

REPORT No. 58/12
CASE 12.606
MERITS
BROTHERS LANDAETA MEJÍAS
VENEZUELA
March 21 2012

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I. SUMMARY

1. On September 20, 2004, and April 24, 2006, the Inter-American Commission on Human Rights (hereinafter also "the Inter-American Commission," "the Commission," or "the IACHR") received two petitions lodged by Ignacio Landaeta Muñoz and the Human Rights Committee for Justice and Peace of Aragua State, in the case of the former, and both those petitioners together with the Center for Justice and International Law (CEJIL), in the case of the latter, (hereinafter "the petitioners"), which alleged violation on the part of the Bolivarian Republic of Venezuela (hereinafter also "the Venezuelan State," "the State," or "Venezuela") of several provisions contained in the American Convention on Human Rights. According to the petitions, the brothers Igmarr Alexander and Eduardo José Landaeta Mejías were extra judicially executed on November 17 and December 31, 1996, when they were 18 and 17 years old, respectively, by members of Aragua State Public Order and Security Corps. The petitioners also alleged the impunity in which those facts have remained.

2. The Commission admitted the petitions on March 9, 2007 and March 22, 2009, respectively, and directed their joinder as of the latter date. In the course of the proceedings before the Commission, the State of Venezuela has provided information on the steps taken at the domestic level to investigate the facts in accordance with the Constitution and code of criminal procedure. According to the State, its judicial and investigative authorities have acted in adherence to the American Convention by taking all the pertinent steps to elucidate the alleged facts. In the stage on merits, the State also reiterated a number of its arguments on admissibility.

3. Having examined the positions of the parties, the Inter-American Commission concluded that the Venezuelan State is responsible for violation of the rights to life and humane treatment enshrined in Articles 4 and 5 of the American Convention taken in conjunction with Article 1(1) of that instrument, to the detriment of Igmarr Alexander Landaeta Mejías. The Inter-American Commission also concluded that the Venezuelan State is responsible for violation of the rights to life, humane treatment, personal liberty, and special protection due to children enshrined in Articles 4, 5, 7, and 19 of the American Convention taken in conjunction with Article 1(1) of that instrument, to the detriment of Eduardo José Landaeta Mejías. Finally, the Inter-American Commission concluded that the Venezuelan State is responsible for violation of the rights to humane treatment, a fair trial, and judicial protection recognized at Articles 5, 8, and 25 of the American Convention taken in conjunction with Article 1(1) of that instrument, to the detriment of the family members identified in the relevant section of this report. Based on these conclusions, the Commission made the appropriate recommendations.

II. PROCESSING BY THE COMMISSION

4. On September 20, 2004, the Inter-American Commission received the initial petition on Igmarr Alexander Landaeta Mejías, which was registered with the number P-908-04. On April 24, 2006, it received the initial petition on his brother, Eduardo José Landaeta Mejías, which was registered with the number P-425-06. These petitions were processed in accordance with the regulatory provisions.¹ On

¹ A detailed account of the processing, from the lodging of the petitions until the decisions on the admissibility, is provided in the reports on admissibility issued on March 9, 2007, and March 22, 2009, respectively. See IACHR, Report No. 23/07 (admissibility), Petition 425-06, Eduardo José Landaeta Mejías, Venezuela, March 9, 2007, pars. 5 -7. Available at: <http://cidh.org/annualrep/2007eng/Venezuela435.06eng.htm>; and IACHR, Report No. 22/09 (admissibility), Petition 908-04, Igmarr Alexander Landaeta Mejías, Venezuela, March 20, 2009, pars. 5 -15. Available at: <http://www.cidh.oas.org/annualrep/2009sp/Venezuela908-04.sp.htm>.

June 26, 2006, the Commission informed both parties that petition P-425-06 (Eduardo José Landaeta Mejías) had been joined with P-908-04 (Igmar Alexander Landaeta Mejías). On January 30, 2007, the Commission wrote to the parties to inform them that, given the particular circumstances of either petition, it had decided to analyze them separately in determining their compliance with the admissibility requirements.

5. On March 9, 2007, the Commission adopted report on admissibility No. 23/07 with respect to petition P-425-06, which was assigned case number 12.606. The parties were notified of the report on admissibility on March 26, 2007.

6. That same day, pursuant to Article 38(1) of its then-in-force Rules of Procedure, the Commission granted the petitioners two months to submit their additional observations on merits. On May 25, 2007, the petitioners requested an extension. On 12 June 2007, the Commission granted that extension. On July 18, 2007, the petitioners presented their observations on the merits. On July 30, 2007, pursuant to Article 38(1) of its Rules of Procedure, the Commission relayed the petitioners' observations to the State and requested that it submit its additional observations on merits within two months. On September 21, 2007, the State requested an extension. That extension was granted on October 10, 2007. On February 13, 2008, the Commission received a communication from the petitioners requesting that it apply Article 39 of its Rules of Procedure and adopt a report on merits in the matter.

7. On March 12, 2008, the Commission received a communication from the State presenting its observations on merits in the case. This communication was transmitted to the petitioners on March 18, 2008, and they were given one month to submit their comments. On May 6, 2008, the Commission received a communication from the petitioners enclosing their comments on the State's brief and reiterating their request that a report on merits be issued. This communication was forwarded to the State on May 14, 2008 with the request that it submit such observations as it deemed appropriate within one month. On June 12, 2008, the Commission received a communication from the petitioners to which they attached parts of the judicial record that they had transcribed. On June 25, 2008, the Commission transmitted this information to the State.

8. On March 22, 2009, the Commission adopted report on admissibility No. 22/09 in connection with petition P-908-04. In operative paragraph 2 of that report on admissibility, the Commission decided "[t]o consider the petition jointly with case 12.606."² This joinder was done in accordance with Article 29(1) of the Rules of Procedure then in force. The parties were notified of the report on admissibility and the joinder on April 1, 2009. In that same note, the Commission requested the petitioners to present any additional observations on merits that they might have within two months.

9. The petitioners requested an extension on June 1, 2009. That extension was granted on June 4, 2009. The additional observations on merits were received and relayed to the State on August 14, 2009, which was given two months to submit the relevant observations. The State submitted its observations on merits on November 25, 2009. The Commission transmitted the observations of the State to the petitioners on December 3, 2009.

III. POSITIONS OF THE PARTIES

A. The Petitioners

10. By way of context, the petitioners mention that one of the main causes of violation of the right to life in Venezuela is the practice of illegal and arbitrary arrests, followed by extrajudicial execution and excessive and indiscriminate use of force attributable to regional police forces. They say that there is a stock pattern in violent killings through "*ajusticiamiento*" [vigilante-style murders], in that they are carried

² IACHR, Report No. 22/09 (admissibility), Petition 908-04, Igmar Alexander Landaeta Mejías, Venezuela, March 20, 2009, operative paragraph 2. Available at: <http://www.cidh.oas.org/annualrep/2009sp/Venezuela908-04.sp.htm>.

out by the police against young men from low-income social sectors, have an established *modus operandi*, and enjoy a high degree of impunity.

11. This alleged *modus operandi* is described by the petitioners as follows: a) Presentation of the incident by the police as a confrontation, including, in most cases, tampering with the scene of the crime; the transfer of the wounded victim by the agents who assaulted them to a public hospital and their abandonment—usually dead—without information as to what had occurred; b) use of official uniforms and/or weapons and equipment; c) public discrediting (or criminalization) of the victim by claiming that they had resisted the authorities or had a criminal and/or police record; and, d) intimidation, threats, and even murder of witnesses of the crime and the victim's next of kin.

12. They say that Aragua State is a zone with a particularly high incidence of such occurrences, particularly involving the Public Order and Security Corps (hereinafter "the CSOP").

13. Bearing in mind that the analysis below includes a detailed description of the facts, in this section the Commission merely provides a short summary of the alleged facts and an explanation of the petitioners' legal arguments.

14. With respect to the specific circumstances of the Landaeta family, the petitioners claim that a number of incidents occurred prior to the deaths of Landaeta Mejías brothers that suggested that they were at risk. Thus, for example, they cite raids and a visit that Mrs. María Mejías (the mother of Eduardo José and Igmar Alexander) received from the CSOP, who made a death threat against her sons. According to petitioners, these incidents were reported but Mrs. Mejía's was allegedly told that the complaint was inadmissible.

15. Concerning the death of *Igmar Alexander Landaeta Mejías*, the petitioners describe in broad terms how, on November 17, 1996, Igmar Alexander was intercepted by individuals in a vehicle who told him to stop. According to the account, when he attempted to flee the above individuals shot him in the back and after he had fallen to the ground they struck him and then shot him in the face, after which they took his lifeless body to a medical facility. According to the petitioners, the culprits were recognized as members of the CSOP. They say that following a public complaint by the parents, an investigation was opened by the Technical Corps of the Judicial Police (hereinafter "the CTPJ"), which was followed by a criminal trial in which one of those responsible was absolved and the other was convicted at first instance, but subsequently acquitted.

16. As regards the killing of *Eduardo José Landaeta Mejías*, the petitioners say that on December 29, 1996, Eduardo José, then 17 years old, was stopped in the street by a group of policemen and taken to a police precinct in the same city, where officials failed to notify his parents of his arrest or the reasons for it. They say that he only had one opportunity to communicate with his father, whom he asked to bring money to secure his release. While his parents were at the police precinct two policemen arrived, asking for "Eduardo Landaeta," but were surprised at seeing the mother and they left. They add that a female officer at the police precinct advised them not to leave because she had noticed unusual activity surrounding their son. According to the petitioners, although they were told that Eduardo José would be moved, that did not happen until December 31, 1996, and the parents were not notified. They add that Eduardo José's father went to the police precinct but his son was no longer there, so he went to the Office of the Attorney General because the policemen who had him were "bad types." They say that the Office of the Attorney General was closed, so he returned to the police precinct, where he was told that the transfer was ordered at 8 a.m., to which he replied that that was impossible since he had been informed of the transfer at 7:30 a.m. According to them, as Mr. Ignacio Landaeta headed home to find Eduardo José's mother, he spotted an unusual amount of private vehicles, and that was when he discovered that his son had been murdered, shot 15 times while inside a vehicle belonging to the Police Investigations Division of the CSOP as he was being transferred. Although the official account indicates that the vehicle was intercepted by unidentified persons, the next of kin hold that the State has not provided a satisfactory explanation of the killing while in custody. They add that as Mr. Ignacio Landaeta was traveling to the morgue, he was followed by motorized police units who had allegedly been given orders to stop the car and "shoot whoever was inside."

17. The petitioners say that an administrative police investigation as well as a criminal investigation were opened but that they had yet to progress beyond the preliminary stage and no potential culprits had been identified. They indicate a series of irregularities, such as reiterated changes of prosecutors and the failure to perform basic investigative procedures.

18. Following, the IACHR summarizes the legal arguments of the petitioners with respect either of the two brothers. As regards to the **right to life (Article 4 of the Convention)**, the petitioners argue that the State was responsible as they consider that both were extrajudicially executed and that the facts were not effectively investigated.

19. Specifically, with respect to *Igmar Alexander Landaeta Mejías*, they say that he was arbitrarily deprived of his life by agents of the regional police force, since they unnecessarily and unjustifiably used excessive force by shooting him in the back and then in the face with a firearm. Furthermore, the investigation was neither serious nor effective, nor was it initiated ex officio, which also engaged the responsibility of the State as it had failed its duty to ensure rights.

20. As for *Eduardo José Landaeta Mejías*, the petitioners note that the cause of death was 15 gunshot wounds sustained in police custody as he was being moved by the police in a vehicle owned by them. Based on the foregoing, they argue that, while there had been no judicial decision clarifying the facts, there is sufficient evidence to presume that the facts described are true and, given that the death occurred while the victim was in police custody, it is up to the State to disprove the alleged extrajudicial execution. Furthermore, they say that the absence of a diligent and effective investigation also constitutes a violation of the duty to ensure rights.

21. As regards the right to personal liberty (Article 7 of the Convention), the petitioners claim that *Eduardo José Landaeta Mejías*, was unlawfully and arbitrarily detained by State law enforcement agents. They point out that the unlawfulness of the arrest arose from the way in which the minor was detained, in disregard of the material and formal requirements that the law demands. They add that the arbitrary nature of the arrest is clear from the failure to notify his parents, the lack of information about the reasons for the arrest, his prevention from communicating with his parents for two days, the lack of timely notification of his transfer, the absence of immediate judicial control, and the lack of assistance by counsel. They add that all of these elements facilitated his subsequent extrajudicial execution.

