgment of July 8, 2004, Series C No. 110, paragraph 72; I/A Court H. R., *Case of the 19 Merchants*, Judgment of July 5, 2004, Series C No. 109, paragraph 181; I/A Court H. R., *Case of Herrera Ulloa*, Judgment of July 2, 2004, Series C No. 107, paragraph 144.

⁸⁶ I/A Court H. R., *Case of the 19 Merchants*, Judgment of July 5, 2004, Series C No. 109, paragraph 183; I/A Court H. R., *Case of Juan Humberto Sánchez*, Judgment of June 7, 2003, Series C No. 99, paragraph 142; I/A Court H. R., *Bámaca Velásquez Case*, Judgment of November 25, 2000, Series C No. 70, paragraph 210; and Inter-Am.Ct.H.R., *The “Panel Blanca” Case (Paniagua Morales et al.)*, Judgment of March 8, 1998, Series C No. 37, paragraph 174.

⁸⁷ I/A Court H. R., *Case of the Gómez Paquiyauri Brothers*, Judgment of July 8, 2004, Series C No. 110, paragraph 71; I/A Court H. R., *Case of Juan Humberto Sánchez*, Judgment of June 7, 2003, Series C No. 99, paragraph 142; I/A Court H. R., *Case of the Five Pensioners*, Judgment of February 28, 2003, Series C No. 98, paragraph 163.

⁸⁸ I/A Court H. R., *Velásquez Rodríguez Case*, Judgment on the Merits of July 29, 1988, Series C No. 4, paragraph 175.

⁸⁹ ECHR, *Case of Mahmut Kaya v. Turkey*, March 28, 2000, paragraph 87.

concluded that “in the circumstances [...] the authorities failed to take reasonable measures available to them to prevent a real and immediate risk” to the victim.⁹⁰

133. In the instant case, the constant repetition of incidents against Globovisión workers since 2001, the Commission’s request for the State to adopt precautionary measures to protect the lives and persons of the victims in the case at hand, and the Inter-American Court’s order that provisional measures be adopted to prevent irreparable harm in light of the background of violence against Globovisión workers required that the State take all necessary steps to prevent the occurrence of additional similar incidents. In addition, during the provisional measures proceedings, both the State and the petitioners referred to the existence of other protection orders enacted by the Venezuelan domestic courts.

134. At the same time, the State failed in its duty of guaranteeing the right enshrined in Article 5 of the American Convention by not acting with due diligence in investigating the incidents. In this regard, the Inter-American Court has ruled that:

the execution of an effective investigation is a fundamental and conditioning element for the protection of certain rights that are affected or annulled by these situations, such as [...] the rights to personal liberty, humane treatment and life.⁹¹

135. In its Declaration of Principles on Freedom of Expression, the Commission said that:

the murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation.⁹²

136. Similarly, the Declaration of Chapultepec provides:

Freedom of expression and of the press are severely limited by murder, terrorism, kidnapping, intimidation, the unjust imprisonment of journalists, the destruction of facilities, violence of any kind and impunity for perpetrators. Such acts must be investigated promptly and punished harshly.⁹³

137. Those investigations must be carried out by all available legal means, with the aim of determining the truth and the investigation, pursuit, capture, prosecution, and punishment of the masterminds and perpetrators of the facts.⁹⁴ That has not taken place in the case at hand.

138. In this case, given the State’s noncompliance with its guarantee obligation by not preventing the incidents in question with all available means and by not diligently investigating them, it can be ruled responsible for having tolerated those attacks.

⁹⁰ ECHR, *Case of Mahmut Kaya v. Turkey*, March 28, 2000, paragraphs 99-101.

⁹¹ I/A Court H. R., *Case of the Massacre of Pueblo Bello*, Judgment of January 31, 2006, Series C No. 140, paragraph 145.

⁹² Ninth principle, Declaration of Principles on Freedom of Expression, adopted by the Inter-American Commission on Human Rights at its 108th regular session.

⁹³ Principle No. 4, Declaration of Chapultepec, adopted by the Hemispheric Conference on Free Speech, held in Mexico City, March 11, 1994.

⁹⁴ I/A Court H. R., *Case of the Massacre of Pueblo Bello*, Judgment of January 31, 2006, Series C No. 140, paragraph 143.

139. In consideration whereof, the Commission asks the Court to declare that the State of Venezuela is responsible for violating the right to human treatment enshrined in Article 5(1) of the Convention with respect to Janeth Carrasquilla, in conjunction with the obligation of respecting rights, and with respect to Alfredo José Peña Isaya, Oscar Núñez, Ángel Millán, Martha Palma Troconis, and Joshua Torres, in conjunction with the obligation of ensuring rights, as set out in Article 1.1 of the same instrument.

B. Violation of the right of free expression (Article 13 of the Convention)

1. Content of the right to freedom of thought and expression

140. Article 13 of the American Convention provides that:

Everyone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice.

The exercise of the right provided for in the foregoing paragraph shall not be subject to prior censorship but shall be subject to subsequent imposition of liability, which shall be expressly established by law to the extent necessary to ensure:

Respect for the rights or reputations of others; or the protection of national security, public order, or public health or morals.

The right of expression may not be restricted by indirect methods or means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions.

141. The Inter-American Commission on Human Rights and the Inter-American Court of Human Rights have emphasized the broad content of the right to freedom of thought and expression and have examined the convention provision that protects it from several perspectives through which human beings relate to information. The two bodies have arrived at this broad interpretation of the right to freedom of thought and expression through the analysis of its two dimensions: the individual and the social.

142. Thus, the Court has ruled that the right to freedom of thought and expression grants those persons under the protection of the Convention not only the right and freedom to express their own thoughts, but also the right and freedom to seek, receive, and impart information and ideas of all kinds.⁹⁵ Both the American Convention and other international instruments – such as the Universal Declaration of Human Rights and the Covenant on Civil and Political Rights – enshrine the general right to seek and receive information.

143. In describing the social dimension of this right, the Court stated that, in addition to being a right of each individual, it also “implies a collective right to receive any information whatsoever and to have access to the thoughts expressed by others.”⁹⁶

⁹⁵ I/A Court H. R., *Case of López Álvarez*, Judgment of February 1, 2006, Series C No. 141, paragraph 163; I/A Court H. R., *Case of Ricardo Canese*, Judgment of August 31, 2004, Series C No. 111, paragraph 77; I/A Court H. R., *Case of Herrera Ulloa*, Judgment of July 2, 2004, Series C No. 107, paragraph 108.

⁹⁶ I/A Court H. R., *Case of López Álvarez*, Judgment of February 1, 2006, Series C No. 141, paragraph 163; I/A Court H. R., *Case of Palamara Iribarne*, Judgment of November 22, 2005, Series C No. 135, paragraph 68; I/A Court H. R., *Case of Ricardo Canese*, Judgment of August 31, 2004, Series C No. 111, paragraph 77; I/A Court H. R., *Case of Herrera*

144. The right to seek, receive, and impart information contains the two dimensions – individual and social – developed by the Court and the Commission, and it implies, within the context of the instant case, the right of journalists to seek information, to investigate a topic of interest, to include that information in their reporting, to write about it and to analyze it, to disseminate the fruits of their efforts, to publish the information yielded by their research, and to transmit their conclusions and opinions, along with the right of society to be informed, to have a plurality of information sources with different versions of a single incident, and to decide which information sources they wish to read, listen to, or watch.

145. The Commission must point out that during a political crisis within a polarized society, the right to seek out and receive information, in its two dimensions, acquires particular relevance in generating, fueling, and enriching the debate and in reporting news stories when they break. Thus, the exercise of free and independent journalism is an essential tool in shaping the public opinion held by the inhabitants of a state.

146. It should also be noted that journalism allows the maintenance of an editorial line that is critical of the incumbent government, underscoring the intimate relationship that exists between freedom of expression and freedom of thought. The latter can be clearly seen in the possibility of adopting a position and is enshrined when opinions are expressed in accordance with one's own ideas. For that reason, the thought and speech of those who pursue critical or opposition journalism enjoys broad protection under the Convention as a part of political debate within society. Similarly, democracy demands that the speech and ideas of those who are members or supporters of the government in this debate enjoy the same degree of protection.

2. Restrictions of the right to freedom of thought and expression

147. The Commission believes that in cases such as this, its evaluation of the alleged limitations or restrictions of freedom of expression must not be limited solely to a study of the matters at hand; instead, it must examine them in light of the circumstances and context within which they arose.⁹⁷

148. In reference to restrictions of freedom of expression, the Commission would like to stress the evident public interest inherent in the maximum circulation of news stories regarding events within a state and the need to refrain from undue curtailments of that circulation. Since news reports are information of public interest, they enjoy a high level of protection under the guidelines developed by the Court.⁹⁸

...continuation

Ulloa, Judgment of July 2, 2004, Series C No. 107, paragraph 108; and I/A Court H. R., *Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism* (Arts. 13 and 29, American Convention on Human Rights), Advisory Opinion OC-5/85, November 13, 1985, Series C No. 5, paragraph 30.

⁹⁷ I/A Court H. R., *Ivcher Bronstein Case*, Judgment of February 6, 2001, Series C No. 74, paragraph 156; I/A Court H. R., *Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism* (Arts. 13 and 29, American Convention on Human Rights), Advisory Opinion OC-5/85, November 13, 1985, Series C No. 5, paragraph 42; ECHR, *Müller and Others*, Judgment of May 24, 1988, Series A No. 133, paragraph 32; and ECHR, *Case of Sürek and Özdemir v. Turkey*, Judgment of July 8, 1999, paragraph 57 (iii).

⁹⁸ I/A Court H. R., *Case of Palamara Iribarne*, Judgment of November 22, 2005, Series C No. 135, paragraph 82; I/A Court H. R., *Case of Ricardo Canese*, Judgment of August 31, 2004, Series C No. 111, paragraph 98; I/A Court H. R., *Case of Herrera Ulloa*, Judgment of July 2, 2004, Series C No. 107, paragraph 128; and I/A Court H. R., *Ivcher Bronstein Case*, Judgment of February 6, 2001, Series C No. 74, paragraph 155.

149. That is the case because free speech and political debate are essential elements in the consolidation of societies' democratic lives and are of imperative social interest; consequently, the State's margin for restricting such expression is even further curtailed.⁹⁹

150. As regards restrictions of freedom of expression, the Commission and the Court have afforded broad protection to statements concerning public officials and to other individuals who perform public duties; this is because "it is logical and appropriate that statements [...] should be accorded, in the terms of Article 13(2) of the Convention, a certain latitude in the broad debate on matters of public interest that is essential for the functioning of a truly democratic system."¹⁰⁰ This greater protection enjoyed by statements relating to matters of public interest requires the State, its officials, and those who perform public duties to display greater tolerance and willingness to accept criticism in comments and opinions expressed by individuals in the exercise of democratic control.¹⁰¹

151. This different threshold of protection is because they have voluntarily laid themselves open to a more intense public scrutiny and, consequently, in this domain, they are subject to a higher risk of being criticized, because their activities go beyond the private sphere and belong to the realm of public debate.¹⁰²

152. In addition, the Court has ruled that in the arena of political debate or matters of great public interest, the inter-American system protects not only information or ideas that are favorably received or considered inoffensive by public opinion, but also those that shock or offend the state or any sector of the population.¹⁰³

153. So, state authorities must allow news stories to be recorded and distributed even when the coverage is produced by journalists working for a media outlet that is perceived by a sector of society as belonging to the opposition.

154. A restriction is legitimate when it does not constitute prior censorship of speech, when it arises from the subsequent imposition of liability for the abusive exercise of the right, the grounds for which must be previously and precisely stipulated by law and be necessary to ensure "respect for the rights or reputations of others" or "the protection of national security, public order, or public health or morals," and when it in no way, other than as strictly necessary, limits the full scope of freedom of expression or constitutes an indirect mechanisms of restriction.¹⁰⁴

⁹⁹ *Feldek v. Slovakia*, European Court of Human Rights, Judgment of July 12, 2001, paragraph 59.

