**FOLLOW-UP FACTSHEET OF REPORT No. 90/05**

**CASE 12.142**

**ALEJANDRA MARCELA MATUS ACUÑA AND OTHERS**

**(Chile)**

1. **Summary of Case**

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| **Victim (s):** Alejandra Marcela Matus Acuña et al.**Petitioner (s):** Center for Justice and International Law (CEJIL), Jean Pierre Matus Acuña, Adil Brkovic **State:** Chile**Merits Report No.:** [90/05](http://cidh.org/annualrep/2005eng/Chile12142eng.htm), published on October 24, 2005**Admissibility Report No.:** [55/00](http://cidh.org/annualrep/2000eng/ChapterIII/Admissible/Chile12.142.htm), published on October 2, 2000**Precautionary Measures:** [Granted on June 18 and July 19, 1999](http://www.cidh.org/medidas/1999.eng.htm) **Themes:** Access to public information /Adopt provisions of domestic law / Defamation law / Freedom of expression / Journalists and the media / Obligation to respect rights / Private property / Women**Facts:** On April 13, 1999, the book titled “The Black Book of Chilean Justice” (*El Libro Negro de la Justicia Chilena*) was released in Chile, written by journalist Alejandra Matus Acuña and published by the Chilean publishing company, Editorial Planeta. That same day, a judge of the Supreme Court brought proceedings against the author and the publishing house before the Court of Appeal in Santiago for contravention of Article 6(b) of Law No. 12.927 of State Security. Additionally, another judge of the Supreme Court ordered the seizure of all of the existing copies of the book and banned its republishing, in accordance with the provisions of Articles 16(1) and 30 of the Law of State Security. On June 16, 1999, as part of the same proceedings, Messrs. Bartolo Ortiz and Carlos Orellana, directors of the publishing company Editorial Planeta de Chile, were arrested. They were both released two days later and their case was dismissed on July 29, 1999. Ms. Matus Acuña left Chile on April 13, 1999 for fear of arrest. On November 10, 2000, as part of the proceedings opened following the publication of the “Black Book”, an order was issued for the apprehension of Ms. Matus Acuña.**Rights violated:** The IACHR concluded that the “Black Book of Chilean Justice”, written by Mrs. Alejandra Marcela Matus Acuña, was impounded by judicial order and its circulation prohibited for more than two years. Further, it concluded that Mrs. Matus Acuña was subjected to a judicial process that forced her to leave her country in order to avoid being imprisoned. It also stated that Chilean society was deprived of its right to information. The Commission concluded that the right to freedom of expression and the right to property were not respected. The facts established in the present report constituted violations of Articles 13 and 21 of the American Convention, all of which is in violation of the duty to respect and protect rights enshrined in Article 1(1) and the duty to give effect in domestic law to the same Convention (Article 2).**Level of compliance of the case:** Total compliance ([2008 Annual Report](http://www.cidh.org/annualrep/2008eng/Chap3.h.eng.htm)) |

1. **Recommendations**

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| **Recommendations** | **State of compliance**  |
| 1. To make adequate compensation to Alejandra Matus Acuña for the consequences of the violations of the rights to freedom of expression and to property, to the prejudice of journalist Alejandra Matus Acuña. | Total compliance[[1]](#footnote-1) |

1. **Procedural Activity**
2. The IACHR requested updated information on compliance from the parties in 2006, on November 6, 2007 and on November 10, 2008. The State presented said information on December 19, 2007 and October 8, 2008.
3. The petitioners presented the information requested by the Commission on May 5, 2008 and January 7, 2009.
4. The case was in the follow-up of recommendations stage for 3 years.
5. **Level of compliance of the case**
6. The Commission declared the total compliance of the case and ceased its monitoring of compliance with the recommendation issued in Merits Report No. 90/05 in the 2008 Annual Report.[[2]](#footnote-2)
7. **Individual and structural results of the case**
8. This section highlights the individual and structural results of the case, as informed by the parties.
9. **Individual results of the case**

*Restoration of the infringed right measures*

* The State promulgated Law No. 19.733, which repealed the crime codified in Article 6(b) and the measures established in Article 16 of Law No. 12.927 of State Security and Article 41 of Law No. 16.643 on Abusive Advertising. This made it possible to dismiss the criminal case against Alejandra Marcela Matus Acuña and to lift the confiscatory measures and prohibition that affected “The Black Book of Chilean Justice”.

*Pecuniary compensation measures*

* Pursuant to Resolution No. 3849 of December 31, 2008, Alejandra Marcela Matus Acuña was granted 30 million Chilean pesos in compensation.
1. **Structural results of the case**

Legislation*/Regulations*

* The State promulgated Law No. 19.733, which repealed the crime codified in Article 6(b)[[3]](#footnote-3) and the measures established in Article 16 of Law of State Security No. 12.927[[4]](#footnote-4) and Article 41 of Law No. 16.643 on Abusive Advertising, bringing the State’s domestic legislation into line with the American Convention on Human Rights regarding freedom of expression.
1. IACHR, 2008 Annual Report, [Chapter III, Section D: Status of compliance with the recommendations of the IACHR](http://www.cidh.org/annualrep/2008eng/Chap3.h.eng.htm), para. 223. [↑](#footnote-ref-1)
2. IACHR, 2008 Annual Report, [Chapter III, Section D: Status of compliance with the recommendations of the IACHR](http://www.cidh.org/annualrep/2008eng/Chap3.h.eng.htm), para. 223. [↑](#footnote-ref-2)
3. Article 6 of the Law of State Security stated: Any person who publicly offends the flag, the coat of arms, the name of the mother country, or the national anthem and any person who defames, insults, or slanders the President of the Republic, Ministers of State, Senators, or Deputies, members of the High Courts of Justice, the Treasury Inspector of the Republic, Commanders-in-Chief of the Armed Forces, or Director General of the Police, whether or not the defamation, insult, or slander is committed in connection with the offended party’s official function. IACHR, [Case 12.142, Merits Report No. 90/05, Alejandra Marcela Matus Acuña et al. (Chile)](http://cidh.org/annualrep/2005eng/Chile12142eng.htm#_ftn4), footnote No. 4. [↑](#footnote-ref-3)
4. Article 16 of the Law of State Security stated: 1) If an offense against the security of the State is committed in print, on the radio, or on the television, the competent court can suspend publication of up to ten editions of a guilty newspaper or magazine and up to ten days’ transmissions of the offending radio or television channel. In serious cases, the Court without prejudice may order the immediate seizure of any broadcast that contains any public offense that is punishable under this law. The court may exercise similar powers with regard to any another edition that may appear to have been produced in order to replace the one sanctioned under the terms of this provision. IACHR, [Case 12.142, Merits Report No. 90/05, Alejandra Marcela Matus Acuña et al. (Chile)](http://cidh.org/annualrep/2005eng/Chile12142eng.htm#_ftn4), footnote No. 5. [↑](#footnote-ref-4)