22. With respect to Eduardo José, the petitioners also claim a violation of the obligation to provide the measures of protection required by his condition as a minor (Article 19 of the Convention), given his child status, since the State omitted to adopt the measures necessary to ensure the protection he required from the time that he was detained until the moment that he was deprived of his life.

23. In respect of the right to humane treatment (Article 5 of the Convention) the petitioners claim that the brothers Landaeta Mejías and their next of kin are victims

24. In relation to *Igmar Alexander Landaeta Mejías*, they recall that the young man was intercepted and then executed, giving rise to suffering from the "profound fear at the real and imminent danger" of losing his life. Therefore, upon finding himself subjected to physical suffering--as a result of being shot and beaten--and to psychological and mental suffering caused by the fear he felt, the petitioners said that Igmar Alexander felt distress and anguish for his life and safety.

25. As for *Eduardo José Landaeta Mejías*, the petitioners say that his personal well-being was impaired by the manner in which he was detained, his being held incommunicado, the fact that he was in the custody of persons who had previously threatened his life, and the lack of contact with his family. Therefore, they hold that the situation was one of serious psychological torture, as Eduardo José was vulnerable and powerless at the moment of being transferred, without knowing what his fate would be. They say that as a result of the foregoing, Eduardo José was terrified, powerless, defenseless, and unprotected. The petitioners say that these facts are particularly serious considering Eduardo José's child

status, for which reason the violation of his right to personal integrity should be assessed according to the most stringent standards.

26. As regards the brothers' next of kin, in the case of Igmarr Alexander, the petitioners identify the following as victims of violation of the right to respect for psychological and moral integrity: his mother, María Magdalena Mejías Camero; his father, Ignacio Landaeta Muñoz; his partner, Francys Yelut Parra Guzmán; his daughter, Johanyelis Alejandra Landaeta Guzmán; and his sisters, Victoria Eneri Landaeta Galindo and Leydis Rossiman Landaeta Galindo. They add that since the events, the family have been suffering from feelings of anguish and grief at the killing of Igmarr Alexander; his absence as a father, partner, son, and brother; and the failure to clarify the facts and punish those responsible. In relation to Eduardo José, the petitioners name his mother, María Magdalena Mejías Camero, and his father, Ignacio Landaeta Muñoz. They add that following the death of Eduardo José, the family had been overwhelmed with grief and sorrow. They say that his mother, Mrs. María Magdalena Mejías, is still traumatized and has difficulty organizing her ideas, a condition made worse by her presence at the exhumation of her son's body, on which day she had a profound nervous crisis. They also mention that Eduardo José's father, Mr. Ignacio Landaeta, lost his job and has been unable to find steady work owing to the absences caused by his ongoing activity in the criminal inquiry. The petitioners also say that the Mr. Ignacio Landaeta's economic circumstances have "taken a dramatic turn for the worse as he has invested what few savings he had in judicial proceedings and the upkeep of his home." In general terms, they say that the impunity in which the crimes have remained has been a source of frustration and sorrow for the parents of the brothers.

27. In addition to the violation of the duty to ensure the substantive rights described, owing to the lack of investigation of the facts and punishment of those responsible, the petitioners claim infringement of the rights to a fair trial and judicial protection (Articles 8 and 25 of the Convention). They argue a lack of due diligence in the investigation and violation of the reasonable-time principle in the proceedings over the deaths of the two brothers.

28. Specifically with respect to the proceeding opened after the death of *Igmarr Alexander Landaeta Mejías*, the petitioners claim that the investigation had a series of flaws, such as, in the reconstruction of the events, for instance. They also draw attention to the inaction of the authorities when it came to carrying out the necessary tests to ascertain the facts and determine the respective penalties. In addition, they note that there was excessive delay in the investigation, bearing in mind that it lasted 7 years and that approximately 12 years after the events the facts have not been adequately clarified nor has it been established who was responsible. Regarding the delay, they say that there were no complexities at all in the case as the identity of the culprits had been known from the outset; that the next of kin had made numerous efforts to give momentum to the investigation; that the judicial authorities had typically been negligent in pursuing the necessary inquiries; and that it was clear that the impunity in which the case has remained adversely affected the next of kin of Igmarr Alexander. The petitioners further state that the next of kin have not had recourse to an effective judicial remedy, given the incomplete and deficient collection of evidence, the unwarranted delay in the proceeding, and the neglect and abandonment of the case file.

29. As to the proceedings surrounding the killing of *Eduardo José Landaeta Mejías*, the petitioners say that despite the fact that years have gone by, no one has been brought to trial nor have the circumstances in which the facts occurred been made clear. In similar fashion to the case of Igmarr Alexander, the petitioners say that the delays have been unwarranted as there were no difficulties in the case, given that the prosecutors knew the names of the officers involved and yet they failed, for instance, to carry out the necessary tests to determine the weapon that the 15 shots came from or their trajectory. According to them, therefore, the delay has been caused not by the complexity of the case but by the omissions and negligence of the judicial operators. They say that the parents of Eduardo José have acted in a way designed to move the investigation forward through requests for the taking of evidence, requests for the case file to be located when it was lost, and their presence throughout the proceedings to prevent any hindrances in the investigation. They also say that the negligence of the authorities is self-evident given that they announced the death of Eduardo José based solely on the account provided by the law

enforcement officers. They also claim a lack of continuity in the pursuit of the investigation by a single body as well as omission in the collection of evidence.

B. The State

30. The Venezuelan State offers different observations in connection with the case of either brother.

31. As regards the case of *Igmar Alexander Landaeta Mejías*, the State indicates that an entry in the day book for November 18, 1996, records that officers of the Technical Corps of the Judicial Police, Mariño section, "exchanged shots with a citizen known as Landaeta." The State confirms the core factual aspects of the inquiry opened into his death, specifically the existence of a lower court conviction, its appeal, and the ultimate dismissal of the case. In the merits stage, the State has put forward arguments on admissibility, in particular the fact that the violation was not denounced at the appropriate procedural juncture and that the petitioners themselves allowed the decision to become final by neglecting to file a motion for cassation.

32. In the latter respect, the State notes that where victims lack the financial means to pay for counsel, the Office of the Prosecutor General ensures effective, cost-free services through its assistance offices to enable victims to participate in proceedings. It also mentions the Ombudsman and the Aragua State Bar Association. The State says that, despite the foregoing, Ignacio Landaeta, the victim's father, in presenting himself as the "plaintiff," "made himself subordinate" to the powers of the Office of the Attorney General, with the attendant duty to exercise all of the prerogatives corresponding thereto.

33. The State advances several arguments on the domestic proceedings, which, in its opinion, are relevant to the question of admissibility. However, based on the information available at the time, those issues were settled at the appropriate moment in the proceedings. In that regard, the IACHR will describe and take into consideration those arguments, to the extent that they are relevant for assessing the merits of several of the alleged violations.

34. As to the alleged violation of the right to life (Article 4 of the Convention), the State holds that it is not responsible since the conduct is not punishable. The State mentions grounds for excluding criminal responsibility, as the law enforcement officers acted in the performance of a duty, or in exercise of a right, authority, office, or post; and, furthermore, in legitimate self-defense.

35. As regards the rights to a fair trial and judicial protection (Articles 8 and 25 of the American Convention), the State says that the petitioners' assertions regarding alleged flaws and omissions in the investigation stage are untrue. In particular, the State holds that a reconstruction of the events, a planimetric study, and an examination and identification of the relevant firearm were all carried out. It also says that the omission of an identity parade was not due to the fact that the criteria as to need, relevance, and usefulness were not met. On this point, the State explains that there was a confession from the officers, so their participation in the punishable act was already known. In this regard, the State says that it is not acceptable for the petitioners to claim that the motion for cassation is not the suitable remedy to challenge irregularities that did not exist.

36. As regards the submissions of the petitioners regarding bias in the judicial branch, the State says that these were merely sweeping claims not borne out by any evidence of alleged "buddy ties and conspiracies." In this connection, the State holds that it is up to the petitioners to prove these claims as they constitute a negative personal value judgment that encompasses the entire judicial system. The State underscores the importance that an argument of this nature not be taken as accurate, as that would imply an attack on its right of defense.

37. In respect of the case of *Eduardo José Landaeta Mejías*, the State notes that the investigation into his death was opened on December 31, 1996. It mentions that, subsequently, the Office of the Ninth Prosecutor requested the *Cuerpo de Investigaciones Científicas, Penales y Criminalísticas* (criminal investigation police) (hereinafter "the CICPC"), to take a number of steps aimed at clarifying the

death of Eduardo José, in accordance with Article 108 of the Venezuelan Code of Criminal Procedure, which provides that the prosecutor shall “direct the investigation of offenses and the activity of the police, organizing and supervising their activities as far as collection and preservation of evidence is concerned.”

38. The State says that two prosecutors for the Transitory Criminal Regime of Aragua State Judicial District were also commissioned to examine the case and that they, on July 17, 2004, submitted a motion to dismiss to the Sixth Court of First Instance Acting as Court of Control of the aforementioned criminal circuit (hereinafter "the Sixth Court"). The State adds that on November 9, 2004, an oral hearing was held at the Fourth Court of First Instance Acting As Court of Control of the same criminal circuit in order to determine the merits of the motion to dismiss presented by the prosecutor's office.

39. The State mentions that in the course of the hearing the Course of Control rejected the motion to dismiss and referred the record to the Office of the Superior Court Prosecutor for Aragua State (hereinafter “the Office of the Superior Court Prosecutor”), which rectified the prosecutor's petition. The State says that two prosecutors from the Office of the Attorney General for the Transitory Procedural Regime of Aragua State Judicial District are currently commissioned and that they are “proceeding with a series of measures for the relevant legal purposes.”

40. Finally, the State holds that, in keeping with the Constitution and the Code of Criminal Procedure, as the case has progressed, all the necessary formalities have been conducted to determine responsibilities, as is evident, in its opinion, from the current status of the criminal proceeding. In particular, the State mentions that the office of the prosecutor presented a formal indictment on April 6, 2009, and that a preliminary hearing was held at which the indictment brought against three citizens for the crime of complicity in aggravated intentional homicide was admitted in full. According to the State, this proceeding is currently at the public oral trial stage.

IV. ESTABLISHED FACTS

A. The Context of Extrajudicial Executions in Venezuela within the period of the facts

41. Taking into account that among the facts of the case are the deaths of five individuals, allegedly at the hands of state security agents of the state of Aragua, the Commission finds it necessary to explain the characteristics of this issue of extrajudicial executions in Venezuela.

1. International sources

a. International authorities

42. During the *in loco* visit conducted by the Inter-American Commission in that country in 2002, it was possible to confirm the existence of patterns of extrajudicial executions committed by state police officers and/or by para-police or "extermination" groups acting with the acquiescence or collaboration of police officers.³

43. In certain cases, the pattern consists on executions perpetrated during faked confrontations in routine procedures, either in detention operations or raids. In these cases, the victim is murdered at the place where the operation takes place with the police officers alleging that the death occurred during a confrontation with an attacker.⁴ In other cases, the executions occur once the victims have been illegally or arbitrarily detained and take place under state custody. In other circumstances,

³ IACHR, *Report on the Situation of Human Rights in Venezuela*, 2003, paragraphs 321-343.

⁴ IACHR, *Report on the Situation of Human Rights in Venezuela*, 2003, paragraph 333. Citing: COFAVIC/Venezuela, Democracy and Human Rights, Bi-annual Report: January-August 2002. See also: PROVEA, Annual Report No 14, Caracas, Venezuela; COFAVIC/Parapolice Groups in Venezuela, 2005, pages 29 to 33; Human Rights Watch, Annual Reports 1998 and 1999.

they take place after illegal searches by hooded or unidentified persons who then proceed to kill the victims.

44. In its recent report on Democracy and Human Rights in Venezuela, approved on December 30, 2009, the Inter-American Commission referred to information provided by the State relating to the context of extrajudicial executions in the following terms:

Neither did the State answer the request for information on the annual figures for deaths occurring in confrontations with the police over the past five years, although it did report that figures from the Attorney General's Office indicate that during 2008, a total of 509 killings occurred during confrontations or *ajusticiamientos*. (In Venezuela, arbitrary denials of the right to life through extrajudicial killings are generally known as "*ajusticiamientos*").