¹⁰⁰ I/A Court H. R., *Case of Palamara Iribarne*, Judgment of November 22, 2005, Series C No. 135, paragraph 82; I/A Court H. R., *Case of Ricardo Canese*, Judgment of August 31, 2004, Series C No. 111, paragraph 98; I/A Court H. R., *Case of Herrera Ulloa*, Judgment of July 2, 2004, Series C No. 107, paragraph 128; and I/A Court H. R., *Ivcher Bronstein Case*, Judgment of February 6, 2001, Series C No. 74, paragraph 155.

¹⁰¹ See: I/A Court H. R., *Case of Palamara Iribarne*, Judgment of November 22, 2005, Series C No. 135, paragraph 83; I/A Court H. R., *Case of Ricardo Canese*, Judgment of August 31, 2004, Series C No. 111, paragraph 97; I/A Court H. R., *Case of Herrera Ulloa*, Judgment of July 2, 2004, Series C No. 107, paragraph 127; and I/A Court H. R., *Ivcher Bronstein Case*, Judgment of February 6, 2001, Series C No. 74, paragraph 155. Also: *Feldek v. Slovakia*, No. 29032/95, § 83, ECHR 2001-VIII; and *Sürek and Özdemir v. Turkey*, Nos. 23927/94 and 24277/94, § 60, ECHR Judgment of July 8, 1999.

¹⁰² I/A Court H. R., *Case of Herrera Ulloa*, Judgment of July 2, 2004, Series C No. 107, paragraph 129.

¹⁰³ I/A Court H. R., *"The Last Temptation of Christ" Case (Olmedo Bustos et al.)*, Judgment of February 5, 2001, Series C No. 73, paragraph 69.

¹⁰⁴ I/A Court H. R., *Case of Herrera Ulloa*, Judgment of July 2, 2004, Series C No. 107, paragraph 120; and I/A Court H. R., *Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism* (Arts. 13 and 29, American Convention on Human Rights), Advisory Opinion OC-5/85, November 13, 1985, Series C No. 5, paragraph 39.

155. In other words, if the state is to uphold its duty of respecting that right, the restriction must be in proportion to the interest on which it is based and it must be closely related to attaining that legitimate objective, minimizing its possible interference with the effective enjoyment of the right of free expression.¹⁰⁵

156. Thus, the State must minimize the restrictions placed on the free circulation of ideas and, given various alternatives, must choose the one that damages rights the least. To be compatible with the Convention, such restrictions must be justified on the grounds of collective objectives that, by reason of their importance, clearly outweigh the social need for the full enjoyment of the right protected by Article 13 and that do not restrict the right enshrined in that article more than is strictly necessary.¹⁰⁶ In the case at hand the duty of respecting the right to freedom of thought and expression includes abstaining from imposing restrictions through indirect means, which are regulated by Articles 13(1) and 13(3) of the Convention.

2.1. Acts committed by private citizens and state agents during the work of Globovisión's journalist teams constituting undue restrictions of the right to freely seek, receive, and impart information

157. First of all, the incidents described in the "considerations of fact" section of this application occurred in circumstances in which the news teams were attempting to secure access to sources of information or at times when they were covering events of a political nature, such as marches and other demonstrations or speeches by the President or other public officials.

158. Secondly, the incidents were marked by the use of physical and/or verbal violence, including, on occasions, physical injuries, mostly committed by unidentified private citizens and, on occasions, by members of the National Guard making disproportionate use of baton rounds or tear gas. In each case, these acts were accompanied by others, such as obstructing camera lenses with hands or handkerchiefs, surrounding and hitting cameras, hitting microphones, snatching of professional equipment such as microphones, headphones, and transmission cables, inflicting damage on Globovisión vehicles while workers were traveling in them, or while they were parked, stealing videotapes containing information gathered on site, stealing other items of professional or protective gear (cameras, gas masks, radios), violent demonstrations at the entrances and exits of places where Globovisión workers were to be found, throwing stones, liquids, and other objects at Globovisión workers or at the vehicles carrying them, threats to their persons made verbally, in gestures, or even by means of blunt instruments or firearms, and shouting and mobbing of such a degree that it hindered the performance of journalistic duties.

159. In third place, such actions have a generalized impact on the journalistic endeavors of seeking out and reporting newsworthy events and information in general. On most of the occasions described, the Globovisión workers were forced to withdraw to safeguard their persons or the integrity of the information they had gathered. Furthermore, in some cases, according to the nature of the event or the information source, the incidents described meant that the news teams were denied access to their sources of information or were afforded only partial access.

¹⁰⁵ ECHR, *Case of The Sunday Times v. United Kingdom*, paragraph 59; and ECHR, *Case of Barthold v. Germany*, paragraph 59.

¹⁰⁶ I/A Court H. R., *Case of Herrera Ulloa*, Judgment of July 2, 2004, Series C No. 107, paragraphs 121 and 123; I/A Court H. R., *Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism* (Arts. 13 and 29, American Convention on Human Rights), Advisory Opinion OC-5/85, November 13, 1985, Series C No. 5, paragraph 46. See also: ECHR, *Case of The Sunday Times v. United Kingdom*, paragraph 59; and ECHR, *Case of Barthold v. Germany*, paragraph 59.

160. In sum, the Commission believes that the incidents described constitute restrictions of the essential content of the right of free expression – that is, to freely seek, receive, and impart information – as provided for in Article 13(1) of the American Convention.

161. Moreover, those restrictions must have had a group effect in addition to the individual impact they had on each of the affected persons. The repeated occurrence of incidents of this kind, which targeted workers specifically identified with Globovisión, a private media company, for the simple fact of belonging to the company and because of the perception people have of it, implies an extension of their effects with respect to the freedom to exercise a profession in the presence of other individuals in the same situation. This can be seen in the descriptions of the incidents, which show actions of private citizens intended to hinder the obtaining and disclosure of information by a media company perceived, by a sector of society, as belonging to the opposition and supporting coups d'état, and not by individuals previously identified as possible targets of violence on account of personal considerations or any element other than their professional relationship with the station.

162. As was indicated above, most of those incidents were the work of private citizens. With respect to the possibility of assigning responsibility to a state for the actions of third parties, the Inter-American Court has said that:

The State's international responsibility can arise from human rights violations committed by third parties or private citizens but attributed to the State, as part of its official obligation to ensure respect for rights among such individuals.¹⁰⁷

and that:

The *erga omnes* obligations of upholding and ensuring the observance of the protection standards incumbent on states parties to the Convention have effects that go beyond the relationship between its agents and the persons under its jurisdiction, in that also they arise in the State's positive obligation of adopting all the measures necessary to ensure the effective protection of human rights in relations between individuals. The allocation of responsibility to the State for the actions of private citizens may take place in cases in which the State fails to observe, through the actions or omissions of its agents when in the position of guarantors, those *erga omnes* obligations set out in Articles 1.1 and 2 of the Convention.¹⁰⁸

163. For determining that responsibility in individual cases, the Inter-American Court has ruled that:

When interpreting and applying the Convention, the Court must pay attention to the special needs for protection of the individual, the ultimate beneficiary of the provisions of the respective treaty. Owing to the nature *erga omnes* of the State's treaty-based protection obligations, their scope cannot be determined on the basis of a vision that focuses on the sovereign will of the States and merely on the effects of inter-State relations. These obligations devolve upon all subjects of international law and presumptions of non-compliance must be determined in function of the need for protection in each particular case.¹⁰⁹

¹⁰⁷ I/A Court H. R., *Case of the Massacre of Pueblo Bello*, Judgment of January 31, 2006, Series C No. 140, paragraph 113.

¹⁰⁸ I/A Court H. R., *Case of the "Mapiripán Massacre,"* Judgment of September 15, 2005, Series C No. 134, paragraph 111.

¹⁰⁹ I/A Court H. R., *Case of the Massacre of Pueblo Bello*, Judgment of January 31, 2006, Series C No. 140, paragraph 117.

164. In addition to that parameter for the allocation of responsibility, in its judgment in *Massacre of Pueblo Bello* the Court recently said that:

A State cannot be responsible for all the human rights violations committed between individuals within its jurisdiction. Indeed, the nature *erga omnes* of the treaty-based guarantee obligations of the States does not imply their unlimited responsibility for all acts or deeds of individuals, because its obligations to adopt prevention and protection measures for individuals in their relationships with each other are conditioned by the awareness of a situation of real and imminent danger for a specific individual or group of individuals and to the reasonable possibilities of preventing or avoiding that danger. In other words, even though an act, omission or deed of an individual has the legal consequence of violating the specific human rights of another individual, this is not automatically attributable to the State, because the specific circumstances of the case and the execution of these guarantee obligations must be considered.¹¹⁰

165. In establishing the international admissibility of State responsibility for third-party actions that constitute violations, the Court has made recourse to the doctrine of the European Court. This doctrine suggests that the State may be held responsible for violations committed by third parties when it is shown that the State was aware that a situation of real and immediate danger existed but failed to adopt reasonable measures to prevent it. The Inter-American Court has quoted the jurisprudence of the European Court, which holds that:

Bearing in mind the difficulties in policing modern societies, the unpredictability of human conduct and the operational choices which must be made in terms of priorities and resources, the positive obligation must be interpreted in a way which does not impose an impossible or disproportionate burden on the authorities. Accordingly, not every claimed danger to life can entail for the authorities a Convention requirement to take operational measures to prevent that danger from materializing. For a positive obligation to arise, it must be established that the authorities knew or ought to have known at the time of the existence of a real and immediate danger to the life of an identified individual or individuals from the criminal acts of a third party and that they failed to take measures within the scope of their powers which, judged reasonably, might have been expected to avoid that danger (see the *Osman* judgment [...], pp. 3159-60, para. 116).¹¹¹

166. The Court has also said that “States must adopt the necessary measures, not only at the legislative, administrative and judicial level, by issuing penal norms and establishing a system of justice to prevent, eliminate and punish [...] and protect individuals from the criminal acts of other individuals and to investigate these situations effectively.”¹¹²

167. In the instant case, it was a matter of clear public knowledge that Globovisión news teams were at risk of being hindered in doing their jobs, particularly in seeking out and covering events of a political nature.

168. Irrespective of the above, the State received express notification of the acts of harassment and aggression from the complaints lodged by the victims, at least between January

¹¹⁰ I/A Court H. R., *Case of the Massacre of Pueblo Bello*, Judgment of January 31, 2006, Series C No. 140, paragraph 123.

¹¹¹ European Court of Human Rights, *Kiliç v. Turkey*, Judgment of March 28, 2000, Application No. 22492/93, paragraphs 62 to 63; *Osman v. the United Kingdom*, Judgment of October 28, 1998, *Reports of Judgments and Decisions 1998-VIII*, paragraphs 115 to 116; I/A Court H. R., *Case of the Massacre of Pueblo Bello*, Judgment of January 31, 2006, Series C No. 140, paragraph 124.

¹¹² I/A Court H. R., *Case of the “Mapiripán Massacre,”* Judgment of September 15, 2005, Series C No. 134, paragraph 120.

31, 2002, and February 2, 2005, before various domestic authorities of the State, including the Prosecutor General, the People's Defender, and a number of judges in protective measure proceedings.

169. Additionally, the Commission would like to note that most of the incidents occurred at times when the victims were under the protection of precautionary or provisional measures, which means that not only was the State aware of the danger they were facing, but also that it had a special duty of protection toward them.

170. With regard to the reasonable possibility of prevention, the Commission notes first of all the presence of agents of the State, National Guard, and/or Metropolitan Police at most of the incidents described in the "considerations of fact" section of this application; and, secondly, it notes the general context of freedom of expression for Venezuelan media outlets perceived as belonging to the opposition at the time of the events.

171. In addition, the Commission believes that the repeated declarations made at the highest echelons of the State help create a climate of intolerance and social polarization incompatible with the duty of prevention that is incumbent on the State. Such statements can lead to acts of violence against individuals identified as employees of a given media company, with the aim of hindering their efforts to seek, receive, and impart information. And that is the case even though the declarations do not target specifically named journalists and associated support staff.

172. The Commission notes that declarations made at the highest echelons of the State identified Globovisión workers as liars, coup plotters, and even terrorists.

173. The Commission believes that given this climate of repeated declarations against Globovisión, one reasonable preventive measure would have been to denounce – publicly, clearly, and unequivocally – all actions with the potential of affecting the personal integrity of the channel's executives, journalists, and other workers, in order to prevent possible mistaken interpretations of the content of those political speeches that could have led to acts of violence and/or illegal curtailments of their freedom to seek, receive, and impart information.

174. Another reasonable preventive measure would have been effective compliance with the precautionary measures requested by the Commission and, later, with the provisional measures ordered by the Court.

175. The foregoing considerations allow the Commission to conclude that the State did not make reasonable use of all available means to adequately, consistently, and continuously prevent the restrictions of the right of free expression imposed by private citizens.

176. With regard to the duty of investigating and, if appropriate, punishing the persons responsible for those actions, it has shown, in the statements made by the State itself during the processing of this case by the Commission, that the victims sought out various agencies of the office of the Prosecutor General of the Republic in order to report the actions described in this section. As will be explored in the section dealing with the violation of the rights enshrined in Articles 8 and 25 of the Convention, the Commission believes that the Venezuelan State did not act with diligence and that the domestic investigations have taken longer than reasonable.

177. In conclusion, the State of Venezuela is responsible for violating the right of free expression, understood as the freedom to seek, receive, and impart information, enshrined in Article 13(1) of the American Convention, in conjunction with the duty of guaranteeing rights set out in Article 1(1) thereof.

2.2. Barriers to access to official sources and/or state facilities as undue restrictions of the freedom to seek, receive, and impart information

178. According to the narrative in Section VI of this application, on at least six occasions Globovisión news teams were denied access to information sources and prevented from covering and disseminating certain news stories in the way that they deemed most appropriate.

179. The common element in these incidents is that they took place at the installations of state agencies, such as the Ministry of Defense, the Tiuna Fort military base, the Miraflores Presidential Palace, and the Palace of Justice; this means that the information sources to which the news teams sought access were, in every instance, official.

180. The Commission notes that in most of these situations, the official media were afforded access and were able to set up their equipment and transmit their coverage via microwave; this was, however, denied to the Globovisión news teams, in some cases claiming that the event was private, open only to the official media, and in others arguing that Globovisión was not on "the list" for entry in spite of having met the established prerequisites, which generally consisted of a letter requesting authorization.

181. The right of access to sources of information is closely related to the principles of administrative transparency and government disclosure. The State, in this sense, is a means toward attaining the common good. In that context, the owner of the information is the individual who delegated the management of public affairs to the representatives.

182. As the Court has said:

Democratic control exercised by society through public opinion encourages the transparency of State activities and promotes the accountability of public officials in public administration. Thus, in order for individuals to be able to exercise democratic control, it is essential that the State guarantees access to the information of public interest that it possesses. Allowing the exercise of that democratic control encourages increased participation by individuals in the interests of society.¹¹³

183. The Commission holds that the incidents imposed restrictions on the Globovisión news teams' access to official sources of information and on their ability to disseminate that information through the medium of their choosing, as provided for in Article 13(1) of the American Convention.

184. The Commission believes that the burden of claiming and providing adequate grounds for justifying a restriction of any right protected by the Convention falls on the State imposing such a limitation. The Commission notes that in its filings, Venezuela submitted no claim relating to the justification of the legal or *de facto* restrictions placed on access to its official sources of information; consequently, the Commission concludes that it has failed to meet the applicable burden of proof.

185. In any event, an analysis of the information available and of the circumstantial evidence seen by the Commission does not in any way indicate that the restrictions on access to official sources of information imposed on the private media were established in law, or that they were necessary to protect national security, the rights of others, or public order, health, or morals.

¹¹³ I/A Court H. R., *Case of Claude Reyes*, Judgment of September 19, 2006, Series C No. 151, paragraph 87.

Furthermore, neither does it find that the status of a media company – i.e., whether it is official or private – is a reasonable or objective criterion for determining access to certain information sources.

186. In light of the above considerations, the Commission asks the Court to declare that the Venezuelan State did illegitimately restrict the right of free expression through the unwarranted impediments it placed on the victims' access to official sources of information and on their dissemination of that information through the means of their choosing and, consequently, that it has violated Article 13(1) of the American Convention, in conjunction with the obligation of ensuring rights enshrined in Article 1(1) thereof, with respect to the victims, who were affected by the actions of state agents and/or private citizens.

2.3. Acts of violence against Globovisión's property and premises as undue restrictions of the right to freely seek, receive, and impart information

187. It has been shown that incidents took place in which material damage was inflicted on Globovisión vehicles and facilities as a result of grenade attacks.

188. This damage was not caused by criminal acts that randomly or incidentally affected Globovisión's property. The targets were fully identified as station property and, in addition, the nature of the incidents indicates that the motive was to inflict damage and not to facilitate other offenses. This is particularly true in those cases involving damage caused by fragmentation grenades thrown at the station's premises in the early morning hours.

189. In the Commission's opinion, such actions constitute a form of pressure that restricts the exercise of the right of free expression through intimidation and the fear of being attacked. The Commission holds that in light of the potential risks they pose, particularly to the lives and persons of individuals associated with a media company, incidents of this kind constitute a potential form of reprisal against a given editorial line and, moreover, could lead to self-censorship or the forced modification of reporting angles.

190. As regards the Venezuelan State's responsibility for these incidents – the perpetrators of which have not yet been identified – the Commission refers back to its analysis regarding the State's duties of prevention and investigation, and it adds:

- (a) when these incidents occurred, the international protection measures suggesting surveillance of the perimeter of Globovisión's facilities were still in effect.
- (b) the incidents were reported to the 2nd and 74th Prosecutors of the Caracas Metropolitan Area; nevertheless, the information available indicates that no formalities were pursued to investigate the damage inflicted on Globovisión's property – incidents that, as has already been stated, constituted undue restrictions of the right of free expression.

2.4. Statements by the President of the Republic and other senior officials as indirect ways of restricting the right to freely seek, receive, and impart information

191. The evidence submitted herewith to the Inter-American Court indicates that the President of the Republic and other officials made repeated public statements between June 9, 2002, and October 4, 2005, in which they spoke of Venezuela's private media companies, with particular reference to Globovisión and its reporting angle, and referred to consequences they might face. The President's statements containing those elements were the following: *Aló Presidente* program of June 9, 2002; *Aló Presidente* program of December 8, 2002; *Aló Presidente* program of January 12, 2003; statements made to the daily *El Universal* on January 12, 2004; and *Aló Presidente* program of February 15, 2004.

192. The contents of those statements share the following elements: (i) references to the reporting angle of Venezuela's private media companies; (ii) references to the use of radio frequencies, which are the property of the State; and (iii) the possible forms of intervention that the State could adopt in certain circumstances.

193. The President of the Republic placed particular emphasis on the power of the State, particularly the government and the office of the president, to decide on whether or not to renew a concession. That is the element that allows the Commission to interpret those statements about media outlets and the angle of their reporting as indirect restrictions of the freedom to impart ideas of all kinds.

194. In addition to clearly establishing his authority and power of decision regarding the use of the State's radio frequencies, the President identified a number of "measures" he could take in response to the reporting angle of certain media outlets, including Globovisión. The Commission has identified three different types of warnings given to media owners: one, the cancellation of and/or refusal to renew radio frequency concessions; two, those related in general terms to the "closure" of stations; and three, referring to the "seizure by the military" of their facilities, including on occasions references to having the "decree ready" (*supra* paragraph 71).

195. The Commission does not plan, in the context of this case, to embark on a discussion of the scope of the State's discretionary power to act with respect to concession contracts awarded to private entities, or of the possible subsequent imposition of liability on media permissible under sanctions enforced by the law and in strict compliance with the provisions of Article 13(2) of the Convention. Since a media company is the target, however, proffering harsh criticism of its reporting angle – followed by the possible consequences that could result, and with those statements coming from an authority with the power of decision over those consequences, upon which the possibility of continued operations genuinely depend – does constitute a form of indirectly restricting the right of free expression of those individuals who exercise that right through the media outlet concerned: in this case, Globovisión.

196. The State's imposition of political pressure in order to influence or curtail the free expression of individuals or the media is unacceptable. In this regard the Inter-American Commission has said that the use of power to limit the expression of ideas lends itself to abuse, since the silencing of unpopular or critical ideas and opinions restricts the debate that is essential for the effective function of democratic institutions. Curtailing the free flow of ideas that do not incite anarchic violence is incompatible with freedom of expression and with the basic principles on which the pluralist and democratic nature of contemporary societies are based.

197. In the Commission's opinion, statements of the kind made in this case by the Venezuelan President and other officials can serve to polarize society and influence, through arbitrary pressure, the content, editorial line, and in general, the ideas and thoughts transmitted by a media outlet; pursuant to Article 13(2) of the American Convention, however, those ideas and thoughts may only be restricted by the subsequent imposition of liability. Indeed, the statements in question, as ways of indirectly restricting the enjoyment of the right of free expression, are incompatible with the right of freely seeking and imparting information and, in general, of expressing ideas and thoughts of all kinds, and with the State's obligation of taking reasonable steps to prevent human rights violations. Consequently the Commission asks the Court to declare that the State of Venezuela did violate Article 13(1) and 13(3) of the American Convention, in conjunction with the duty of respecting rights set out in Article 1(1) thereof.

198. Based on all the above considerations, the Commission asks the Court to declare that the Venezuelan State did violate the right of free expression enshrined in Article 13 of the

American Convention with respect to the following journalists, support staff, and executives of the television channel Globovisión: Ademar David Dona López, Alberto Federico Ravell, Alfredo José Peña Isaya, Aloys Marín, Ana Karina Villalba, Angel Mauricio Millán España, Aymara Anahi Lorenzo Ferrigni, Beatriz Adrián, Carla María Angola Rodríguez, Carlos Arroyo, Carlos José Tovar, Carlos Quintero, Claudia Rojas Zea, Edgar Hernández, Efraín Henríquez, Felipe Antonio Lugo Durán, Félix José Padilla Geromes, Gabriela Perozo, Gladys Rodríguez, Guillermo Zuloaga, Janeth del Rosario Carrasquilla Villasmil, Jesús Rivero Bertorelli, Jhonny Donato Ficarella Martín, John Power, Jorge Manuel Paz Paz, José Gregorio Umbría Marín, José Inciarte, José Natera, José Vicente Antonetti Moreno, Joshua Oscar Torres Ramos, María Arenas, Maria Fernanda Flores, Martha Isabel Palma Troconis, Mayela León Rodríguez, Miguel Ángel Calzadilla, Norberto Mazza, Orlando Urdaneta, Oscar Dávila Pérez, Oscar Núñez Fuentes, Ramón Darío Pacheco, Richard Alexis López Valle, Wilmer Escalona Arnal, Yesenia Thais Balza Bolívar, and Zullivan René Peña Hernández; and that, in so doing, it did also fail to meet the general obligation of respecting and ensuring human rights set out in Article 1(1) thereof.

C. Violation of the right to a fair trial and the right to judicial protection (Articles 8 and 25 of the Convention)

199. The State has failed in its obligation of investigating the facts of this case and of prosecuting and punishing, effectively, exhaustively, and within a reasonable time, all parties guilty of the persecution, intimidation, harassment, and acts of aggression committed against the victims, as described in Articles 8 and 25 of the American Convention.

200. Article 8(1) of the Convention provides as follows:

Every person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law, in the substantiation of any accusation of a criminal nature made against him or for the determination of his rights and obligations of a civil, labor, fiscal, or any other nature.

201. In turn, Article 25 of the Convention provides that:

Everyone has the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognized by the constitution or laws of the state concerned or by this Convention, even though such violation may have been committed by persons acting in the course of their official duties.

202. Article 1(1) of the American Convention, in turn, reads:

The States Parties to this Convention undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition.

203. These articles establish the State's obligation of providing access to justice with guarantees of legality, independence, and impartiality, within a reasonable period, together with the general obligation of providing effective judicial recourse following the violation of basic rights, including the principle that procedural instruments and mechanisms are to be effective.