[...]

The State acknowledges that a preponderance of the reported extrajudicial killings and forced disappearances involve the police, chiefly state and municipal police forces, and it explains that these phenomena are the result of the structural problems that the Venezuelan State, along with other sister countries in the Latin American region, have faced for years. According to the State, in spite of its resolve to continue improving mechanisms and actions to uphold the right to life and physical integrity, certain practices that violate or undermine human rights still remain common in certain state agencies, including the police.⁵

45. The United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions reported in several occasions on the complaints received regarding extrajudicial executions committed in Venezuela by the security forces, as well as the threats made against the victims' families in order to avoid complaints.⁶

46. For its part, in its final observations on Venezuela of April 26, 2001, the Committee on Human Rights stated its grave concern for "the numerous complaints of extrajudicial executions and the State's failure to respond to them".⁷

b. Non governmental organizations

47. Since 1993, Human Rights Watch has also referred to the above recurrent practice in its Annual Reports. In its last report corresponding to 2009, it stated,

In Venezuela [...] extrajudicial executions by the security forces continue to be a recurrent practice. In the last decade, thousands of extrajudicial executions have been recorded. In 2009, the Public Prosecutor presented a complaint indicating that up until 2008 investigations were undertaken in 6,422 cases of violations of human rights by the police, leading to the prosecution of 463 policemen.⁸

48. In a similar sense, in a publication in 2000, Amnesty International stated that it still had serious concerns over the "recent extrajudicial executions" committed by the security forces of the State, and reported that

⁵ IACHR, *Report on the Situation of Human Rights in Venezuela*, Democracy and Human Rights, 2009, paragraphs 739 and 740.

⁶ United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions: E/CN.4/1994-7; E/CN.4/1998/68/Add.1; E/CN.4/1999/39/Add.1; E/CN.4/2001/9/Add.1; E/CN.4/2003/3/Add.1; E/CN.4/2004/7/Add.1. Reports to the General Assembly of the United Nations, see A/55/288, of August 11, 2000: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N00/604/84/PDF/N0060484.pdf?OpenElement>.

⁷ See: <http://www.acnur.org/biblioteca/pdf/1373.pdf>

⁸ See: <http://www.hrw.org/es/world-report-2010/venezuela-0>

in recent years, [...], Amnesty International has received dozens of reports of people dying at the hands of the security forces in circumstances suggesting that they were victims of extrajudicial executions.

The police heads the statistics of those responsible for possible extrajudicial executions, but responsibility was also attributed to the army in several cases. Such incidents have hardly ever been exhaustively investigated and only in a very few cases have those responsible been brought to trial.⁹

49. In its 2008 Annual Report it also reported that up until the end of 2007, none of the recommendations made by the National Commission for Police Reforms had been implemented. Among these were the adoption of measures to improve police responsibility, human rights training and the use of force and the regulation and control of the weapons used by the security forces, etc.¹⁰

2. National sources

a. National authorities

50. This situation has also been recognized by state agencies such as the Ombudsman and the General Prosecutor of the Republic.

51. In its 2001 Annual Report, the Ombudsman indicated that

Among the patterns where a person is deprived of his or her life in an arbitrary manner, the practice of extrajudicial executions, known as *ajusticiamiento*, was recurrent throughout the period of this Annual Report. This term refers to the conduct of agents authorized by law to use force and firearms that has the purpose and intent of causing death.

The situation analyzed here presupposes tendencies permitting the inference of the permanent existence of illegal police practices, resulting in the establishment of a *de facto* death penalty, and which infringes at the same time the fundamental right to life, the values of justice, solidarity and respect towards the individual.

We have identified three elements that favor impunity. The first is the acceptance of the discourse on police confrontations by the organs charged with law enforcement and the citizenry itself, leading to no relevant criminal investigations being undertaken. The second element that protects impunity is the discretionary use of much of the mass media in the states affected by this phenomenon, which present the facts as an effective tool to combat the high levels of insecurity. Lastly, another of the reasons favoring impunity is the general lack of awareness on the part of the citizens of their rights and guarantees, as well as the means to vindicate them.¹¹

52. For its part, when presenting the 2005 Annual Report to the National Assembly, the General Prosecutor of the Republic indicated that between 2000 and 2005, the number of victims of killings perpetrated by the State security forces was 6,377, with a total of 6,100 policemen implicated. Of these cases, 3,346 were killings allegedly committed by the police of the states, 1,198 by agents of the Corps of Scientific, Penal and Criminal Investigations (hereinafter "CSPCI"), 706 by the municipal police, 140 by members of the National Guard, and 72 by members of the Directorate of Intelligence and Prevention Services (DISIP).¹²

⁹ Amnesty International. Venezuela. PROTECTING HUMAN RIGHTS - THE TASK IS NOT YET OVER. Available at <http://www.amnesty.org/en/library/asset/AMR53/008/2000/en/f766fc23-de0f-11dd-a3e1-93acb0aa12d8/amr530082000en.pdf>

¹⁰ Amnesty International. Annual Report. http://www.unhcr.org/refworld/country_COI_AMNESTY_ANNUALREPORT_VEN_483e27bd3c_0.html.

¹¹ Ombudsman of Venezuela. Report: 'Ajusticiamientos' and Forced Disappearances. Yearbook 2001. Available at <http://www.defensoria.gob.ve/lista.asp?sec=1404080002>.

¹² Speech of the General Prosecutor of the Republic on occasion of the release of the Annual Report of 2005. April 25, 2006.

b. Non governmental organizations

53. For more than a decade, the organizations of civil society in Venezuela have also denounced the existence of this problem.

54. For example, PROVEA, in its 1999 Annual Report stated: "With regard to the patterns of violations of the right to life present in the actions of the police and security services, executions were again the pattern under which the largest number of victims were reported, with a total of 59 cases. [...] The definition of execution includes the executions where the state agent shoots with the purpose of causing the immediate death of the victim, which is a *de facto* application of the death penalty. In these cases it is usual - as has already been mentioned - that the official version of events speak of a confrontation and the extensive criminal records of the victims. In the vast majority of cases, the family members deny such confrontations afterwards".¹³

55. In its more recent reports, PROVEA indicated that extrajudicial executions make up the highest number of violations of the right to life in Venezuela. Again, in the 2007-2008 Annual Report, it noted that of the 247 victims of a violation of the right to life, 196 (84.85%) were due to extrajudicial executions.¹⁴ In the 2009 Annual Report it also indicated that the pattern of "executions" makes up more than half of all known deaths as violations of the right to life (135 deaths out of 205, 65.85% in total).¹⁵

56. Regarding the incidence of this context in the state of Aragua, in its 1997 Annual Report PROVEA indicated that the State of Aragua has been singled out as the state with the highest number of extrajudicial executions committed in Venezuela, with more than 20 complaints in that year.

57. Additionally, the Commission of Human Rights, Justice and Peace of Aragua in its report *Balance of the Situation of Human Rights in the State of Aragua between June 1996 and March 2003*, indicates that alleging "citizen insecurity", preventative plans have been made aimed at the detection, detention and retention of citizens suspected of criminal behavior. After this they were more thoroughly looked for with the purpose of a killing or a forced disappearance.¹⁶

58. Specifically, this report indicates that, initially, citizens already identified by subjective characteristics are looked for: "commonly it is aimed at low income groups [...] they detain those allegedly involved without implementing the relevant measures demanded by the officer's function, and they shoot directly at the individuals allegedly caught *in flagrante* committing a crime. Or, on being detained, they are treated brutally, with blows [...] and in many cases shot at close range in the presence of witnesses. They are taken to the police unit wounded, after which they then turn up murdered in some abandoned area or admitted to a hospital or medical centre with no signs of life."¹⁷

B. The brothers Landaeta Mejías, their family, and complaints of threats

59. Igmarr Alexander Landaeta Mejías was born on November 26, 1977.¹⁸ The young man, who was 18 years old when he died, worked as a laborer for the company *Inversiones S y L C.A.*¹⁹ His

¹³ PROVEA. Available at: http://www.derechos.org.ve/publicaciones/infannual/1996_97/derecho_vida.htm.

¹⁴ PROVEA. Available at: <http://www.derechos.org.ve/proveaweb/wp-content/uploads/132-vida1.pdf>

¹⁵ PROVEA. Available at: <http://www.derechos.org.ve/proveaweb/wp-content/uploads/20-vida.pdf>

¹⁶ Balance of the Situation of Human Rights in the State of Aragua between July 1996 and March 2003, prepared by the Commission of Human Rights, Justice and Peace of the State of Aragua

¹⁷ Balance of the Situation of Human Rights in the State of Aragua between July 1996 and March 2003, prepared by the Commission of Human Rights, Justice and Peace of the State of Aragua.

¹⁸ Appendix 1. Identity card of Igmarr Alexander Landaeta Mejías (Appendix 2 to the petitioners' brief of August 14, 2009).

life partner was Francy Yelut Parra Guzmán, who was pregnant at the time of the events. Their daughter is Johanyelis Alejandra.

60. Eduardo José Landaeta Mejías was born on March 6, 1979.²⁰ He was Igmarr Alexander's younger brother, worked as a laborer,²¹ and was 17 years old the time of his death.

61. The mother of the two brothers, María Magdalena Mejías, was a housewife, while their father, Ignacio Landaeta Muñoz, was an accountant.²² Igmarr Alexander and Eduardo José's sisters are Victoria Eneri and Leydis Rossimar Landaeta Galindo.²³

62. In the final months of 1996, the Landaeta Mejías family had been complaining to the judicial authorities and the media about threats made toward them and a vendetta against the brothers Igmarr Alexander and Eduardo José by members of the Public Order and Security Corps.²⁴ Thus, for instance:

- On November 19, 1996, after the death of Igmarr Alexander (see below) and before the arrest of Eduardo José, Mrs. María Magdalena Mejías complained to the media that officer Francisco Alberto Castillo had been having her followed for more than a month. In her words, "One time he raided my house and told me that he would kill either of my sons and that he did not care if I reported him to the Attorney General's Office."²⁵

- When Eduardo José Landaeta Mejías was arrested on December 30, 1996 (see below), Mr. Ignacio Landaeta Muñoz went to the CSOP to report that his son was in danger given the death threats that he had received previously.²⁶

- In the framework of the criminal proceeding, María Magdalena Mejías gave the following statement: "In addition to everything that I have stated I wish it to be clearly known for the record that I was harassed by the policeman Francisco Alberto Castillo Matute. Without any evidence, he stopped me from sleeping at night, looking for my son. Once he even lifted up the tin roof, entered my home while no one was there, and left by the back door. It was a tremendous shock to arrive home and see him coming out. And he was asking me where my son, Eduardo José Landaeta, was. I was asking him what was wrong and he threatened me (...)"²⁷

- In the framework of the criminal proceeding, Ignacio Landaeta Muñoz stated that "it all began with the harassment by officers of the Aragua State Public Order and Security Corps, who more than once, without a court order raided the house where my son, Eduardo José Landaeta,

...continuation

¹⁹ Appendix 2. Complaint to the Sixth Court of First Instance for Criminal Matters in and for Aragua State Judicial District, September 23, 1997 (Appendix 32 to the petitioners' brief of August 14, 2009); See also Appendix 3. Article in the *El Periódico Diario de Aragua*, August 19, 1996 (Appendix 21 to the petitioners' brief of August 14, 2009).

²⁰ Appendix 4. Birth certificate of Eduardo José Landaeta (Appendix 1. A. a) to the petitioners' brief with observations on merits of July 18, 2007).

²¹ Appendix 5. Death certificate of Eduardo José Landaeta (Appendix 1. A. b) to the petitioners' brief with observations on merits of July 18, 2007).

²² Appendix 4. Birth certificate of Eduardo José Landaeta (Appendix 1. A. a) to the petitioners' brief with observations on merits of July 18, 2007).

²³ Appendix 6. Certificates of studies (Appendix 1. E. a), b), and c) to the petitioners' brief with observations on merits of July 18, 2007). See also. Appendix 7. Identity cards (Appendix 42 to the petitioners' brief of August 14, 2009).

²⁴ Appendix 7. Press reports on the deaths of the brothers Landaeta Mejías (Appendix O to the initial petition, 908/04. Igmarr Alexander Landaeta Mejías).

²⁵ Appendix 7. Press reports on the deaths of the brothers Landaeta Mejías (Appendix O to the initial petition, 908/04. Igmarr Alexander Landaeta Mejías).