204. As the Inter-American Court of Human Rights has stated:

Article 25, read in conjunction with Article 1(1), requires the State to guarantee all persons access to the administration of justice and, in particular, to prompt and simple recourse for having the persons responsible for human rights violations judged, and to obtain reparations for the harm suffered. As the Court has said, "Article 25 is one of the basic pillars, not only of the American Convention, but of the very rule of law in a democratic society within the meaning of the Convention."¹¹⁴

205. Thus, the content of Article 25 is closely related to that of Article 8(1), which sets out the right of all persons to be heard, with all due guarantees and within a reasonable time, by an independent and impartial tribunal or judge, and ensures the victims that the violations they suffered shall be investigated effectively by the authorities, that the guilty shall be prosecuted, that the relevant punishments shall be imposed, and that redress shall be made for the harm suffered.¹¹⁵ The Inter-American Court of Human Rights has also said that:

Under the American Convention, States Parties have an obligation to provide effective judicial remedies to victims of human rights violations (Art. 25), remedies that must be substantiated in accordance with the rules of due process of law (Art. 8.1), all in keeping with the general obligation of such States to guarantee the free and full exercise of the rights recognized by the Convention to all persons subject to their jurisdiction (Art. 1.1).¹¹⁶

206. Inter-American jurisprudence has established that once a publicly prosecutable crime has been committed, the State is obliged to pursue and promote the criminal proceedings to their final consequences¹¹⁷ and that, in such cases, this is the best way to clear up incidents, prosecute the guilty, and impose the applicable punishments, in addition to enabling other forms of redress.

207. In the case at hand, the State has been made fully aware of the attacks made on the victims by both private citizens and its own agents. The first complaint was lodged on January 31, 2002, and it has been updated as fresh incidents have taken place.

208. The Inter-American Court has said that due diligence in the investigation of human rights violations requires the investigating body to pursue all those formalities and inquiries necessary in order to obtain the result sought. If this is not the case, the investigation is not effective in the terms of the Convention.¹¹⁸

209. The information furnished by the State indicates that of the approximately 30 videos referred to by the petitioners, only three have been inspected, and the results of those formalities do not appear in the investigation records. Compared to the other expert studies cited by the State, the information provided merely indicates that the results of those expert studies were requested but that no results have yet been obtained from such testing; consequently, they are not a part of the

¹¹⁴ I/A Court H. R., *The Mayagna (Sumo) Awas Tingni Community Case*, Judgment of August 31, 2001, Series C No. 79, paragraph 52; and I/A Court H. R., *Ivcher Bronstein Case*, Judgment of February 6, 2001, Series C No. 74, paragraph 135.

¹¹⁵ I/A Court H. R., *Durand and Ugarte Case*, Judgment of August 16, 2000, Series C No. 68, paragraph 130.

¹¹⁶ I/A Court H. R., *Case of the Ituango Massacres*, Judgment of July 1, 2006, Series C No. 148, paragraph 287.

¹¹⁷ I/A Court H. R., *Case of Baldeón García*, Judgment of April 6, 2006, Series C No. 147; I/A Court H. R., *Case of the Massacre of Pueblo Bello*, Judgment of January 31, 2006, Series C No. 140; See also: Report No. 52/97, Case 11.218, *Arges Sequeira Mangas*, Annual Report of the IACHR 1997.

¹¹⁸ I/A Court H. R., *Case of the Serrano Cruz Sisters*, Judgment of March 1, 2005, Series C No. 120, paragraph 83.

evidence in the investigation files. In other words, objective and relevant evidence does exist, but it has not been reviewed or analyzed.

210. The State ordered that two of the investigations begun be sent to the archives, without pursuing even the most basic formalities for determining the truth of the matter. As for the others, several years after they began, they are still in the initial phases or pending resolution (*supra* paragraphs 117, 118).

211. None of the incidents reported domestically has, to date, progressed beyond the preliminary investigation phase, and in none of the proceedings has anyone been charged with responsibility. This is the case despite the seriousness of some of the incidents, which included attacks with explosives, physical injuries inflicted on six of the victims, and the destruction of personal property belonging to the victims and to the television station.

212. With reference to the State's inefficiency in investigating and punishing the perpetrators of the attacks he suffered, camera assistant Felipe Lugo said that, "this country's laws only work for whom they want [...] it is a waste of time filing complaints with the Public Prosecution Service because it never acts and lets proceedings stagnate."¹¹⁹

213. Similarly, Ramón Darío Pacheco said that:

All of these attacks he suffered were duly reported to Public Prosecution Service but, to date, "it has not been investigated or punished; nothing progresses further than the complaint."¹²⁰

214. Carlos Quintero complained that:

The attacks he suffered were reported in due course, but to date no reply has been received from the Public Prosecution Service.¹²¹

215. The obligation of investigating and punishing human rights violations must be assumed by the State with all seriousness. In this regard, the Court has said that:

In certain circumstances, it may be difficult to investigate acts that violate an individual's rights. The duty to investigate, like the duty to prevent, is not breached merely because the investigation does not produce a satisfactory result. Nevertheless, it must be undertaken in a serious manner and not as a mere formality preordained to be ineffective. An investigation must have an objective and be assumed by the State as its own legal duty, not as a step taken by private interests that depends upon the initiative of the victim or his family or upon their offer of proof, without an effective search for the truth by the government. This is true regardless of what agent is eventually found responsible for the violation. Where the acts of private parties that violate the Convention are not seriously investigated, those parties are aided in a sense by the government, thereby making the State responsible on the international plane.¹²²

¹¹⁹ Transcript of the interview with Felipe Antonio Lugo Durán, attached to the petitioners' electronic communication of April 2, 2007, case file before the IACHR; APPENDIX 3.

¹²⁰ Transcript of the interview with Ramón Darío Pacheco, attached to the petitioners' electronic communication of April 2, 2007, case file before the IACHR; APPENDIX 3.

¹²¹ Transcript of the interview with Carlos Quintero, attached to the petitioners' electronic communication of April 2, 2007, case file before the IACHR; APPENDIX 3.

¹²² I/A Court H. R., *Velásquez Rodríguez Case*, Judgment of July 29, 1988, Series C No. 4, paragraph 177. In turn, the Constitutional Court of Colombia has stated that: "International law has said that for the effective protection of human rights, it is insufficient for the victims and injured parties to be solely given indemnification for the damages suffered; this is because truth and justice are necessary if a society is to avoid repeating those situations that lead to grave human rights

216. Furthermore, the Commission notes that in the case at hand, the investigations have been ongoing for almost five years without the guilty, particularly the agents of the State, having been brought to justice.

217. Delays in completing investigations, together with the absence of measures for establishing the truth, help perpetuate acts of violence and intimidation against social communicators in general and against the victims in particular. It can be said that the failure to clarify these incidents not only violates the right to justice and redress of the victims, but that it also sends out a message that the commission of acts intended to dissuade people from seeking justice¹²³ – in this case, those who work to inform society – will be tolerated without any consequences.

218. Nothing in the case file suggests that the delay seen to date can be justified by the complexity of the violations reported. Moreover, it is reasonable to conclude that the delay undermines the chances of casting light on the violations reported in this case. As a general rule, a criminal investigation must be carried out promptly to protect the interests of the victims, to preserve the evidence, and also to safeguard the rights of all persons deemed suspects in the investigation.

219. The State is subject to the duty of preventing and combating impunity which, according to the definition adopted by the Inter-American Court, is “the total lack of investigation, prosecution, capture, trial and conviction of those responsible for violations of the rights protected by the American Convention.”¹²⁴ The Inter-American Court has also ruled that it is an obligation of the State to combat impunity through all available legal means, since impunity fosters the chronic repetition of human rights violations and creates the total defenselessness of victims.¹²⁵

220. Based on the foregoing considerations, the Commission asks the Court to declare that the Venezuelan State did violate the right to a fair trial and to due judicial protection set out in Articles 8(1) and 25 of the American Convention with respect to the following individuals associated with the television station Globovisión – Aloys Marín, Ana Karina Villalba, Aymara Anahí Lorenzo Ferrigni, Beatriz Adrián, Carla María Angola Rodríguez, Gabriela Perozo, Gladys Rodríguez, Janeth del Rosario Carrasquilla Villasmil, Jhonny Donato Ficarella Martín, Jesús Rivero Bertorelli, José Vicente Antonetti Moreno, María Arenas, Martha Isabel Palma Troconis, Mayela León Rodríguez, Norberto Mazza, and Yesenia Thais Balza Bolívar, reporters; Angel Mauricio Millán España, Carlos Arroyo, Carlos Quintero, Edgar Hernández, Efraín Henríquez, John Power, Jorge Manuel Paz Paz, José Gregorio Umbría Marín, Joshua Oscar Torres Ramos, and Wilmer Escalona Arnal, camera operators; Ademar David Dona López, Alfredo José Peña Isaya, Carlos José Tovar,

...continuation

violations, and in addition, because recognizing the inherent dignity and equal and inalienable rights of all human beings requires that the judicial remedies designed by states be geared toward comprehensive redress for victims and injured parties, including economic indemnification and access to justice to establish the truth about what happened and to seek, through institutional channels, the just punishment of the guilty.” Judgment C-228/02 of April 3, 2002.

¹²³ I/A Court H. R., *Case of the Ituango Massacres*, Judgment of July 1, 2006, Series C No. 148, paragraph 322.

¹²⁴ I/A Court H. R., *Case of the Ituango Massacres*, Judgment of July 1, 2006, Series C No. 148, paragraph 299; I/A Court H. R., *Case of the “Mapiripán Massacre,”* Judgment of September 15, 2005, Series C No. 134, paragraph 237; and I/A Court H. R., *Case of the Moiwana Community*, Judgment of June 15, 2005, Series C No. 124, paragraph 203; and I/A Court H. R., *Case of the Serrano Cruz Sisters*, Judgment of March 1, 2005, Series C No. 120, paragraph 170.

¹²⁵ I/A Court H. R., *Case of the Ituango Massacres*, Judgment of July 1, 2006, Series C No. 148, paragraph 299; I/A Court H. R., *Case of Baldeón García*, Judgment of April 6, 2006, Series C No. 147, paragraph 168; I/A Court H. R., *Case of the Massacre of Pueblo Bello*, Judgment of January 31, 2006, Series C No. 140, paragraph 266; I/A Court H. R., *Case of the “Mapiripán Massacre,”* Judgment of September 15, 2005, Series C No. 134, paragraph 237.

Felipe Antonio Lugo Durán, Félix José Padilla Geromes, Miguel Ángel Calzadilla, Oscar Dávila Pérez, Ramón Darío Pacheco, Richard Alexis López Valle, and Zullivan René Peña Hernández, camera assistants; José Natera and Oscar Núñez Fuentes, technicians assigned to news teams; Orlando Urdaneta, news producer; Claudia Rojas Zea and José Inciarte, workers; and Alberto Federico Ravell, Guillermo Zuloaga, and Maria Fernanda Flores, executives – and, at the same time, did fail to observe its obligations under Article 1(1) of the same international instrument.

VIII. REPARATIONS AND COSTS

221. In consideration of the claims made in this application and of the consistent jurisprudence of the Inter-American Court holding that “any violation of an international obligation that has produced damage entails the obligation to make adequate reparation,”¹²⁶ the IACHR presents the Court with its preliminary claims regarding the reparations that the Venezuelan State must grant as a consequence of its responsibility for the human rights violations committed with respect to the victims.

222. In line with the Court’s Rules of Procedure, which grant individuals autonomous representation, the Commission will at this time simply outline the general guidelines related to reparations and costs that it believes the Court should apply in the case at hand. The Commission understands that it falls to the victims and their representatives to substantiate their claims, in compliance with Article 63 of the American Convention and Articles 23 *et al.* of the Rules of Procedure of the Court.

A. Obligation of making reparations

223. One essential function of justice is to remedy the harm inflicted on the victim. This function must be expressed through rectification or restitution, and not only through compensation, which does not reset the moral balance nor return what was taken.

224. Article 63(1) of the American Convention provides as follows:

If the Court finds that there has been a violation of a right or freedom protected by [the] Convention, the Court shall rule that the injured party be ensured the enjoyment of his right or freedom that was violated. It shall also rule, if appropriate, that the consequences of the measure or situation that constituted the breach of such right or freedom be remedied and that fair compensation be paid to the injured party.

225. As the Court has consistently maintained in its jurisprudence, “Article 63(1) of the American Convention contains a rule of customary law that constitutes one of the fundamental principles of contemporary international law on State responsibility. According to it, when an illegal act attributable to the State takes place, the latter immediately incurs a responsibility for the violation of the international provision involved, with the attendant duty of providing reparations and of making the consequences of said violation cease.”¹²⁷

¹²⁶ I/A Court H. R., *Case of La Cantuta*, Judgment on merits, reparations, and costs, Judgment of November 29, 2006, Series C No. 162, paragraph 199; I/A Court H. R., *Case of the Miguel Castro Castro Prison*, Judgment of November 25, 2006, Series C No. 160, paragraph 413; I/A Court H. R., *Case of the Dismissed Congressional Employees (Aguado Alfaro et al.)*, Judgment on preliminary objections, merits, reparations, and costs, Judgment of November 24, 2006, Series C No. 158, paragraph 141.

¹²⁷ I/A Court H. R., *Case of La Cantuta*, Judgment on merits, reparations, and costs, Judgment of November 29, 2006, Series C No. 162, paragraph 200; I/A Court H. R., *Case of the Miguel Castro Castro Prison*, Judgment of November 25, 2006, Series C No. 160, paragraph 414; I/A Court H. R., *Case of Montero Aranguren et al. (Detention Center of Catia)*, Judgment of July 5, 2006, Series C No. 150, paragraph 116.

226. Reparations are crucial in ensuring that justice is done in a given case, and they are the mechanism whereby the Court's decisions move beyond the realm of mere moral condemnation. Reparations are those measures that tend to make the effects of past violations disappear. Reparation of harm caused by a violation of an international obligation requires, whenever possible, full restitution (*restitutio in integrum*), which consists of restoring the situation that existed before the violation occurred.

227. A respondent state may not invoke domestic legal provisions to modify or avoid complying with its obligations to redress, which are regulated in all their aspects (scope, nature, modes, and establishment of the beneficiaries) by international law.¹²⁸

228. In the case at hand, the Inter-American Commission has shown that the State did incur in international responsibility for violating the victims' right to humane treatment, to a fair trial, to freedom of expression, and to judicial protection, and for failing to observe its obligation of respecting and ensuring human rights.

B. Reparation measures

229. The United Nations Special Rapporteur on the right to restitution, compensation and rehabilitation for victims of gross violations of human rights has classified the components of that right into four general categories: restitution, compensation, rehabilitation, and satisfaction and guarantees of non-repetition.¹²⁹ In the opinion of the United Nations Special Rapporteur on the impunity of perpetrators of human rights violations, these measures include the cessation of continuing violations, verification of the facts and full and public disclosure of the truth, an official declaration or a judicial decision restoring the dignity, reputation and legal rights of the victim and/or of persons connected with the victim, an apology, including public acknowledgement of the facts and acceptance of responsibility, judicial or administrative sanctions against persons responsible for the violations, the prevention of further violations, etc.

230. Similarly, the Court has said that reparations tend to eliminate the effects of the violations committed.¹³⁰ These measures cover the different ways in which a state can meet the international responsibility in which it incurred and, in accordance with international law, can be measures of restitution, compensation, rehabilitation, satisfaction, and guarantees of nonrepetition.¹³¹

¹²⁸ I/A Court H. R., *Case of La Cantuta*, Judgment on merits, reparations, and costs, Judgment of November 29, 2006, Series C No. 162, paragraph 200; I/A Court H. R., *Case of the Miguel Castro Castro Prison*, Judgment of November 25, 2006, Series C No. 160, paragraph 415; I/A Court H. R., *Case of the Dismissed Congressional Employees (Aguado Alfaro et al.)*, Judgment on preliminary objections, merits, reparations, and costs, Judgment of November 24, 2006, Series C No. 158, paragraph 143.

¹²⁹ Principles and guidelines on the right to reparation for victims of gross violations of human rights and humanitarian law, prepared by Dr. Theodore Van Boven pursuant to Human Rights Sub-Commission decision 1995/117. E/CN.4/sub.2/1997/17.

¹³⁰ I/A Court H. R., *Case of La Cantuta*, Judgment on merits, reparations, and costs, Judgment of November 29, 2006, Series C No. 162, paragraph 202; I/A Court H. R., *Case of the Miguel Castro Castro Prison*, Judgment of November 25, 2006, Series C No. 160, paragraph 416; I/A Court H. R., *Case of the Dismissed Congressional Employees (Aguado Alfaro et al.)*, Judgment on preliminary objections, merits, reparations, and costs, Judgment of November 24, 2006, Series C No. 158, paragraph 144.

¹³¹ See: United Nations, *Final Report* submitted by Theo Van Boven, Special Rapporteur on the Right to Reparation to Victims of Gross Violations of Human Rights, E/CN.4/Sub2/1990/10, July 26, 1990. See also: I/A Court H. R., *Blake Case*, Reparations (Art. 63.1 American Convention on Human Rights), Judgment of January 22, 1999, Series C No. 48, paragraph 31; I/A Court H. R., *Suárez Rosero Case*, *Reparations* (Art. 63.1 American Convention on Human Rights), Judgment of January 20, 1999, Series C No. 44, paragraph 41.

231. The United Nations Commission on Human Rights has also ruled that:

In accordance with international law, States have the duty to adopt special measures, where necessary, to permit expeditious and fully effective reparations. Reparation shall render justice by removing or redressing the consequences of the wrongful acts and by preventing and deterring violations. Reparations shall be proportionate to the gravity of the violations and the resulting damage and shall include restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.¹³²

232. In consideration of the criteria established by inter-American and universal jurisprudence, the Commission presents its conclusions and claims regarding the redress measures for the material and nonmaterial damages and other forms of redress and satisfaction applicable in the case at hand.

1. Compensation measures

233. The Court has established basic criteria that should guide fair compensation intended to make adequate and effective economic amends for harm arising from violations of human rights. The Court has also ruled that indemnification is merely compensatory in nature, and that it is to be granted in volume and fashion sufficient to repair both the material and the nonmaterial harm inflicted.¹³³

1.1. Material damages

234. In its jurisprudence on reparations, the Court has been consistent in maintaining that material damages include consequential damages and future losses, together with nonmaterial and moral damages, for both the victims and, in certain cases, their immediate families.¹³⁴

235. Consequential damages have been defined as the direct and immediate effect of the incident on property. This notion includes the impact on property derived immediately and directly from the incident.¹³⁵

236. As shown by the evidence in this case, the victims made significant economic efforts to obtain justice domestically and to overcome the physical, moral, and professional consequences that the facts of this case caused them.

¹³² United Nations, Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities, E/CN.4/Sub.2/1996/17, *The Administration of Justice and the Human Rights of Detainees: Revised set of basic principles and guidelines on the right to reparation for victims of gross violations of human rights and humanitarian law*, prepared by Mr. Theo Van Boven pursuant to Sub-Commission decision 1995/117 of May 24, 1996, paragraph 7.

¹³³ I/A Court H. R., *Case of La Cantuta*, Judgment on merits, reparations, and costs, Judgment of November 29, 2006, Series C No. 162, paragraph 210; I/A Court H. R., *Case of Hilaire, Constantine, Benjamin, et al.*, Judgment of June 21, 2002, Series C No. 94, paragraph 204; I/A Court H. R., *Garrido and Baigorria Case, Reparations* (Art. 63.1 American Convention on Human Rights), Judgment of August 27, 1998, Series C No. 39, paragraph 41.

¹³⁴ I/A Court H. R., *Case of La Cantuta*, Judgment on merits, reparations, and costs, Judgment of November 29, 2006, Series C No. 162, paragraphs 213 and 214; I/A Court H. R., *Case of the Miguel Castro Castro Prison*, Judgment of November 25, 2006, Series C No. 160, paragraph 423; I/A Court H. R., *Case of Tibi*, Judgment of September 7, 2004, Series C No. 114,

¹³⁵ I/A Court H. R., *Case of La Cantuta*, Judgment on merits, reparations, and costs, Judgment of November 29, 2006, Series C No. 162, paragraph 215; I/A Court H. R., *Loayza Tamayo Case, Reparations* (Art. 63.1 American Convention on Human Rights), Judgment of November 27, 1998, Series C No. 42, paragraph 147; and I/A Court H. R., *Aloeboetoe et al. Case, Reparations* (Art. 63.1 American Convention on Human Rights), Judgment of September 10, 1993, Series C No. 15, paragraph 50.

237. In contrast, future losses are understood as the loss of economic income or benefits not accrued on account of a given circumstance, which can be quantified using certain measurable and objective indicators.¹³⁶

238. The harm caused to the victims justifies the Commission's request that the Court, in consideration of the nature of the case, order a compensation payment to cover material damages.

1.2. Nonmaterial damages

239. In the case at hand, the victims have experienced psychological suffering, anguish, uncertainty, and lifestyle alterations by reason of being unable to perform their professional assignments on account of acts of persecution, harassment, and physical and moral attacks, and of the personal and professional consequences of those acts.

240. For example, in an interview cameraman Wilmer Escalona Arnal said that:

He lives in "constant anguish that creates stress and he feels that affects his performance at work; for example, when there is a demonstration, even a small one, he feels distress because many government supporters are armed. He feels that he is being followed and has been identified; he has to remain exceptionally alert when arriving at or leaving his home; he is afraid being killed and leaving his family unprotected; and, for all those reasons, he has thought about looking for a less dangerous job."¹³⁷

241. Similarly, cameraman John Power said:

Then, the climate of tension and violence on the streets of Caracas arrived and he had to go out with a bullet-proof vest and a gas mask [...] He tried to go unnoticed, so they wouldn't realize he was with Globovisión, out of fear for his life [...] we were constantly running, fleeing from gunshots; the situation became unreal [...]

This anguish and desperation distressed him so that he couldn't eat or sleep for days. At the same time, his wife, who was pregnant and also worked for Globovisión, "was greatly stressed and in a constant state of alarm [...] together with insomnia and nervousness."

Because of these incidents and the constant attacks against him, he took "one of the most difficult decisions of my life [...] to leave his job. The psychological pressure and fear were stronger than anything else."¹³⁸

242. Martha Isabel Palma stated that:

Her life centers around a "state of chronic alert" that prevents her from functioning as a person; similarly, her husband and closest relatives are in "constant anxiety and stress at the

¹³⁶ See, for example: I/A Court H. R., *Case of Carpio Nicolle et al.*, Judgment of November 22, 2004, Series C No. 117, paragraphs 105 *et seq.*; I/A Court H. R., *Case of De la Cruz Flores*, Judgment of November 18, 2004, Series C No. 115, paragraphs 151 and 152.

¹³⁷ Transcript of the interview with Wilmer Escalona Arna, attached to the petitioners' electronic communication of April 2, 2007, case file before the IACHR; APPENDIX 3.

¹³⁸ Transcript of the interview with John Power, attached to the petitioners' electronic communication of April 2, 2007, case file before the IACHR; APPENDIX 3.

possibility that something might happen to her again." All this has led her to consider looking for another job, since both she and her family think she is too exposed, too at risk.¹³⁹

243. In addition, given the special circumstances in which the incidents in question took place, extreme distress and feelings of powerlessness and defenselessness were caused by the State's failure to respond to the complaints lodged, the impunity surrounding the facts of this case, and the evidence that State failed to extend protection.

244. The harm caused to the victims justifies the Commission's request that the Court, in consideration of the nature of the case, order a compensation payment to cover nonmaterial damages.

2. Measures of cessation and satisfaction and guarantees of nonrepetition

245. Satisfaction has been defined as all measures that the perpetrator of a violation is required to adopt under international instruments or customary law with the purpose of acknowledging the commission of an illegal act.¹⁴⁰ Satisfaction takes place when three events occur, generally one after the other: apologies, or any other gesture showing acknowledgement of responsibility for the act in question; prosecution and punishment of the guilty; and the adoption of measures to prevent the harm from recurring.¹⁴¹

246. In the following paragraphs the IACHR will set out its position regarding the cessation and satisfaction measures and guarantees of nonrepetition required in the case at hand, reserving the right to expand, at a later time, its arguments on this point.

247. First of all, Venezuela should adopt measures to ensure the cessation of the violations. That must include all measures necessary to prevent the continuation or recurrence of the undue restrictions or direct or indirect hindering of the exercise of the right of free expression described in this case. Venezuela must take reasonable steps to prevent private citizens from unlawfully interfering with the exercise of free expression. Thus, the State must punish unlawful actions aimed at silencing speech.¹⁴²

248. Second, the State must conduct an impartial and exhaustive investigation in order to prosecute and punish all those materially and intellectually responsible for the facts set out in this case and it must publish the results of those investigations.