²⁶ Appendix 8. Official letters addressed to various authorities by Ignacio Landaeta Muñoz (Appendix 1. D to the petitioners' brief with observations on merits of July 18, 2007). This fact was not contested by the State.

²⁷ Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, pages 241 and 242. Part of the statement is missing (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

lived with his mother, Maria Mejías, and his brother, Igmarr Alexander. This abuse by the police got to the point where, when there was no one home, they would force open the door, break the windows, and get in through the roof to search the house. Those policemen were identified by Eduardo José's mother as Francisco Alberto Castillo Matute, Andrés José Castillo García, Carlos Julio Zacarías Moreno, a brother of the last officer named Omar Zacarías Moreno (this citizen was not a police officer), and others whose name is unknown. DEATH THREAT. At the beginning of November 1996, two police officers, identified as Francisco Alberto Castillo Matute and Andrés José Castillo García, arrived at the home of the deceased and told his mother that when they managed to catch Eduardo José they were going to kill him, or kill his brother, Igmarr Alexander, or kill both brothers at the same time, and that she could report them if she wanted. María told me what had happened and I told her to go to the Judicial Police Technical Corps and report those policemen. She did so, but when she arrived at the office to file the complaint, the official who saw her told her that the complaint would not be admitted because the persons she was reporting were police officers and they were allowed to act like that."²⁸

C. The death of Igmarr Alexander Landaeta Mejías on November 17, 1996

63. Igmarr Alexander Landaeta Mejías died on November 17, 1996, at the age of 18 in the Mariño Municipality, Aragua State, following an incident involving a number of men, who in the subsequent criminal proceeding were identified as CSOP police officers. According to the autopsy report, the cause of death was severe contusion of the brain and facial-cranial injury caused by a firearm projectile.²⁹

64. Having reviewed the record, the Commission finds that there are two versions of the circumstances surrounding the death of Igmarr Alexander Landaeta Mejías.

65. On one hand, there are several witness accounts that indicate that on the afternoon of the day he died Igmarr Alexander Landaeta Mejías was in the company of another person³⁰ when he was intercepted by a vehicle.³¹ The men in plain clothes who were in the vehicle told him to stop, which prompted Igmarr Alexander to run, whereupon he fell to the ground because he had been struck in the back by a bullet.³² As he lay on the ground, two men got out of the vehicle and one of them shot Alexander in the face with a firearm, after the youth asked him not to kill him.³³ As this was happening the

²⁸ Appendix 10 to the initial petition received on April 24, 2006. Brief presented on October 11, 2005 to the Directorate of Procedural Action of the Office of the Attorney General.

²⁹ Appendix 11. Autopsy No. 872-96. Judicial Police Technical Corps. Medical Examiner's Office. November 19, 1996 (Appendix 11 to the petitioners' brief of August 14, 2009).

³⁰ Appendix 12. Testimony of Yaiksel Elizabeth Garrido Rodríguez to the Lower Court of the Municipalities of Santiago Mariño and Libertador, April 24, 1997 (Appendix 12 to the petitioners' brief of August 14, 2009); Appendix 13. Testimony of Yaiksel Elizabeth Garrido Rodríguez to the Sixth Criminal Court of First Instance, August 6, 1998 (Appendix 13 to the petitioners' brief of August 14, 2009).

³¹ Appendix 14. Complaint of Ignacio Landaeta Muñoz to the Director of Procedural Action of the Office of the Attorney General, October 11, 2005 (Appendix 6 to the petitioners' brief of August 14, 2009); Appendix 15. Statement of Vicmar Lovdinet Colmenares Acosta to the Judicial Police Technical Corps, November 18, 1996 (Appendix 9 to the petitioners' brief of August 14, 2009); Appendix 16. Statement of Francisca Acosta Jaspe to the Judicial Police Technical Corps, November 18, 1996 (Appendix 10 to the petitioners' brief of August 14, 2009); Appendix 17. Complaint to the Sixth Court of First Instance for Criminal Matters in and for Aragua State Judicial District, September 23, 1997 (Appendix 32 to the petitioners' brief of August 14, 2009); and Appendix 18. Press report in *El Aragüeyño*, Maracay, November 18, 1996 (Appendix 19 to the petitioners' brief of August 14, 2009).

³² Appendix 12. Testimony of Yaiksel Elizabeth Garrido Rodríguez to the Lower Court of the Municipalities of Santiago Mariño and Libertador, April 24, 1997 (Appendix 12 to the petitioners' brief of August 14, 2009); and Appendix 18. Statement of Adeisa de la Trinidad Moffi García to the Judicial Police Technical Corps, November 18, 1996 (Appendix 7 to the petitioners' brief of August 14, 2009).

³³ Appendix 18. Statement of Adeisa de la Trinidad Moffi García to the Judicial Police Technical Corps, November 18, 1996 (Appendix 7 to the petitioners' brief of August 14, 2009); Appendix 16. Statement of Francisca Acosta Jaspe to the Judicial Police Technical Corps, November 18, 1996 (Appendix 10 to the petitioners' brief of August 14, 2009); and Appendix 15. Statement of Vicmar Lovdinet Colmenares Acosta to the Judicial Police Technical Corps, November 18, 1996 (Appendix 9 to the petitioners' brief of August 14, 2009).

other man fired shots into the air.³⁴ Then, a woman got out of the car, and went over to the body, and told one of the men that he had the wrong person.³⁵ Several statements indicate that Igmarr Alexander did not have a firearm in his possession.³⁶

66. On the other hand, the police report of the incident and other statements indicate that the death was the result of an exchange of shots with police officers.³⁷ An entry in the day book for day of the killing records a telephone call received at the local police precinct reporting an exchange of shots with a "citizen known as Landaeta," who had reportedly been taken to the appropriate medical facility.³⁸ That same day the officers Andrés José Castillo and Gerardo Castillo Freites reported an exchange of shots with two individuals who had allegedly been "acting irregularly."³⁹ The officers claimed to have recovered a weapon from Igmarr Alexander Landaeta Mejías,⁴⁰ which was turned in to the Turmero Police Precinct.⁴¹

67. The available information indicates that the two men, who were later accredited as police officers, picked up Igmarr Alexander's body, placed it in the vehicle,⁴² and drove it to Turmero medical center. According to the police record signed by officer Ildegar Farrera, he arrived at the outpatient center together with another police officer, where they confirmed that the young man was taken inside. According to the doctor at the center some unidentified individuals in a white vehicle without number plates left the young man's body in the emergency room with two gunshot wounds and no vital signs.⁴³

68. In its legal analysis the Commission analyzes the two versions in the light of the circumstances that surrounded the events and what was established in the ensuing investigations, in order to determine the legal consequences of the facts under the American Convention.

³⁴ Appendix 16. Statement of Francisca Acosta Jaspe to the Judicial Police Technical Corps, November 18, 1996 (Appendix 10 to the petitioners' brief of August 14, 2009); Appendix 17. Complaint to the Sixth Court of First Instance for Criminal Matters in and for Aragua State Judicial District, September 23, 1997 (Appendix 32 to the petitioners' brief of August 14, 2009); and Appendix 19. Statement of José Francisco Hernández Ramírez (Appendix 33 to the petitioners' brief of August 14, 2009).

³⁵ Appendix 18. Statement of Adeisa de la Trinidad Moffi García to the Judicial Police Technical Corps, November 18, 1996 (Appendix 7 to the petitioners' brief of August 14, 2009); and Appendix 20. Decision of the Office of the Sixth Prosecutor of Aragua State Judicial District, May 21, 1998 (Appendix 34 to the petitioners' brief of August 14, 2009).

³⁶ Appendix 18. Statement of Adeisa de la Trinidad Moffi García to the Judicial Police Technical Corps, November 18, 1996 (Appendix 7 to the petitioners' brief of August 14, 2009); and Appendix 16. Statement of Francisca Acosta Jaspe to the Judicial Police Technical Corps, November 18, 1996 (Appendix 10 and 33 to the petitioners' brief of August 14, 2009); Appendix 15. Statement of Vicmar Lovdinet Colmenares Acosta to the Judicial Police Technical Corps, November 18, 1996 (Appendix 9 to the petitioners' brief of August 14, 2009); Appendix 21. Statement of Cristin Jesús Chávez (Appendix 17 to the petitioners' brief of August 14, 2009).

³⁷ Appendix 20. Decision of the Office of the Sixth Prosecutor of Aragua State Judicial District, May 21, 1998 (Appendix 34 to the petitioners' brief of August 14, 2009). Citing the police report signed by Gerardo Castillo Freites on November 17, 1996; and Appendix 20. Decision of the Office of the Sixth Prosecutor of Aragua State Judicial District, May 21, 1998. (Appendix 34 to the petitioners' brief of August 14, 2009), citing statement of Zacarías de Villanueva, July Esther

³⁸ Appendix 20. Decision of the Office of the Sixth Prosecutor of Aragua State Judicial District, May 21, 1998 (Appendix 34 to the petitioners' brief of August 14, 2009), p. 1.

³⁹ Appendix 20. Decision of the Office of the Sixth Prosecutor of Aragua State Judicial District, May 21, 1998 (Appendix 34 to the petitioners' brief of August 14, 2009), p. 2

⁴⁰ Appendix 22. Testimony of Gerardo Castillo Freites and Andrés José Castillo García referred to in the Judgment of the Second Lower Court of the Transitory Procedural Regime of October 13, 2000. pp. 12 and 13 (Appendix 37 to the petitioners' brief of August 14, 2009).

⁴¹ Appendix 23. Report of the Judicial Police Technical Corps, November 18, 1996 (Appendix 25 to the petitioners' brief of August 14, 2009).

⁴² Appendix 16. Statement of Francisca Acosta Jaspe to the Judicial Police Technical Corps, November 18, 1996 (Appendix 10 to the petitioners' brief of August 14, 2009).

⁴³ Appendix 24. Police record on the interview with Dr. Velmar Quintero (Appendix 15 to the petitioners' brief of August 14, 2009); and Appendix 20. Decision of the Office of the Sixth Prosecutor of Aragua State Judicial District, May 21, 1998 (Appendix 34 to the petitioners' brief of August 14, 2009), p. 2.

D. The arrest, transfer, and death of Eduardo José Landaeta between December 29 and 31, 1996

69. On December 29, 1996, Eduardo José Landaeta Mejías, aged 17, was apprehended “on a preventive basis” by CSOP officers.⁴⁴ There is no mention in the police record of an outstanding warrant or that a crime was in progress. The police arrest report states that Eduardo José “was being sought” by the Judicial Police Technical Corps in connection with an investigation into an alleged homicide.⁴⁵ The police report states that, upon catching sight of the group of policemen, Eduardo José took flight and was chased by the former before being detained and taken to Police Precinct No. 5, where he was identified as Eduardo José Landaeta Mejías, aged “18 years” and without identification.⁴⁶

70. On December 30, 1996, Police Precinct No. 5, transferred Eduardo José Landaeta Mejías to the CSOP headquarters.⁴⁷ That same day, after receiving a call from Eduardo José,⁴⁸ his father, Ignacio Landaeta Muñoz went to the CSOP to report that his son was in danger, given the previous death threats that he received. While there, a policewoman told him not to leave as his son was in danger. He was also told by a sergeant that some officers wanted to kill his son, who indicated to him using signs that he should not be left on his own.⁴⁹ In the evening of that day, December 30, 1996, Mrs. María Magdalena Mejías arrived at the CSOP headquarters, where she said that Eduardo José was her son, mentioned that he was a minor, and produced his identity card as well as a copy of his birth certificate.⁵⁰ Mrs. María Maggalena Mejías stated that when she arrived there she was told that her son was going to be transferred, to which she was opposed.⁵¹

71. The transfer of Eduardo José Landaeta Mejías from the CSOP headquarters to the CTPJ was scheduled for December 31, 1996.⁵² The transfer was carried out in a red Fiat sedan, with the number plate DAF-91Z.⁵³

72. On December 31, 1996, in the course of this transfer, Eduardo José Landaeta Mejías was killed. He was 17 years old and in the custody of the State. The cause of death, according to the medical certificate, were a fractured skull and multiple injuries caused by a firearm.⁵⁴ As is described

⁴⁴ The officers were José Cortéz and Carlos Varela. Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04 (Appendix 2 to the petitioners’ brief with observations on merits of July 18, 2007), page 140.