249. In this regard, the Court has stated on repeated occasions that all individuals, and society as a whole, have the right to be informed about incidents involving human rights violations.¹⁴³ Similarly, the United Nations Commission on Human Rights has recognized that for the

¹³⁹ Transcript of the interview with Martha Isabel Palma Troconis, attached to the petitioners' electronic communication of April 2, 2007, case file before the IACHR; APPENDIX 3.

¹⁴⁰ Brownlie, *State Responsibility*, Part 1, Clarendon Press, Oxford, 1983, p. 208.

¹⁴¹ *Ibid.*

¹⁴² Principle 10 of the Johannesburg Principles on National Security, Freedom of Expression and Access to Information: Unlawful Interference With Expression by Third Parties. "Governments are obliged to take reasonable measures to prevent private groups or individuals from interfering unlawfully with the peaceful exercise of freedom of expression, even where the expression is critical of the government or its policies. In particular, governments are obliged to condemn unlawful actions aimed at silencing freedom of expression, and to investigate and bring to justice those responsible."

¹⁴³ I/A Court H. R., *Case of the Miguel Castro Castro Prison*, Judgment of November 25, 2006, Series C No. 160, paragraph 347; I/A Court H. R., *Case of Montero Aranguren et al. (Detention Center of Catia)*, Judgment of July 5, 2006, Series C No. 150, paragraph 139; I/A Court H. R., *Case of Ximenes Lopes*, Judgment of July 4, 2006, Series C No. 149, paragraph 245.

victims of human rights violations, public knowledge of their suffering and the truth about the perpetrators, including their accomplices, of these violations are essential steps towards rehabilitation and reconciliation, has urged States to intensify their efforts to provide victims of human rights violations with a fair and equitable process through which these violations can be investigated, and has encouraged victims to participate in that process.¹⁴⁴

250. Thirdly, the State must allow Globovisión's workers access to official sources of information and to cover news stories. Consequently, when accreditation is needed for access to an information source, the State must ensure the existence of an accreditation scheme based on a fair and transparent process, with previously announced clear and nondiscriminatory criteria, and with the corresponding decisions made by an independent body.¹⁴⁵

251. Furthermore, the nature of the facts in this case requires that the State adopt measures in pursuit of the moral and professional rehabilitation of the victims; thus, the Commission asks the Court to order, *inter alia*, the following:

- The publication, in a national newspaper, of whatever judgment the Court may hand down; and,
- An act publicly recognizing the State's responsibility for the harm inflicted and for the violations that occurred.

252. Finally, the Commission believes that the State is obliged to prevent the recurrence of human rights violations such as those of the instant case; consequently, it asks the Court to order the Venezuelan State to adopt, on a priority basis, the legislative, administrative, and other measures necessary to prevent actions by both state agents and private citizens that could hamper the seeking, receiving, and imparting of information by social communicators and support staff.

C. Beneficiaries

253. Article 63(1) of the American Convention requires that the consequences of a violation be remedied and that "fair compensation be paid to the injured party." The persons entitled to this compensation are generally those who suffered direct harm as a result of the violation in question.

254. In the Commission's opinion, the beneficiaries of the redress to be ordered by the Court in the instant case are the victims Ademar David Dona López, Alberto Federico Ravell, Alfredo José Peña Isaya, Aloys Marín, Ana Karina Villalba, Angel Mauricio Millán España, Aymara Anahi Lorenzo Ferrigni, Beatriz Adrián, Carla María Angola Rodríguez, Carlos Arroyo, Carlos José Tovar, Carlos Quintero, Claudia Rojas Zea, Edgar Hernández, Efraín Henríquez, Felipe Antonio Lugo Durán, Félix José Padilla Geromes, Gabriela Perozo, Gladys Rodríguez, Guillermo Zuloaga, Janeth del Rosario Carrasquilla Villasmil, Jesús Rivero Bertorelli, Jhonny Donato Ficarella Martín, John Power, Jorge Manuel Paz Paz, José Gregorio Umbría Marín, José Inciarte, José Natera, José Vicente Antonetti Moreno, Joshua Oscar Torres Ramos, María Arenas, Maria Fernanda Flores, Martha Isabel Palma Troconis, Mayela León Rodríguez, Miguel Ángel Calzadilla, Norberto Mazza, Orlando Urdaneta, Oscar Dávila Pérez, Oscar Núñez Fuentes, Ramón Darío Pacheco, Richard Alexis López Valle, Wilmer Escalona Arnal, Yesenia Thais Balza Bolívar, and Zullivan René Peña Hernández. Nevertheless, during processing before the Inter-American Court, the representatives may provide

¹⁴⁴ E/CN.4/RES/2001/70.

¹⁴⁵ Rapporteurs' Joint Declaration of 2003.

evidence of material or nonmaterial harm inflicted on other persons, such as members of the victims' families, and consequently of their status as beneficiaries of any redress that the Court may order.

D. Costs and expenses

255. In accordance with the Court's consistent jurisprudence, costs and expenses must be included in the reparations described in Article 63(1) of the American Convention. This is because the activities pursued by the injured parties, their heirs, or their representatives in securing access to international justice imply expenditures and financial commitments that must be compensated.¹⁴⁶ In addition, the Court has also ruled that the costs referred to in Article 55(1)(h) of its Rules of Procedure include the necessary and reasonable expenses incurred in securing access to the American Convention's supervisory bodies, with those expenses including the fees charged by those providing them with legal assistance.

256. In the case at hand, the Inter-American Commission asks the Court, after hearing the representatives of the victims, to order the Venezuelan State to reimburse such costs and expenses as they duly evidence.

IX. CONCLUSION

257. The failure to prevent the acts of harassment, persecution, intimidation, and aggression against the employees and executives of Globovisión identified as victims in the case at hand, the subsequent lack of due diligence in investigating those incidents, the injuries inflicted on some of the victims, the obstacles placed on access to official information sources, and the threatening statements made against the media company by the highest authorities of the State constitute violations of the rights protected by Articles 5 (humane treatment), 8 (fair trial), 13 (right of free expression), and 25 (judicial protection) of the American Convention on Human Rights, in conjunction with the general obligation of respecting and ensuring human rights set out in Article 1(1) thereof.

X. LIST OF DEMANDS

258. Based on the considerations of fact and law set out above, the Inter-American Commission on Human Rights asks the Court to conclude and declare that:

- (a) The Bolivarian Republic of Venezuela is responsible for violating the right to freedom of thought and expression enshrined in Article 13 of the American Convention on Human Rights, in conjunction with the general obligation of respecting and ensuring human rights in Article 1(1) thereof, with respect to the following individuals associated with the Globovisión television channel: Aloys Marín, Ana Karina Villalba, Aymara Anahi Lorenzo Ferrigni, Beatriz Adrián, Carla María Angola Rodríguez, Gabriela Perozo, Gladys Rodríguez, Janeth del Rosario Carrasquilla Villasmil, Jhonny Donato Ficarella Martín, Jesús Rivero Bertorelli, José Vicente Antonetti Moreno, María Arenas, Martha Isabel Palma Troconis, Mayela León Rodríguez, Norberto Mazza, and Yesenia Thais Balza Bolívar,

¹⁴⁶ I/A Court H. R., *Case of La Cantuta*, Judgment on merits, reparations, and costs, Judgment of November 29, 2006, Series C No. 162, paragraph 243; I/A Court H. R., *Case of the Miguel Castro Castro Prison*, Judgment of November 25, 2006, Series C No. 160, paragraph 455; I/A Court H. R., *Case of the Dismissed Congressional Employees (Aguado Alfaro et al.)*, Judgment on preliminary objections, merits, reparations, and costs, Judgment of November 24, 2006, Series C No. 158, paragraph 152.

reporters; Angel Mauricio Millán España, Carlos Arroyo, Carlos Quintero, Edgar Hernández, Efraín Henríquez, John Power, Jorge Manuel Paz Paz, José Gregorio Umbría Marín, Joshua Oscar Torres Ramos, and Wilmer Escalona Arnal, camera operators; Ademar David Dona López, Alfredo José Peña Isaya, Carlos José Tovar, Felipe Antonio Lugo Durán, Félix José Padilla Geromes, Miguel Ángel Calzadilla, Oscar Dávila Pérez, Ramón Darío Pacheco, Richard Alexis López Valle, and Zullivan René Peña Hernández, camera assistants; José Natera and Oscar Núñez Fuentes, technicians assigned to news teams; Orlando Urdaneta, news producer; Claudia Rojas Zea and José Inciarte, workers; and Alberto Federico Ravell, Guillermo Zuloaga, and Maria Fernanda Flores, executives;

- (b) The Bolivarian Republic of Venezuela is responsible for violating the right to humane treatment enshrined in Article 5(1) of the American Convention on Human Rights, in conjunction with the general obligation of respecting and ensuring human rights in Article 1(1) thereof, with respect to Alfredo José Peña Isaya, Angel Mauricio Millán España, Janeth del Rosario Carrasquilla Villasmil, Joshua Oscar Torres Ramos, Martha Isabel Palma Troconis, and Oscar Núñez Fuentes; and,
- (c) The Bolivarian Republic of Venezuela is responsible for violating the right to a fair trial and the right to judicial protection set out in Articles 8(1) and 25 of the American Convention on Human Rights, in conjunction with the general obligation of respecting and ensuring human rights in Article 1(1) thereof, with respect to the following individuals associated with the Globovisión television channel: Aloys Marín, Ana Karina Villalba, Aymara Anahi Lorenzo Ferrigni, Beatriz Adrián, Carla María Angola Rodríguez, Gabriela Perozo, Gladys Rodríguez, Janeth del Rosario Carrasquilla Villasmil, Jhonny Donato Ficarella Martín, Jesús Rivero Bertorelli, José Vicente Antonetti Moreno, María Arenas, Martha Isabel Palma Troconis, Mayela León Rodríguez, Norberto Mazza, and Yesenia Thais Balza Bolívar, reporters; Angel Mauricio Millán España, Carlos Arroyo, Carlos Quintero, Edgar Hernández, Efraín Henríquez, John Power, Jorge Manuel Paz Paz, José Gregorio Umbría Marín, Joshua Oscar Torres Ramos, and Wilmer Escalona Arnal, camera operators; Ademar David Dona López, Alfredo José Peña Isaya, Carlos José Tovar, Felipe Antonio Lugo Durán, Félix José Padilla Geromes, Miguel Ángel Calzadilla, Oscar Dávila Pérez, Ramón Darío Pacheco, Richard Alexis López Valle, and Zullivan René Peña Hernández, camera assistants; José Natera and Oscar Núñez Fuentes, technicians assigned to news teams; Orlando Urdaneta, news producer; Claudia Rojas Zea and José Inciarte, workers; and Alberto Federico Ravell, Guillermo Zuloaga, and Maria Fernanda Flores, executives.

259. In consideration whereof, the Inter-American Commission asks the Court to order that the State:

- (a) take all measures necessary to prevent actions by both state agents and private citizens that could hinder the seeking, receiving, and imparting of information by social communicators and support staff;
- (b) take all measures necessary to respond with due diligence to actions of both state agents and private citizens that hinder the seeking, receiving, and imparting of information by social communicators and support staff;
- (c) conduct an impartial and exhaustive investigation in order to prosecute and punish all those materially and intellectually responsible for the facts described in this case, and publish the results of those investigations;

- (d) guarantee the victims free access to sources of information, without interference or arbitrary conditions of any kind;
- (e) redress the harm caused to the victims by the actions of State organs; and,
- (f) pay the legal costs and expenses incurred in pursuing this case at the national level, as well as those arising from its processing before the inter-American system.

XI. EVIDENCE

A. Documentary evidence

260. The documentary evidence available at this time is listed below:

APPENDIX 1. IACHR, Report No. 61/06 (merits), Case 12.442, *Gabriela Perozo, Aloys Marín, Óscar Dávila Pérez, et al.*, Venezuela, October 26, 2006.

APPENDIX 2. IACHR, Report No. 7/04 (admissibility), Petition 487/03, *Gabriela Perozo, Aloys Marín, Óscar Dávila Pérez, et al.*, Venezuela, February 27, 2004.

APPENDIX 3. Case file from the Inter-American Commission on Human Rights.

ANNEX 1. Articles of incorporation of Globovisión, Tele. C.A., and its corresponding entry in the merchant register. Article 2 of this document states that the purpose of the company is the "(a) production, transmission, and commercialization of television programs, advertising slots, news, and, in general the exploitation of the television business; and (b) the execution, in general, of all kinds of operations and acts of lawful commerce related to its main corporate purpose or useful for the pursuit of its goals."

ANNEX 2. Video containing the following two speeches by the President of the Republic:

- Address by the President of the Republic of January 27, 2002, on the official channel Venezuelan de Television, following the transmission, in his presence, of the documentary *Los Amos de la Desinformación* ("The Masters of Disinformation") which contains images of programming from private television stations under the title "action" and some pictures of attacks on journalists under the title "reaction." The video shows the President of the Republic saying that the programs that Globovisión broadcasts are a form of social provocation.
- Statements by the President of the Republic of June 13, 2002, in an interview by a number of journalists in Vargas State. Replying to a question from Globovisión reporter Jhonny Ficarella, the President of the Republic said, *inter alia*, that that was "working for lies and deception, for terrorism," and that journalists were "not entirely innocent."

ANNEX 3. Video containing recorded scenes of the following attacks on Globovisión news teams:

- December 10, 2001, against Yesenia Balza, Carlos Quintero, and Felipe Lugo. The video shows the reporter and her assistants attempting to cover a story and the shouts leveled at her by persons in the vicinity, together with their use of handkerchiefs to cover the cameras. The news team's exit from the scene is also shown.

- January 20, 2002, against Mayela León, Jorge Paz, and Jhan Bernal. The video contains the narration of the incident by Mayela León and one of her assistants.
- February 18, 2002, against a van with a Globovisión logo while Jhonny Ficarella, Jhon Power, and Miguel Ángel Calzadilla were covering a story. The video shows the vehicle with broken windows.
- April 3, 2002, against José Vicente Antonetti and Edgar Hernández. The video shows shouts hurled at the Globovisión team, one of their cameras being struck, and the presence of a person whom the petitioners identify as the personnel director of the Venezuelan Social Security Institute.
- June 13, 2002, against Beatriz Adrián, Jorge Paz, and Alfredo Peña Isaya. The video shows news teams from various media outlets waiting to leave the Legislative Palace. It also shows a crowd outside the building, shouting, *inter alia*, anti-media slogans. The moment when a Globovisión journalist asks a person why he is acting that way and her microphone is knocked to the floor can be seen. The Globovisión car sprayed with paint and with dented bodywork can also be seen.
- July 9, 2002, against Globovisión's headquarters. The video shows the damage inflicted on a number of vehicles that were parked at Globovisión's offices when the grenade was thrown. It also shows the presence of DISIP officers.
- September 4, 2002, against Aymara Lorenzo, Carlos Arroyo, and Félix Padilla. The video shows the reporter complaining that her microphone and headphones have been snatched away, and their asking a Military Police commander for help, telling him that they are surrounded.
- September 11, 2002, against Ana Karina Villalba. In the video, the reporter is trying to interview a young man; as the man responds, a woman begins to shout at him, telling him not to talk to that media company and threatening the interviewee with a stick. A police officer interviews to allow the interview to proceed but, in spite of that, the woman threatens the journalist with her stick because they are still filming. The reporter leaves the area, escorted by the policeman.
- November 18, 2002, against Globovisión's headquarters. The video shows some of the damage done to the cars and the building by the explosion.
- December 3, 2002, against Aymara Lorenzo, Richard López, and Félix Padilla. In the video, the reporter is trying to interview someone after the demonstration has apparently dispersed. The firing of baton rounds can be heard, and the interview is stopped.
- December 10, 2002, involving a group of individuals outside Globovisión's headquarters. The video shows a crowd that, according to the complaint lodged with the Public Prosecution Service (Annex 21), remained outside the station's headquarters for the space of several hours. The shouted words heard in the video cannot be made out.
- January 3, 2003, against Carla Angola. The video shows shouting and gesticulating against the Globovisión news team. The reporter complains that she was hit in the neck by a liquid that seemed to be urine.

- ANNEX 4.** Summary and recommendations of the Human Rights Watch report: *Caught in the Crossfire. Freedom of Expression in Venezuela*, Vol. 15, No. 3 (B) – May 2003.
- ANNEX 5.** Request for justification of June 17, 2003, lodged on June 20, 2003, with the 20th Municipal Court of the Caracas Metropolitan Area Judicial District, containing the following declarations:
- Narrative by Gabriela Perozo, Aloys Marín, and Efraín Henríquez of the events of November 22, 2001, at La Hoyada in central Caracas, when they were attempting to cover a march convened by the Democratic Action party.
 - Narrative by Yesenia Balza, Carlos Quintero, and Felipe Lugo of the events of December 10, 2001, at Plaza Caracas, when they were attempting to cover a campesino rally.
 - Narrative by Mayela León and Jorge Paz of the events of January 20, 2002, at Cajigal Observatory, in the 23 de Enero district of Caracas, when, along with Jhan Bernal, they were trying to cover the *Aló Presidente* program.
 - Narrative by Jhon Power, Miguel Ángel Calzadilla, and Jhonny Donato Ficarella of the events of February 18, 2002, at the El Paraíso neighborhood in Caracas, when they were trying to cover a building eviction for the program *Plomovisión*.
 - Narrative by José Vicente Antonetti and Edgar Hernández of the events of April 3, 2002, at the headquarters of the Venezuelan Social Security Institute, as they were trying to cover a protest by the Venezuelan Medical Federation.
 - Narrative by Alfredo Peña Isaya, Beatriz Adrián, and Jorge Paz of the events of June 13, 2002, at the main National Assembly building in downtown Caracas, when they were attempting to cover a parliamentary session.
 - Narrative by José Inciarte of the events of July 9, 2002, at Globovisión headquarters, when a fragmentation grenade was thrown and exploded.
 - Narrative by Claudia Rojas Zea, and José Natera of the events of July 17, 2002, when a tear-gas canister was thrown at Globovisión headquarters.
 - Narrative by Félix Padilla, Carlos Arroyo y Aymara Lorenzo of the events of September 4, 2002, in the Santa Mónica neighborhood of Caracas, as they were trying to cover a demonstration by women supporters of dissident members of the military.
 - Narrative by Richard López, Félix Padilla, and Aymara Lorenzo of the events of December 3, 2002, at the Chuao offices of Petróleos de Venezuela, as they were trying to cover an opposition rally on the second day of the general strike.
 - Narrative by Ana Karina Villalba of the events of September 11, 2002, on Llaguno Bridge in central Caracas, as she was attempting to cover a demonstration marking five months since April 11, 2002.
 - Narrative by Felipe Lugo y Wilmer Escalona of the events of September 21, 2002, near Llaguno Bridge in downtown Caracas, for the recording of a program.

- Narrative by Carla Angola of the events of January 3, 2003, in the Los Próceres district of Caracas, when she was trying to cover a march called by the Democratic Coordination.

ANNEX 6. Communication sent by the victims to Lucas Rincón Romero, then Minister of the Interior and Justice, received on March 14, 2003, requesting compliance with the precautionary measures as requested and expanded by the IACHR.

ANNEX 7. Complaint lodged with the Public Prosecution Service, received on January 31, 2002, by the Directorate of Common Crime, describing attacks suffered by Globovisión employees while performing their journalistic duties and referring to some of the statements made by the President of the Republic: the declarations of October 4, 2001, December 27, 2001, and January 9, 2002. Also described are the events of November 22, 2001, December 10, 2001, January 9, 2002, and January 20, 2002.

ANNEX 8. Document submitted to the 2nd and 74th Prosecutors of the Caracas Metropolitan Area, received March 10, 2003, in connection with the file opened in annexed complaint 20; reiterating and expanding the complaint and requesting information on the results of the investigation.

The expansion of the complaint covers the statements made by the President of the Republic on June 9, 2001, September 29, 2001, October 3, 2001, October 4, 2001, December 27, 2001, January 27, 2002, February 1, 2002, June 13, 2002, September 18, 2002, December 1, 2002, December 5, 2002, December 7, 2002, December 8, 2002, December 15, 2002, January 12, 2003, January 5, 2003, January 10, 2003, January 17, 2003, January 23, 2003, January 26, 2003, and January 20, 2003.

It also expanded the complaint as regards the attacks on Globovisión workers of February 18, 2002, April 3, 2002, June 13, 2002, September 4, 2002, September 11, 2002, September 21, 2002, December 3, 2002, December 10, 2002, December 4, 2002, and January 3, 2003.

The filing also refers to the precautionary measures for protection processed domestically on February 26, 2002, on behalf of the Globovisión workers; on April 11, 2002, on behalf of Globovisión's property and technical equipment; on August 14, 2002, on behalf of Alberto Federico Ravell; on October 9, 2002, on behalf of Globovisión's antenna sites; on October 20, 2002, and December 10, 2002, on behalf of Globovisión's offices.

ANNEX 9. Document lodged with People's Defender Germán Mundaraín, received on February 1, 2002, presenting a claim alleging violations of human rights based on the same facts as described in the filing lodged with the Public Prosecution Service on January 31, 2002; additionally, requesting compliance with the precautionary measures extended by the IACHR.

ANNEX 10. Document lodged with People's Defender German Mundaraín, received on March 13, 2002, seeking to expand the earlier complaint. The new attack included is the one that took place on February 18, 2002.

ANNEX 11. Document lodged with People's Defender German Mundaraín, received on April 24, 2002, seeking to expand the earlier complaint. The new attack included is the one that took place on April 3, 2003.

ANNEX 12. Document lodged with People's Defender Germán Mundaraín, received on August 6, 2002, submitting a copy of the IACHR's decision of July 29, 2002, extending the life of the precautionary measures for 6 months.

- ANNEX 13.** Document lodged with People’s Defender Germán Mundaraín on July 8, 2002, received July 9, 2002, alleging the failure to substantiate the complaint before that authority, difficulties in accessing the case file, the seriousness of the situation, and requesting a personal meeting with the People’s Defender.
- ANNEX 14.** Document lodged with People’s Defender Germán Mundaraín, received on February 24, 2003, requesting a certified copy of the case file of the complaint lodged in Annex 22 and later expanded.
- ANNEX 15.** Copy of the record of the judicial inspection carried out on March 21, 2003, at the office of the People’s Defender at the request of the petitioners, in order to process access to the case file on the complaint lodged with that office.
- ANNEX 16.** Copy of the administrative file at the office of the People’s Defender. This case file contains the summonses served on and interviews conducted with the following persons: Yesenia Balza, Richard López, Jhan Bernal, Mayela León, Felipe Lugo, Alfredo Peña Isaya, Aloys Marín, and Efraín Henríquez, It also contains documents and repeat requests for the adoption of protective measures by the municipal authorities of the Caracas Metropolitan Area and by the state governors. In also contains a document of February 24, 2003, providing that given the failure of the authorities to respond, the legal department was to be asked to consider the possibility of filing for *amparo* relief on behalf of the victims.
- ANNEX 17.** Transcript of the speech of the President of the Republic, October 5, 2001.
- ANNEX 18.** Transcript of the *Aló Presidente* program, January 9, 2002.
- ANNEX 19.** Transcript of the *Aló Presidente* program, June 9, 2002.
- ANNEX 20.** Transcript of the speech of the President of the Republic, September 18, 2002.
- ANNEX 21.** Transcript of press conference held outside the Miraflores Palace by the President of the Republic, December 7, 2002.
- ANNEX 22.** Transcript of the speech of the President of the Republic, December 7, 2002.
- ANNEX 23.** Transcript of the *Aló Presidente* program, December 8, 2002.
- ANNEX 24.** Transcript of the *Aló Presidente* program, December 15, 2002.
- ANNEX 25.** Transcript of the *Aló Presidente* program, January 12, 2003.
- ANNEX 26.** Transcript of statements by the Minister of the Interior and Justice, December 10, 2002.
- ANNEX 27.** Copy of the record of the judicial inspection carried out on June 16, 2003, at the office of the 3rd Notary Public of Chacao municipality in Miranda State; at the office of the 6th Notary Public of Chacao municipality in Miranda State; and at the office of the 9th Notary Public of Chacao municipality in Miranda State, reporting the difficulties encountered by the victims in their requests for the authentication of powers of attorney and statements.
- ANNEX 28.** Document lodged with the 68th Prosecutor of the Caracas Metropolitan Area of the office of the Prosecutor General of the Republic, restating and updating the attacks suffered since 2001 and requesting information on progress with the investigations of the previously reported incidents.