⁴⁵ It also states that the person who ordered the arrest was police officer Carlos Requena. Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04 (Appendix 2 to the petitioners’ brief with observations on merits of July 18, 2007), page 286.

⁴⁶ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04 (Appendix 2 to the petitioners’ brief with observations on merits of July 18, 2007), pages 30 and 35.

⁴⁷ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04 (Appendix 2 to the petitioners’ brief with observations on merits of July 18, 2007), page 190. The record of transfer is undated. However, based on the petitioners’ version of events, which is not contested by the State, it emerges that this transfer took place on December 13, 1996.

⁴⁸ Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, page 240. Part of the declaration is missing. (Appendix 2 to the petitioners’ brief with observations on merits of July 18, 2007).

⁴⁹ Appendix 8. Official letters addressed to various authorities by Ignacio Landaeta Muñoz (Appendix 1. D to the petitioners’ brief with observations on merits of July 18, 2007). This fact was not contested by the State.

⁵⁰ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04 (Appendix 2 to the petitioners’ brief with observations on merits of July 18, 2007), page 31.

⁵¹ Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, pages 241 and 242. Part of the statement is missing (Appendix 2 to the petitioners’ brief with observations on merits of July 18, 2007).

⁵² The police officers assigned to carry out this transfer were Carlos Andrés Requena Mendoza, Carlos Alexander Rojas Alvarado, and Freddy Antonio Blanco Pérez. See Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04 (Appendix 2 to the petitioners’ brief with observations on merits of July 18, 2007), pages 410 and 411.

⁵³ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, page 28. (Appendix 2 to the petitioners’ brief with observations on merits of July 18, 2007).

⁵⁴ Appendix 5. Death certificate of Eduardo José Landaeta (Appendix 1. A. b) to the petitioners’ brief with observations on merits of July 18, 2007).

below, the autopsy found that the body of Eduardo José Landaeta Mejías had 13 orifices caused by firearm projectiles, which were located in his right arm, left arm, the dorsolumbar region, right leg, and head. For each of these, an entry and an exit wound as well as the bullet trajectories were specified. It also indicated that the body had significant internal injuries in addition to other lesions, such as: “a) Partial detachment of the skin on the right buttock with the appearance of burning, with the same characteristics on both elbows; b) Moderately deep and incomplete circular marks on both wrist joints; and, c) Bruising on the lower lip.” It was concluded that the cause of death was severe contusion of the brain; injury to the skull caused by firearm projectiles (2); and multiple gunshot wounds from a single firearm (13).⁵⁵

73. A transcription of the police day book for December 31, 1996 states, “message received from Centralista del Sistema de Análisis Región Aragua (SARA), reporting that in the Valle Lindo sector a police unit attached to intelligence was intercepted by several individuals aboard another vehicle carrying firearms, leaving one officer wounded and one dead. Nothing further known about this incident.”⁵⁶

74. The version provided by the officers concerned contains several inconsistencies of detail with respect to times and the number of persons who supposedly attacked them. Broadly speaking, the version offered by the officers indicates that while they were transferring Eduardo José Landaeta Mejías, between four and six unidentified persons intercepted them, got out of the car, removed their weapons, and opened fire, with the result that Eduardo José was killed and one of the officers was wounded.⁵⁷ Furthermore, two women identified by the same officers as eyewitnesses, provided declarations on this version on a number of occasions, albeit with inconsistencies.⁵⁸

75. A group of people from the Medical Examiner's Office, the Ninth Prosecutor of Aragua State Attorney General's Office, and a policeman went to the scene to witness the removal of the corpse, which was taken to the Aragua State Medical Examiner's Office.⁵⁹ The CTPJ interviewed people from the neighborhood, who said they had no knowledge of the incident.⁶⁰

E. Press coverage of the incident

76. A newspaper article on the death of Eduardo José was published on January 2, 1997, which reported, *inter alia*:

- “It is odd that the PTJs [Judicial Technical Police] and the police were supposedly unable to provide a statement to the reporters who were at the scene and the vehicle was taken away unusually quickly for the Judicial Technical Police.”

⁵⁵ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007), pages 121-123.

⁵⁶ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007), page 24.

⁵⁷ Appendix 25. Statement of Carlos Alexander Rojas Alvarado to the Judicial Police Technical Corps, December 31, 1996 (Appendix 2 to the initial petition received on April 24, 2006); Appendix 26. Statement of Carlos Andrés Requena Mendoza to the Judicial Police Technical Corps, December 31, 1996 (Appendix 2 to the initial petition received on April 24, 2006); Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, pages 86 and 87 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007); Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, pages 193 and 194 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007); Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, page 129 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007); Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, page 141 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

⁵⁸ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, pages 130 and 131 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007); Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, pages 206 and 207 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007); Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, page 226 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

⁵⁹ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007), page 24.

⁶⁰ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007), page 24.

- "The police source said that the young man's police record included a string of offenses and that perhaps it was someone with a grievance who had decided to take justice into his own hands."⁶¹

77. A separate article published on January 2, 1997, stated, "According to versions provided by the Judicial Technical Police of Turmero, the deceased had been arrested because he was wanted for questioning by that office in connection with various crimes."⁶²

F. Investigations and judicial proceedings opened in connection with the deaths of the brothers Landaeta Mejías

78. A number of investigations were launched as a result of the deaths of Igmarr Alexander and Eduardo José Landaeta Mejías. The commission will analyze the facts in connection with these proceedings separately.

1. Regarding the death of Igmarr Alexander Landaeta Mejías

79. On the same day, November 17, 1996, a group of officials from the CTPJ went to the morgue at Turmero medical center and conducted a visual inspection of the corpse of Igmarr Alexander Landaeta Mejías.⁶³ A vision inspection of the scene was carried out in the evening of that same day.⁶⁴

80. On November 18, 1996, a police procedure was carried out in which a record was made of the delivery of a firearm, which, according to the police version of the incident, was confiscated from Igmarr Alexander,⁶⁵ together with four used rounds and two unused rounds.⁶⁶ This weapon was not registered.⁶⁷

81. On November 19, 1996, an autopsy was carried out on the corpse of Igmarr Alexander Landaeta Mejías, which found that death was caused by severe brain contusion and a facial-cranial wound caused by a firearm projectile in the bridge of the nose and in the left side of the torso with significant internal injuries.⁶⁸ That same day, a gunshot residue analysis was requested on Igmarr Alexander's corpse.⁶⁹ This procedure was carried out on November 29, 1996, and produce positive results on both of Igmarr Alexander's hands.⁷⁰

⁶¹ Appendix 27. Press reports. Article in the *El Periódico Diario de Aragua*, January 2, 1997 (Appendix 1. C. a) to the petitioners' brief with observations on merits of July 18, 2007).

⁶² Appendix 27. Press reports. Article in *El Aragueño*, January 2, 1997 (Appendix 1 C b) to the petitioners' brief with observations on merits of July 18, 2007).

⁶³ Appendix 28. Vision Inspection No. 1581 at Turmero medical center morgue, November 17, 1996 (Appendix 23 to the petitioners' brief of August 14, 2009).

⁶⁴ Appendix 29. Vision Inspection No. 1502 at the scene of the incident, November 16, 1996 (Appendix 24 to the petitioners' brief of August 14, 2009); Appendix 20. Decision of the Office of the Sixth Prosecutor of Aragua State Judicial District, May 21, 1998 (Appendix 34 to the petitioners' brief of August 14, 2009), p. 2.

⁶⁵ Appendix 20. Decision of the Office of the Sixth Prosecutor of Aragua State Judicial District, May 21, 1998 (Appendix 34 to the petitioners' brief of August 14, 2009), p. 2.

⁶⁶ Appendix 20. Decision of the Office of the Sixth Prosecutor of Aragua State Judicial District, May 21, 1998 (Appendix 34 to the petitioners' brief of August 14, 2009), in reference to Invoice No. 254-96.

⁶⁷ Appendix 23. Police Record of the Judicial Police Technical Corps, November 18, 1996 (Appendix 25 to the petitioners' brief of August 14, 2009).

⁶⁸ Appendix 11. Autopsy No. 872-96. Judicial Police Technical Corps. Medical Examiner's Office. November 19, 1996 (Appendix 11 to the petitioners' brief of August 14, 2009).

⁶⁹ Appendix 30. Memorandum for gunshot residue analysis, November 19, 1996 (Appendix 26 to the petitioners' brief of August 14, 2009).

⁷⁰ Appendix 31. Gunshot residue analysis, November 29, 1996 (Appendix 27 to the petitioners' brief of August 14, 2009).

82. On November 21, 1996, the Office of the Ninth Prosecutor in and for Aragua State requested that the case file be forwarded in order to evaluate “the participation of police officers in the performance of their duties.”⁷¹ On November 27, 1996, the same prosecutor's office requested information on Gerardo Castillo Freites' and Andrés José Castillo's connection with the CSOP at the time of the events and at the time of the request.⁷² On January 8, 1997, the Commandant of the CSOP reported that the above-named officers were still on active duty.⁷³

83. On February 24, 1997, the Office of the Ninth Prosecutor in and for Aragua State presented a formal indictment against officers Gerardo Castillo Freites and Andrés José Castillo García for the crimes of homicide and improper use of a firearm.⁷⁴

84. On September 12, 1997, the Lower Court of the Municipalities of Santiago Mariño and Libertador in Aragua State, announced the closure of the preliminary investigation based on lack of conclusive proof “that the punishable act had been committed” and lack of evidence of the guilt of the accused officers.⁷⁵ The evidence supporting the above decision were the statements of persons who were present at the scene, which differed over the existence or nonexistence of an exchange of fire between the officers and Igmarr Alexander.⁷⁶ That decision was upheld by the Sixth Criminal Court on October 1 that same year.⁷⁷

85. On November 11, 1997, the Third Superior Criminal Court in and for Aragua State vacated the decision of September 12, 1997, mentioned in the preceding paragraph. At the same time, it ordered the judicial detention of officers Gerardo Castillo Freites and Andrés José Castillo García, citing “compelling evidence of guilt and criminal responsibility” against them for the crimes of a intentional homicide and improper use of a firearm.⁷⁸ This court underscored that the cause of death was a gunshot to the bridge of the nose, which left a contusion ring.⁷⁹ Furthermore, the court held that, by failing to identify themselves and by withdrawing from the medical center where they left the body, the officers involved did not act in a manner consistent with the standards to which they were bound as members of the security forces.⁸⁰

86. On May 21, 1998, the Office of the Sixth Prosecutor of the Attorney General's Office filed charges against officers Gerardo Castillo Freites and Andrés José Castillo García for the crimes of

⁷¹ Appendix 32. Request from the Ninth Prosecutor of the Attorney General's Office to the Judicial Police Technical Corps, November 21, 1996 (Appendix 28 to the petitioners' brief of August 14, 2009).

⁷² Appendix 33. Official letter to the Court of the Municipality of Mariño, November 27, 1996, (Appendix 29 to the petitioners' brief of August 14, 2009).

⁷³ Appendix 20. Decision of the Office of the Sixth Prosecutor in and for Aragua State Judicial District, May 21, 1998 (Appendix 34 to the petitioners' brief of August 14, 2009), p. 5.

⁷⁴ Appendix 34. Formal indictment before the Office of the Ninth Prosecutor in and for Aragua State Judicial District, February 24, 1997 (Appendix 30 to the petitioners' brief of August 14, 2009).

⁷⁵ Appendix 35. Closure of the preliminary investigation by the Lower Court of the Municipalities of Santiago Mariño and Libertador in Aragua State, September 12, 1997 (Appendix 31 to the petitioners' brief of August 14, 2009).

⁷⁶ Appendix 35. Closure of the preliminary investigation by the Lower Court of the Municipalities of Santiago Mariño and Libertador in Aragua State, September 12, 1997 (Appendix 31 to the petitioners' brief of August 14, 2009). In reference to the declaration of the citizen José Gregorio del Rosso Dona.

⁷⁷ Appendix 20. Decision of the Office of the Sixth Prosecutor in and for Aragua State Judicial District, May 21, 1998 (Appendix 34 to the petitioners' brief of August 14, 2009), p. 6.

⁷⁸ Appendix 36. Decision of the Third Superior Criminal Court in and for Aragua State Judicial District, November 11, 1997 (Appendix 33 to the petitioners' brief of August 14, 2009); and Appendix 20. Decision of the Office of the Sixth Prosecutor in and for Aragua State Judicial District, May 21, 1998 (Appendix 34 to the petitioners' brief of August 14, 2009), p. 6

⁷⁹ Appendix 36. Decision of the Third Superior Criminal Court in and for Aragua State Judicial District, November 11, 1997 (Appendix 33 to the petitioners' brief of August 14, 2009).