The new declarations by the President of the Republic included in this complaint lodged with the prosecution service are those of the following dates: August 1, 2003, August 4, 2003, August 23, 2003, October 8, 2003, October 23, 2003,

November 4, 2003, November 7, 2003, November 9, 2003, January 12, 2004, February 13, 2004, February 15, 2004, March 21, 2004, March 28, 2004, April 4, 2004, April 11, 2004, May 2, 2004, May 9, 2004, June 13, 2004, June 27, 2004, June 29, 2004, and August 16, 2004.

The physical attacks added to the complaint are those of August 9, 2003, December 3, 2003, January 18, 2004, February 19, 2004, February 27, 2004, March 1, 2004, and May 29, 2004.

- ANNEX 29.** Video dealing with the refusal of access to an official information source, November 12, 2004, to the detriment of a Globovisión news team, at the headquarters of the Ministry of Defense. The video shows the transmission of the news story describing how the Globovisión team was denied entry to the facility.
- ANNEX 30.** Video dealing with the refusal of access to an official information source, January 28, 2005, to the detriment of a Globovisión news team, at Tiuna Fort. The video shows the subsequent reporting of the incident.
- ANNEX 31.** Video dealing with the violence against the car of a Globovisión news team on January 23, 2005, on Avenida Francisco de Miranda in Caracas. The video shows the damage done to the vehicle's bodywork.
- ANNEX 32.** Video dealing with the refusal of access to an official information source, August 17, 2005, to the detriment of a Globovisión news team, at Miraflores Presidential Palace. The video shows the telephone narration of what happened given by Mayela León.
- ANNEX 33.** Video containing a recording of the speech given by President of the Republic, October 4, 2005, in a national blanket broadcast.
- ANNEX 34.** Video containing recordings of the following incidents:
- Refusal of access to an official information source, February 15, 2005, to the detriment of a Globovisión news team, at the entrance to Miraflores Presidential Palace. The video shows the deferred transmission of the news story they sought to cover live.
 - Refusal of access to an official information source, February 16, 2005, to the detriment of a Globovisión news team, at the entrance to Miraflores Presidential Palace. The video shows the journalist who was leading the news team (according to the petitioners' submission, Ruth Villalba) describing the difficulties encountered in reaching the information source.
 - Difficulties encountered in covering an event on April 11, 2005, by a Globovisión news team led by Mayela León in the vicinity of the Llaguno Bridge. The video shows the news team trying to cover the story amid the shouts hurled by bystanders to prevent them from doing so.
 - Hindrance of access to official source of information on an unspecified date to the detriment of a Globovisión news team at the Palace of Justice. The video shows how the media were denied access to an area of the Palace of Justice. A reporter from the daily *El Nacional* was interviewed and said some days earlier the President of the Supreme Court of Justice had given an order whereby the media could do their jobs in all areas of the Palace of Justice.
- ANNEX 35.** Transcript of interview with President Hugo Chávez for the newspaper *El Universal*, available on March 19, 2007, at http://buscador.eluniversal.com/2004/01/12/pol_art_12154A2.shtml.

- ANNEX 36.** Transcript of *Aló Presidente* program #171, November 9, 2003, available on March 19, 2007, at http://www.gobiernoenlinea.ve/docMgr/sharedfiles/Alo_Presidente_171.pdf.
- ANNEX 37.** Transcript of *Aló Presidente* program #182, February 15, 2004, available on March 19, 2007, at http://www.gobiernoenlinea.ve/docMgr/sharedfiles/Alo_Presidente_182.pdf.
- ANNEX 38.** Transcript of *Aló Presidente* program #191, May 9, 2004, available on March 19, 2007, at http://www.minci.gov.ve/alopresidente/16/6647/alpresidente_n191.html.
- ANNEX 39.** Transcript of a press conference of August 16, 2004, available on March 19, 2007, at <http://www.netzwerk-venezuela.de/inhalt/articulos/detail.php?nr=80&kategorie=articulos>.
- ANNEX 40.** Submission from the Venezuelan State of July 25, 2005, received by the IACHR on August 17, 2005, indicating the current status of the investigations begun on February 18, 2002, specifically into the actions committed against Alfredo José Peña, Carlos Quintero, Felipe Lugo, Efraín Henríquez, Janeth Carrasquilla, and Joshua Torres;
- ANNEX 41.** Submission from the Venezuelan State of February 23, 2006, during the provisional measures procedure, informing that an order had been given for the proceedings initiated on account of the incidents of March 1, 2004, involving Carla Angola and Richard Alexis López to be sent to the archive.
- ANNEX 42.** Written submission by the Venezuelan State of August 29, 2006, during the provisional measures proceedings, reporting on the status of the investigation into the actions that affected Alfredo José Peña, Efraín Henríquez, Carlos Quintero, and Felipe Lugo. Also reporting that in the investigation into the events of February 19, 2004, it had been agreed to archive the case. It also reported that a dismissal had been requested in the proceedings for the events of March 1 with respect to Janeth Carrasquilla. In addition, it reported that a dismissal had been requested in the proceedings for the events of May 29, 2004, with respect to Martha Palma and Joshua Torres.
- ANNEX 43.** Document lodged with the 50th National Plenipotentiary Prosecutor of the office of the Prosecutor General of the Republic, submitted by a number of individuals including the following victims in the instant case: Martha Palma Troconis, Gabriela Perozo, Norberto Mazza, Oscar Núñez, José Natera, Mayela León, Guillermo Zuloaga Núñez, Alberto Federico Ravell, and María Fernanda Flores. In the submission they reiterated their accusations of verbal and physical attacks against the reporters, employees, executives, and property of Globovisión since August 2001, as well as submitting new complaints. The attached copy does not indicate the date the submission was presented. Of the incidents described, the last one took place on September 23, 2006.
- ANNEX 44.** List of persons that the representatives of the victims consider to be beneficiaries of any redress ordered.
- ANNEX 45.** Curriculum vitae of Toby Mendel, expert called by the IACHR.
- ANNEX 46.** Curriculum vitae of Javier Sierra, expert called by the IACHR.
- ANNEX 47.** Copies of powers of attorney extended to Alfredo Travieso Passios, Carlos Ayala Corao, Margarita Escudero León, Ana Cristina Núñez, María Verónica Espina Molina, and Nelly Herrera Bond.

ANNEX 48. Curriculum vitae of Jorge Santisteban, expert called by the IACHR.

261. Additionally, the Commission asks the Honorable Court to request that the Venezuelan State submit certified copies of all the documents related to the investigations and proceedings carried out under domestic jurisdiction in connection with the incidents covered by this case, together with authenticated copies of the applicable legislation and regulatory provisions.

262. In addition, the Commission asks the Court to include, in the case file of this case, a copy of all the proceedings related to the provisional measures ordered by the Inter-American Court on behalf of the journalists, executives, and other workers of the Venezuelan television station Globovisión.

B. Witness evidence

263. The Commission asks the Court to take statements from the following witnesses:

- Mayela León Rodríguez, to give testimony on the harassments and attacks she suffered; on the consequences of those incidents on her personal life and professional performance; on the investigations into those incidents carried out by the State; on the denial of access to official sources of information; and on other issues of relevance to the purpose and scope of this application.
- Carla Angola Rodríguez, to give testimony on the harassments and attacks she suffered; on the consequences of those incidents on her personal life and professional performance; on the investigations into those incidents carried out by the State; and on other issues of relevance to the purpose and scope of this application.
- Ana Karina Villalba, to give testimony on the harassments and attacks she suffered; on the consequences of those incidents on her personal life and professional performance; on the investigations into those incidents carried out by the State; and on other issues of relevance to the purpose and scope of this application.
- Janeth Carrasquilla Villasmil, to give testimony on the harassments and attacks she suffered; on the consequences of those incidents on her personal life and professional performance; on the investigations into those incidents carried out by the State; and on other issues of relevance to the purpose and scope of this application.
- Oscar Núñez Fuentes, to give testimony on the harassments and attacks he suffered; on the consequences of those incidents on his personal life and professional performance; on the investigations into those incidents carried out by the State; and on other issues of relevance to the purpose and scope of this application.
- Wilmer Escalona Arnal, to give testimony on the harassments and attacks he suffered; on the consequences of those incidents on his personal life and professional performance; on the investigations into those incidents carried out by the State; and on other issues of relevance to the purpose and scope of this application.
- Richard López Valle, to give testimony on the harassments and attacks he suffered; on the consequences of those incidents on his personal life and professional performance; on the investigations into those incidents carried out

by the State; and on other issues of relevance to the purpose and scope of this application.

C. Expert evidence

264. The Commission asks the Court to hear the expert opinions of the following expert witnesses:

- Toby Mendel, to give expert testimony on international standards and jurisprudence regarding the effects that acts of intimidation, harassment, persecution, and attacks on media workers and associated personnel, committed by state agents and/or private citizens, can have on social communicators' exercise of their freedom of expression; and on other issues of relevance to the purpose and scope of this application.
- Javier Sierra, to give expert testimony on the silencing effect that acts of intimidation, harassment, persecution, and attacks on media workers and associated personnel, committed by state agents and/or private citizens, can have on social communicators' exercise of their freedom of expression; and on other issues of relevance to the purpose and scope of this application.
- Jorge Santisteban de Noriega, to give expert testimony on the exercise of the journalist profession in countries where the authorities maintain a permanently critical line of discourse against social communicators and associated personnel; and on other issues of relevance to the purpose and scope of this application.

XII. INFORMATION ABOUT THE ORIGINAL PETITIONERS AND VICTIMS

265. In compliance with Article 33 of the Court's Rules of Procedure, the Inter-American Commission submits the following information: The original complaint was lodged by Gabriela Perozo, Aloys Marín, Efraín Henríquez, Oscar Dávila Pérez, Yesenia Thais Balza Bolívar, Carlos Quintero, Felipe Antonio Lugo Durán, Alfredo José Peña Isaya, Beatriz Adrián, Jorge Manuel Paz Paz, Mayela León Rodríguez, Richard Alexis López Valle, Félix José Padilla Geromes, John Power, Miguel Ángel Calzadilla, José Domingo Blanco, Jhonny Donato Ficarella Martín, Norberto Mazza, Gladys Rodríguez, María Arenas, José Vicente Antonetti Moreno, Orlando Urdaneta, Edgar Hernández, Claudia Rojas Zea, José Natera, Aymara Anahi Lorenzo Ferrigni, Carlos Arroyo, Ana Karina Villalba, Wilmer Escalona Arnal, Carla María Angola Rodríguez, and José Iniciarte, all of whom were employees of the Globovisión Venezuelan television station, together with Guillermo Zuloaga Núñez and Alberto Federico Ravell, shareholders in Globovisión and members of its board of directors.

266. With the exception of Messrs. Alfredo José Peña Isaya, Félix José Padilla Geromes, José Natera, Miguel Ángel Calzadilla, Orlando Urdaneta, Yesenia Thais Balza Bolívar; and Zullivan René Peña Hernández, the victims have granted powers of representation to the lawyers Alfredo Travieso Passios, Carlos Ayala Corao, Margarita Escudero León, Ana Cristina Núñez, María Verónica Espina Molina, and Nelly Herrera Bond, for them to represent them in the judicial phase of proceedings before the system, as indicated in the documents attached hereto.¹⁴⁷ The single address of the victims' representatives is [REDACTED].

¹⁴⁷ ANNEX 47, copies of the powers of representation extended to Ana Cristina Núñez, Margarita Escudero León, Carlos Ayala Corao, Pedro Nikken, Nelly Herrera Bond, and María Verónica Espina Molina.

267. Messrs. Alfredo José Peña Isaya, Félix José Padilla Geromes, José Natera, Miguel Ángel Calzadilla, Orlando Urdaneta, Yesenia Thais Balza Bolívar, and Zullivan René Peña Hernández have not yet appointed a representative for the proceedings before the Court in this case; consequently, the IACHR, in its capacity as the guarantor of the general interest within the inter-American system, provisionally assumes the defense of their interests.

Washington, D.C.
April 12, 2007