⁸⁰ Appendix 36. Decision of the Third Superior Criminal Court in and for Aragua State Judicial District, November 11, 1997 (Appendix 33 to the petitioners' brief of August 14, 2009).

manslaughter and improper use of a firearm. That prosecutor's office disagreed with the assessment of the Third Superior Court owing to the reliance on apparently contradictory statements,⁸¹ which, therefore, lacked "credibility."⁸² Reference was also made to information obtained from the planimetric study and the autopsy, indicating the impact of a bullet from long range, according to the prosecutor's office, based on the contusion ring identified.⁸³

87. On May 26, 1998, the Sixth Criminal Court of First Instance granted the accused provisional release on bail in response to a motion of the defense.⁸⁴ On July 21, 1998, the same court issued a decision to better the course of proceedings (*auto para mejor proveer*), in which it instructed the CTPJ to conduct a number of procedures.⁸⁵

88. On October 13, 2000, the Second Court of the Transitory Procedural Regime returned a judgment at first instance. On one hand, it absolved officer Andrés José Castillo García, declaring it accredited that there had been a confrontation in the course of his intelligence work, and also that the cause of the young man's death was not the gunshot that resulted from that confrontation with the police.⁸⁶ Specifically, this court found that there were grounds for exclusion of responsibility as it considered that the aforesaid officer acted "in the performance of a duty, or in the legitimate exercise of a right, authority, office, or post, without exceeding the bounds of the law." On the other hand, it convicted officer Gerardo Castillo Freites of the crime of intentional homicide as a result of the second gunshot wound following the exchange of fire. The judgment states that this gunshot was unnecessary and was precisely what caused Igmarr Alexander Landaeta Mejías' death.⁸⁷ Finally, it ruled that the statute of limitations on criminal action for the crime of improper use of a firearm had run.⁸⁸

89. On April 25, 2002, the Court of Appeals of Aragua State Criminal Circuit ruled on the appeal filed by Gerardo Castillo Freites's defense. This Court of Appeals upheld the conviction of Gerardo Castillo Freites, but differed from the legal assessment made by the office of the prosecutor, stating that the applicable offense was intentional homicide as the officer's intent to cause the victim's death was accredited. This judgment refers to "the disproportion between the harm caused by the perpetrator and his intention to carry out the punishable act."⁸⁹ The Court of Appeals rejected the declarations that supported the argument that there had been an exchange of fire, finding that their evaluations were "subjective and the [veracity of their versions was] not convincing."⁹⁰

⁸¹ This court had adjudged the deed to be intentional homicide. Appendix 20. Decision of the Office of the Sixth Prosecutor in and for Aragua State Judicial District, May 21, 1998 (Appendix 34 to the petitioners' brief of August 14, 2009), p. 18.

⁸² Appendix 20. Decision of the Office of the Sixth Prosecutor in and for Aragua State Judicial District, May 21, 1998 (Appendix 34 to the petitioners' brief of August 14, 2009), p. 17.

⁸³ Appendix 20. Decision of the Office of the Sixth Prosecutor in and for Aragua State Judicial District, May 21, 1998 (Appendix 34 to the petitioners' brief of August 14, 2009), p. 17.

⁸⁴ Appendix 37. Decision of the Sixth Criminal Court of First Instance, May 26, 1998 (Appendix 35 to the petitioners' brief of August 14, 2009); Appendix 38. Release orders Nos. 163 and 164, May 26, 1998, Sixth Criminal Court of First Instance (Appendix 36 to the petitioners' brief of August 14, 2009).

⁸⁵ Appendix 39. Judgment of the Second Court of the Transitory Procedural Regime, October 13, 2000 (Appendix 37 to the petitioners' brief of August 14, 2009),

⁸⁶ Appendix 39. Judgment of the Second Court of the Transitory Procedural Regime, October 13, 2000 (Appendix 37 to the petitioners' brief of August 14, 2009), p. 15.

⁸⁷ Appendix 39. Judgment of the Second Court of the Transitory Procedural Regime, October 13, 2000 (Appendix 37 to the petitioners' brief of August 14, 2009), p. 20.

⁸⁸ Appendix 39. Judgment of the Second Court of the Transitory Procedural Regime, October 13, 2000 (Appendix 37 to the petitioners' brief of August 14, 2009), p. 23

⁸⁹ Appendix 40. Decision of the Court of Appeals of Aragua State Criminal Circuit, November 10, 2003 (Appendix 40 to the petitioners' brief of August 14, 2009).

⁹⁰ Appendix 40. Decision of the Court of Appeals of Aragua State Criminal Circuit, November 10, 2003 (Appendix 40 to the petitioners' brief of August 14, 2009).

90. Mr. Castillo Freites' defense filed a motion for cassation against this judgment at second instance. The office of the Sixth Prosecutor and Mr. Ignacio Landaeta were notified of this motion. The available information shows that neither presented a response to the motion.

91. On November 29, 2002, the Criminal Cassation Chamber of the Supreme Court of Justice vacated the decision of the Court of Appeals of April 25, 2002, based on a procedural flaw that resulted in a mistrial. The Supreme Court of Justice ruled that although the trial and the evaluation of evidence had taken place while the since-repealed Code of Criminal Procedure [*Código de Enjuiciamiento Criminal*] had been in force, the examination conducted by the Court of Appeals should have been done under the Transitory Procedural Regime, which required a fresh examination and weighing of the evidence offered and studied by the court of first instance. The Supreme Court of Justice found that the Court of Appeals had not met that requirement and, therefore, vacated the decision and returned the case to its status just prior to the Court of Appeal's examination of the appeal.⁹¹

92. On November 10, 2003, the Court of Appeals of Aragua State Criminal Circuit,⁹² in keeping with the decision on the motion for cassation, ordered that the case be dismissed in favor of Mr. Castillo Freites. In first place, the Court of Appeals found that the applicable offense was manslaughter as the body of evidence did not suggest that there was intent on the part of the officer to cause the death of Igmor Alexander Landaeta Mejías. In that regard, the Court of Appeals made reference to the doubt as to intent raised by the projectile trajectory analysis, the contusion ring on the deceased's face, and the contradicting testimony. Accordingly, the Court of Appeals found Gerardo Castillo Freites guilty of the crime of manslaughter on the grounds that the effect caused (death) exceeded the intent of the officer, who, in the exchange of fire, sought to wound the young man so as to effect his capture. However, the Court invoked a ground for exclusion of responsibility in that the officer was performing a legitimate duty and acted in legitimate self-defense in order to repel the attack and "subjugate the assailant."⁹³ This decision included a dissenting opinion on the part of the president of the Court of Appeals, who believed that there was sufficient proof to convict Mr. Castillo Freites.⁹⁴

93. On December 5, 2003, Ignacio Landaeta Muñoz requested the Supreme Court of Justice and the Commission on the Functioning and Restructuring of the Judicial System to open and administrative inquiry against the judges on the Court of Appeals on the grounds that they did not properly weigh the evidence provided by the Office of the Attorney General in the judgment dismissing the case. The Commission has no information as to whether or not and administrative inquiry was indeed opened.

2. Regarding the death of Eduardo José Landaeta Mejías

⁹¹ Appendix 41. Decision of the Criminal Cassation Chamber of the Supreme Court of Justice, November 29, 2002 (Appendix 39 to the petitioners' brief of August 14, 2009).

⁹² Appendix 40. Decision of the Court of Appeals of Aragua State Criminal Circuit, November 10, 2003 (Appendix 40 to the petitioners' brief of August 14, 2009).

⁹³ Appendix 40. Decision of the Court of Appeals of Aragua State Criminal Circuit, November 10, 2003 (Appendix 40 to the petitioners' brief of August 14, 2009).

⁹⁴ Dissenting opinion in Appendix 40. Decision of the Court of Appeals of Aragua State Criminal Circuit, November 10, 2003 (Appendix 40 to the petitioners' brief of August 14, 2009).

In her opinion, the president stated the need to dismiss the testimony of: 1) July Esther Zacarías Villanueva and José Gregorio del Rosso Dona since they mentioned two policemen--in spite of the fact that the officers were in plain clothes, there were gaps and inconsistencies between the two, and they did not match the eyewitness testimony with regard to the fact that Igmor Alexander Landaeta Mejías was armed and that there was an exchange of fire; 2) the witnesses that were not at the scene, as they did not know the reality of what happened; and, 3) Gerardo Castillo Freites, which should have been contrasted with the testimony of the eyewitnesses and declared "spurious and implausible." She also said that it was necessary to reject the submissions of the defense that were based on testimony from witnesses for the accused that were dismissed. Finally, she said that the agent should have been found guilty of intentional homicide once the disproportion between the harm caused and his intent had been determined.

94. The death of Eduardo José Landaeta Mejías led to the institution of two proceedings at the domestic level: An administrative inquiry and a criminal investigation.

95. The CSOP launched the administrative inquiry on January 7, 1997,⁹⁵ which examined the police records on the arrest, the transfers, the statements of Yuribet del Valle Rujano Castro and Virginia de Duarte, and the statements and service records of the three officers that carried out the transfer. According to these service records, the officers had received a number of sanctions in the past.⁹⁶ On November 26, 1997 it was concluded that there was not “sufficient evidence in connection with the facts regarding the alleged loss of firearms and and (sic) homicide of the detainee, in which the following officers are named: Deputy Inspector Carlos Requena, Constable Carlos Rojas, and Constable Freddy Blanco.”⁹⁷

a. Investigation and Criminal proceeding

i. Inquiry by the Judicial Police Technical Corps

Procedures carried out on December 31, 1996

96. The transcript of the day book *supra* 73 led to the opening, that same day, of an inquiry by the CTPJ.⁹⁸ That same day the Lower Court of the Municipalities of Santiago Mariño and Libertador (hereinafter “the Municipal Court”) and the Office of the Ninth Prosecutor of the Aragua State Attorney General's Office (hereinafter also “the Ninth Prosecutor's Office”) were notified of an inquiry for “homicide or crime against persons.”⁹⁹

97. A judicial inspection of the scene was carried out in the morning. At the same time a group of people from the Medical Examiner's Office, the Ninth Prosecutor, and a policeman went to the scene to witness the removal of the corpse. The latter was taken to the Aragua State Medical Examiner's Office.¹⁰⁰ A total of 17 photographs were taken at the judicial inspection at Avenida Intercomunal La Julia,¹⁰¹ a public highway adjacent to the urbanization Valle Lindo III, Turmero.¹⁰² The CTPJ also recovered nine bullets, which were stored in the Recovered Objects Room.¹⁰³ For its safekeeping, it was

⁹⁵ Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, page 272. (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

⁹⁶ Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, pages 371-349 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

⁹⁷ Appendix 42. Order to close the administrative inquiry (Appendix 1 to the initial petition received on April 24, 2006).

⁹⁸ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, page 25 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

⁹⁹ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, pages 26 and 27 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁰⁰ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, page 28. (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁰¹ Indistinct in the record before the Commission.

¹⁰² Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, pages 38-54. (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

According to the captions accompanying the photographs, they show the scene; the red Fiat; a dent in the rear part; a round hole with everted regular edges in the left rear door; the body of Eduardo José Landaeta with his hands cuffed; bullets on the floor in the rear and front right of the vehicle, as well as above the glove compartment, and others near the vehicle; and a puddle of a reddish-brown substance.

¹⁰³ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, page 55. (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

also decided to impound the vehicle in which Eduardo José was transferred in the parking lot of the CTPJ's Mariño office.¹⁰⁴

98. A visual inspection of the body of Eduardo José Landaeta Mejías was carried out at around noon and an autopsy was performed, in the course of which three projectiles were removed from his corpse and turned over to the police.¹⁰⁵ It was also ordered that these projectiles be deposited in the Recovered Objects Room.¹⁰⁶

99. That same day, CSOP police officers Carlos Alexander Rojas¹⁰⁷ and Carlos Andrés Requena¹⁰⁸ CSOP appeared at the CTPJ and reiterated the version contained in the police report regarding the interception of the vehicle in which they were transferring Eduardo José Landaeta Mejías by persons with their faces covered, the disarming of the officers, the shots fired at Eduardo José Landaeta Mejías, and the wounding of officer Freddy Antonio Blanco.¹⁰⁹ It was also decided to summon officer Freddy Antonio Blanco Pérez.¹¹⁰

100. It should also be mentioned that at the time of the death of Eduardo José Landaeta Mejías, officers Carlos Alexander Rojas, Carlos Andrés Requena, and Freddy Blanco Pérez, were serving as constables of the General Command of the Public Order and Security Corps.¹¹¹

Procedures carried out in 1997

101. On January 1, 1997, the CTPJ decided to send a memorandum to the Criminalistics Laboratory requesting a legal examination and hematology test on a piece of gauze recovered at the scene that was impregnated with a reddish-brown substance.¹¹²

102. On January 2, 1997, the CTPJ decided to send a memorandum to the Criminalistics Laboratory requesting that it carry out a "special activation" on the red Fiat car, license plate DAF-91Z.¹¹³

103. On January 3, 1997, the CTPJ decided to: i) send a memorandum to the Fingerprint Department requesting the fingerprints of the corpse of Eduardo José Landaeta Mejías, in order to determine his true identity;¹¹⁴ ii) send a memorandum to the Criminalistics Laboratory requesting that it

¹⁰⁴ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, pages 58 and 59. (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁰⁵ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, page 61 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁰⁶ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, page 62 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁰⁷ Appendix 25. Statement of Carlos Alexander Rojas Alvarado to the Judicial Police Technical Corps, December 31, 1996. (Appendix 2 to the initial petition received on April 24, 2006).

¹⁰⁸ Appendix 26. Statement of Carlos Andrés Requena Mendoza to the Judicial Police Technical Corps, December 31, 1996 and (Appendix 2 to the initial petition received on April 24, 2006).

¹⁰⁹ Appendixes 25 and 26. Statements of Carlos Alexander Rojas Alvarado and Carlos Andrés Requena Mendoza to the Judicial Police Technical Corps, December 31, 1996 (Appendix 2 to the initial petition received on April 24, 2006).

¹¹⁰ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, page 67 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹¹¹ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, pages 9, 10, and 13 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹¹² Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, pages 69 and 70 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹¹³ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, pages 71 and 72 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹¹⁴ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, pages 73 and 74 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

perform a planimetric study and a bullet trajectory reconstruction on the main highway in Valle Lindo, La Julia Sector, opposite the slaughterhouse;¹¹⁵ and, iii) send a memorandum to the Criminalistics Laboratory requesting that it perform a legal examination and hematology test on a singlet, a pair of jeans, a pair of gray socks, and a fragment of blood-impregnated gauze removed from the corpse.¹¹⁶

104. On January 5, 1997, the CTPJ decided to send a memorandum to the CTPJ Vehicle Room requesting an appraisal and expert examination of the vehicle used to transport Eduardo José Landaeta. These procedures were carried out on the same day.¹¹⁷

105. On January 6, 1997, “Antonio José de Sucre” Central Precinct of the CSOP Police Investigations Division issued an official report in which it reiterated in greater detail the above-mentioned version contained in the day book.¹¹⁸ That same day, officer Freddy Antonio Blanco appeared at the CTPJ to describe his version of the events and reiterated the account provided by his colleagues.¹¹⁹

106. That same day the CTPJ decided to carry out a medico-legal examination of Freddy Antonio Blanco¹²⁰ and sent a memorandum to the General Division of Police Forensics to carry out gunshot residue tests on citizens Carlos Andrés Requena Mendoza and Carlos Alexander Rojas Alvarado.¹²¹ This test, carried out on both officers on January 24, 1997, was positive for both hands.¹²²

107. On January 28, March 10, July 12, and October 22, 1997, the Criminalistics Laboratory issued reports on some of the tests requested on a singlet, a pair of socks, two gauzes, a pair of jeans, and some projectiles.¹²³

108. On March 10, 1997, the Criminalistics Laboratory issued a report on the special activation test carried out on the vehicle used to transfer Eduardo José Landaeta Mejías.¹²⁴

109. On July 4, 1997, the CTPJ sent official letters to the Director of the Metropolitan Cemetery, the Prefect of Mariño Municipality, and the duty medical examiner requesting them to forward,

¹¹⁵ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, pages 75 and 76. (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹¹⁶ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, pages 77, 78, 79, 80, and 81 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹¹⁷ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, page 85. (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007). The results were an approximate value of 4,500,000 bolívares and the serial numbers of the chassis and the engine.

¹¹⁸ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, pages 193 and 194. (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹¹⁹ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, pages 86 and 87. (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹²⁰ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, page 89. (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹²¹ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, page 93. (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹²² Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, pages 95 and 96 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹²³ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, pages 97-103; 106 and 107; 124 and 125; and 134 and 135. (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007). It was concluded that the substance that had impregnated the first four items was blood: the first two being blood group O and the other two, indeterminate. As to the projectiles, it was concluded that they were of no criminalistic interest in terms of possible hematology tests.

¹²⁴ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, pages 104 and 105. (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007). It was concluded that there were multiple holes in the vehicle and stains, presumed to be blood, in different parts of it. It was also possible to “visualize, collect, and lift four (04) fingerprints which were transferred to this office together with two (2) partially deformed projectiles, as well as to collect samples of the reddish-brown stains present in the vehicle.”

respectively, the burial certificate, the death certificate, and the autopsy report for Eduardo José Landaeta.¹²⁵

110. On July 6, 1997, the CTPJ sent an official letter to the Police Commandant of Aragua requesting the appearance of officers Carlos Alexander Rojas, Carlos Andrés Requena, and Freddy Antonio Blanco in order to provide statements.¹²⁶ The follow-up statement of Carlos Andrés Requena was taken on July 8, 1997.¹²⁷

111. On July 10, 1997, the Medical Examiner's Office issued a report indicating the above-described results of the autopsy.¹²⁸

112. On August 12, 1997, CTPJ officers visited the homes of Yuribet Rujano Castro and Virginia Duarte Hernández, who were named as witnesses in the case file and, due to the fact that they could not be found, they left summonses with other persons.¹²⁹

113. On August 30, 1997, having been summoned, Carlos Alexander Rojas Alvarado appeared at the CTPJ to provide his version of the events.¹³⁰

114. That same day, Yuribet del Valle Castro appeared at the CTPJ and said that she had seen the incident as she was passing the spot in the company of her friend, Virginia Hernández de Duarte.¹³¹

115. On August 14, 1997, the Criminalistics Laboratory sent the CTPJ a copy of the planimetric study, which was prepared based on the autopsy report.¹³²

116. On August 27, 1997, Jorge León García, representing María Magdalena Mejías, the mother of Eduardo José, went to the Ninth Prosecutor's Office to file a complaint and request the opening of a "bare facts" investigation into the homicide of Eduardo José Landaeta and the circumstances in which it occurred, including the prior warnings given by a number of police officers to his mother regarding the intention to execute him once he had been detained. This complaint also states that the same officers who one month earlier had executed Igmarr Alexander Landaeta Mejías—Eduardo José's brother—went to the place where the latter was being held to ask for him and presumably take him "to headquarters." The complaint also mentioned that the version of the police officers was extremely odd since the vehicle did not seem to be damaged or have bullet holes in the chassis--only two outward perforations--while Eduardo José's body had 15 bullet holes in it.¹³³

¹²⁵ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, pages 109-112 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹²⁶ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, pages 113 and 114 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹²⁷ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, pages 115 and 116 (illegible) (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹²⁸ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, pages 121-123. (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹²⁹ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, pages 126, 127, and 128. (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹³⁰ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, page 129 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹³¹ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, pages 130 and 131 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹³² Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, pages 132 and 133 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹³³ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, pages 2, 3, and 4 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

Procedures carried out in 1998

117. On March 25, 1998, the Ninth Prosecutor's Office requested the Municipal Court to open a "bare facts investigation" under Article 374 of the Code of Criminal Procedure then in force against police officers Carlos Alexander Rojas, Carlos Andrés Requena, and Freddy Antonio Blanco, attached to the Aragua State Police General Command, for the crimes of homicide and improper use of a firearm to the detriment of Eduardo José Landaeta Mejías. In the same letter, it requested that a number of investigative procedures be conducted in connection with the above-mentioned officers.¹³⁴

118. Between May 14 and July 23, 1998, it was determined that they were CSOP officers at the time of the events and that they remained on active duty.¹³⁵

119. On July 22, 1998, the CTPJ performed an examination on five discharged cartridges, nine 7.65 mm caliber bullets, one pair of handcuffs, two women's rings, and one pair of "flip-flops,"¹³⁶ all of which objects were recovered during the judicial inspection on the day of the incident.¹³⁷

120. On the same day, police officer Freddy Blanco Pérez went to the CTPJ to provide a follow-up statement describing the foregoing.¹³⁸

121. On July 27, 1998, an official letter was sent to the Office of the Commandant of the CSOP requesting the appearance of officers José Cortéz and Carlos Varela, who had made the arrest of Eduardo José Landaeta on December 29, 1996.¹³⁹

122. On July 28, 1998, the CTPJ sent official letters to the police commandant of Aragua state requesting complete descriptions of the firearms that were allegedly taken from officers Carlos Alexander Rojas Alvarado, Carlos Andrés Requena Mendoza, and Freddy Antonio Blanco Pérez; together with a certified copy of the pages of the daybooks for December 29, 30, and 31, 1996.¹⁴⁰ The copies of the pages of the day books were sent on July 29, 1998.¹⁴¹

123. On July 22, 1998, the CTPJ Medical Examiner's Office sent a copy of the medico-legal examination performed on officer Freddy Antonio Blanca on January 9, 1997, which found that he had "no injuries."¹⁴²

¹³⁴ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, page 1 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹³⁵ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, pages 6, 8, 9, 10, and 12 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹³⁶ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, page 139 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹³⁷ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, page 139 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹³⁸ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, page 141. (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹³⁹ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, page 145 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁴⁰ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, pages 147-150 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁴¹ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, pages 152-178 (The great majority of these copies are illegible and handwritten) (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁴² Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, page 151 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

ii. Bare Facts Investigation before the Municipal Court under the Code of Criminal Procedure

124. On August 13, 1998, the CTPJ forwarded the records of the investigative procedures to the Municipal Court. In those records it was stated that no one had been arrested in the case; the officers who detained Eduardo José Landaeta Mejías did not come forward to provide a statement; and the pair of handcuffs, the rings, and the “flip-flops” were in that agency’s Recovered Objects Room.¹⁴³

125. On that same date, the Municipal Court took receipt of the proceedings, ordered the opening of an investigation, and ordered the appearance of the alleged suspects - persons unknown - and anyone who might have knowledge of the events.¹⁴⁴

126. On September 21, 1998, the Municipal Court issued summonses for officers Carlos Alexander Rojas, Carlos Andrés Requena, and Freddy Antonio Blanco, as well as for Yuribet del Valle Castro.¹⁴⁵

127. On September 25, 1998, officer Freddy Antonio Blanco Pérez appeared before the Municipal Court to confirm his statement and follow-up statement given to the CTPJ, reiterating that he had sustained a gunshot wound in the left leg as well as blows to the ribs.¹⁴⁶ On September 29, 1998, officer Carlos Andrés Requena appeared before the Municipal Court to ratify the statement to the CTPJ. The officer presented documents “belonging to the case that contained the names of two witnesses in this procedure.”¹⁴⁷ Those documents were the official letters and incident reports connected with the arrest and transfers of Eduardo José between December 29 and 31, 1996.¹⁴⁸

128. On February 8, 1999, the Ninth Prosecutor's Office filed charges against Carlos Alexander Rojas, Carlos Andrés Requena, and Freddy Antonio Blanco, for the crimes of “aggravated homicide” and “improper use of a firearm” before the Municipal Court.¹⁴⁹

129. On March 2, 1999, in light of these charges, the Municipal Court ordered the opening of the relevant preliminary inquiry, the formation of the record, and the appearance of the accused. In the same writ it ordered the appearance of anyone who might have knowledge of the facts.¹⁵⁰

130. On the same date, the Municipal Court issued summonses for María Magdalena Mejías, Carlos Alexander Rojas Alvarado, Freddy Antonio Blanco Pérez, and Carlos Andrés Requena Mendoza to testify in the preliminary inquiry.¹⁵¹

¹⁴³ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, pages 178 and 179 (Appendix 2 to the petitioners’ brief with observations on merits of July 18, 2007).

¹⁴⁴ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, page 180 (Appendix 2 to the petitioners’ brief with observations on merits of July 18, 2007).

¹⁴⁵ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, pages 183, 184, 185, 186 (Appendix 2 to the petitioners’ brief with observations on merits of July 18, 2007).

¹⁴⁶ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, page 187 (Appendix 2 to the petitioners’ brief with observations on merits of July 18, 2007).

¹⁴⁷ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, page 188 (Appendix 2 to the petitioners’ brief with observations on merits of July 18, 2007).

¹⁴⁸ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, pages 189-202 (Appendix 2 to the petitioners’ brief with observations on merits of July 18, 2007).

¹⁴⁹ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, pages 16 and 17 (Appendix 2 to the petitioners’ brief with observations on merits of July 18, 2007).

¹⁵⁰ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, page 18. (Appendix 2 to the petitioners’ brief with observations on merits of July 18, 2007).

¹⁵¹ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, pages 19, 20, 21, and 22 (Appendix 2 to the petitioners’ brief with observations on merits of July 18, 2007).

131. On April 20, 1999, in response to summonses, Yuribet del Valle Rujano Castro and Virginia Hernández de Duarte appeared before the Municipal Court and gave their versions.¹⁵²

132. On September 23, 1999, the Municipal Court decided to refer the case to the Second Transitional Court of Aragua State Judicial Circuit (hereinafter “the Second Transitional Court”), given the entry into force of the Organic Code of Criminal Procedure [*Código Orgánico Procesal Penal*] (hereinafter “the COPP”).¹⁵³

iii. Investigation by the Prosecutor's Office of the Office of the Attorney General for the Transitional Criminal Procedure Regime under the Organic Code of Criminal Procedure

133. According to the copy of the record presented to the IACHR, between September 23, 1999 and July 9, 2003, there were no investigative procedures in the proceeding.

134. On July 9, 2003, the Transitional Prosecutor's Office requested the *Cuerpo de Investigaciones Científicas, Penales y Criminalísticas* [criminal investigation police] (hereinafter “the CICPC”) to draw up a “plan of work and criminalistic technical advisory services in connection with this case.”¹⁵⁴

135. On October 30, 2003, the Transitional Prosecutors Office determined that “before issuing any final decision, investigative procedures must be carried out in order to clarify the acts in full and identify the person or persons who committed them.” Therefore, it ordered the CICPC to conduct the following procedures: i) an interview of Yuribet del Valle Rujano Castro; ii) an interview of Virginia de Duarte; iii) a planimetric study of the scene; and, iv) a ballistic trajectory analysis.¹⁵⁵ On November 21, 2003, the Transitional Prosecutor's Office requested the CICPC to provide the results of the above-ordered procedures as a matter of urgency.¹⁵⁶ On December 17, 2003, a police record was drawn up stating that the whereabouts of Yuribet del Valle Rujano Castro were unknown.¹⁵⁷ On December 18, 2003, Virginia Hernández appeared at the CICPC and reiterated what she had said on previous occasions.¹⁵⁸

136. On December 30, 2003, Ignacio Landaeta Muñoz requested the FGR to recuse the transitional prosecutor, Gladys Ramos, based on the amount of time that the case had remained paralyzed in her office without any investigative procedures being performed. Mr. Landaeta also based this request on the fact that the same prosecutor had told him in an interview that one of the implicated officers had worked with her, providing her security, but that that would not influence her decisions. He said in this request that, on another occasion, the above prosecutor told him that the case was “perfect,” that the “officers had acted properly” and that there was nothing to look for in the case. He added that the

¹⁵² Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, pages 206 and 207 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁵³ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, page 208. (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁵⁴ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, page 213. (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁵⁵ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, page 215 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁵⁶ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, page 217 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁵⁷ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, page 218 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁵⁸ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, page 220 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

prosecutor also told him that “she had already made her decision” and that in that case the officers “had all their things nicely sorted out.”¹⁵⁹

137. On January 6, 2004, the CICPC requested the CSOP for its good offices in order to obtain statements from officers Carlos Alexander Rojas, Carlos Andrés Requena, and Freddy Antonio Blanco.¹⁶⁰ That same day, CICPC officials set out on record that when they went to the CSOP they were informed that officers Carlos Alexander Rojas and Freddy Antonio Blanco had been discharged and their whereabouts were unknown.¹⁶¹ For his part, Carlos Andrés Requena appeared before the CICPC on January 14, 2004, saying that he would not provide a statement and that he ratified everything that he had previously stated.¹⁶²

138. Yuribet del Valle Castro came forward on January 16, 2004, and reiterated her account.¹⁶³

139. On January 28, 2004, the CICPC forwarded a copy of the planimetric study and ballistic trajectory analysis to the Transitional Prosecutor's Office.¹⁶⁴

140. On February 13, 2004, Ignacio Landaeta Muñoz appeared before the CICPC to provide a statement.¹⁶⁵

141. On February 16, 2004, María Magdalena Mejías appeared before the CICPC to provide a statement.¹⁶⁶

142. On February 25, 2004, the Transitional Prosecutor's Office sent letters to various state agencies: i) To the CICPC requesting the results of the fingerprinting of Eduardo José Landaeta's corpse;¹⁶⁷ ii) to the Civil Registry Office of the Municipality of Girardot in Aragua State requesting a certified copy of the birth certificate of Eduardo José Landaeta,¹⁶⁸ which was forwarded on March 22, 2004;¹⁶⁹ iii) to the Office of the Director of Santiago Mariño Municipal Cemetery in Aragua State, requesting a certified copy of the burial certificate of Eduardo José Landaeta;¹⁷⁰ iv) to the Civil Registry

¹⁵⁹ Appendix 8. Official letters addressed to various authorities by Ignacio Landaeta Muñoz (Appendix 1. D to the petitioners' brief with observations on merits of July 18, 2007).

¹⁶⁰ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, page 221 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁶¹ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, page 222 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁶² Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, page 224 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁶³ Appendix 9. Exhibit 1. Domestic proceeding. Case 4C-4822/04, page 226 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁶⁴ Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, page 230 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁶⁵ Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, page 240. Part of the statement is missing (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁶⁶ Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, pages 241 and 242. Part of the statement is missing (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁶⁷ Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, page 243 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁶⁸ Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, page 244 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁶⁹ Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, page 246 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁷⁰ Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, page 247 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

Office of the Municipality of Girardot in Aragua State requesting a certified copy of the death certificate of Eduardo José Landaeta,¹⁷¹ which was forwarded on March 1, 2004;¹⁷² v) to the CSOP, requesting that it inform it if the citizens Carlos Alexander Rojas Alvarado, Freddy Antonio Blanco Pérez, Carlos Andrés Requena, Francisco Castillo Matute, and Andrés José Castillo García were attached to that agency;¹⁷³ vi) to the CSOP, requesting that it inform it if on December 31, 1996, the officers attached to the Police Investigations Division of that police force were assigned 7.65 caliber firearm,¹⁷⁴ a response to which was sent on April 6, 2004, saying that the calibers used by the agency's officers were 38 mm, 9 mm, 12 mm for rifles, and 40 mm, and that no officers would be assigned a 7.65 caliber firearm;¹⁷⁵ vii) to the CSOP, requesting that it advise if a red Fiat Uno with license plate number DAF-91Z was assigned to it, to which he replied in the affirmative on March 1, 2004;¹⁷⁶ viii) to the CICPC, requesting that it forward photographic records of the visual inspection of the corpse of Eduardo José Landaeta,¹⁷⁷ which elicited a response on April 16, 2004, indicating that as a result of a technical fault in the camera, the roll of film was exposed, making it impossible to send the requested photographs;¹⁷⁸ and, ix) to the CICPC seeking information about any records or requests in connection with Eduardo José Landaeta,¹⁷⁹ to which the agency replied on March 1, 2004, that a record was found of the crime of homicide on January 9, 1996.¹⁸⁰

143. On February 26, 2004, the Transitional Prosecutor's Office wrote to: i) the CSOP to request a certified copy of the record of the administrative proceeding concerning Carlos Alexander Rojas Alvarado, Carlos Andrés Requena Mendoza, and Freddy Antonio Blanco Pérez, as a result of the events that occurred on December 31, 1996;¹⁸¹ ii) the Office of the Director of Maracay Medical Center to request information about the medical assistance given to Freddy Antonio Blanco on December 31, 1996;¹⁸² and, iii) the Board of Directors of the Valle Lindo Urbanization to request the identity of the security guard on duty there on December 31, 1996.¹⁸³

144. On March 9, 2004, the CSOP reported that Carlos Alexander Rojas and Freddy Antonio Blanco did not currently belong nor had ever belonged to that institution; that Carlos Andrés Requena

¹⁷¹ Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, page 248 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁷² Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, pages 249 and 250 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁷³ Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, page 251 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁷⁴ Appendix 9. Domestic proceeding. Case 4C-4822/04, page 257 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007. Exhibit 2).

¹⁷⁵ Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, page 259 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁷⁶ Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, pages 260 and 261 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁷⁷ Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, page 262 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁷⁸ Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, page 264 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁷⁹ Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, page 268 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁸⁰ Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, page 269 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁸¹ Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, page 270 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁸² Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, page 265 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁸³ Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, page 350 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

was on active duty; that Andrés José Castillo García had been expelled on January 9, 1998, and that Francisco Alberto Castillo Matute had been discharged.¹⁸⁴

145. On March 30, 2004, Yasmira Thais Díaz Guerra came forward to testify as the duty deputy inspector at the CSOP on the day of the events.¹⁸⁵

146. On April 2, 2004, the Transitional Prosecutor's Office again asked the CSOP whether or not Carlos Alexander Rojas and Freddy Antonio Blanco had ever been attached to that police agency.¹⁸⁶ A response came on April 15, 2004, indicating that Freddy Antonio and Carlos Alexander had been expelled from the agency on October 22, 1998, and April 6, 2004, respectively.¹⁸⁷

147. On April 4, 2004, the Transitional Prosecutor's Office informed the CSOP that on April 13, 2004, it wished to carry out a visual inspection and take photographs of the red Fiat Uno with license plate number DAF-91Z.¹⁸⁸ This visual inspection, which had been requested eight years earlier, was carried out on April 16, 2004.¹⁸⁹

148. On April 17, 2004, Andrés José Castillo appeared at the CICPC and declared how he had learned what had happened.¹⁹⁰ On May 14, 2004, officer Francisco Alberto Castillo came forward and repeated what his co-worker had said.¹⁹¹

149. On May 28, 2004, Maracay Medical Center sent a communication to the Transitional Prosecutor's Office stating that it did not have any emergency medical records that were more than five years old.¹⁹²

150. On June 14, 2004, the Sixth Court of Control set a prudential time limit of 30 days for the Transitional Prosecutor's Office to present a final decision.¹⁹³

¹⁸⁴ Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, pages 252-256 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁸⁵ Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, page 352 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁸⁶ Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, page 358 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁸⁷ Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, pages 359-363 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁸⁸ Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, page 364 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁸⁹ Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, pages 370-384 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007). It was found that the vehicle "has a dent in the center of the trunk lid, the door handles and the left wing mirror are missing, and the front fender is broken and missing a part; the grill and lights are missing, the engine and gearbox are not secured in place but resting on the ground; the chassis is red and the interior trim is gray; the front seats are totally deteriorated as a result of being exposed to the elements; the dashboard is completely dilapidated as is the steering wheel; the lining of the back door on the left side is detached and lying on the back seat; when inspected, it was found to have two holes with irregular edges in its central part; the vehicle has evidently been abandoned and stripped."

¹⁹⁰ Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, pages 355 and 356. (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁹¹ Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, pages 367 and 368 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁹² Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, page 267 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁹³ Appendix 9. Exhibit 3. Domestic proceeding. Case 4C-4822/04, page 33 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

151. On June 22, 2004, Héctor Eduardo Padilla came forward and provided a statement about the transfer that was supposed to be carried out on December 31, 1996, and about how he had heard what had happened.¹⁹⁴

152. On June 23, 2004, the Transitional Prosecutor's Office requested the CICPC for information on the status of the weapons carried by the officers assigned to the transfer.¹⁹⁵ A reply to this request was sent on June 29, 2004, indicating that the Mariño precinct had been seeking the weapons since July 14, 1997, in connection with a robbery.¹⁹⁶

153. On July 18, 2004, the Transitional Prosecutor's Office presented a final decision requesting dismissal in favor of the suspects, in accordance with Article 318.1 of the COPP. The basis for the request may be summarized as follows: there is a logical concordance between the facts as narrated by the three officers who carried out the transfer; the statements of the two eyewitnesses coincide with the officers' version; none of the officers who carried out the transfer was assigned a weapon with the caliber of that which killed Eduardo José Landaeta Mejías; despite the fact that the gunshot residue analysis on two of the officers was positive, it was "logical" to conclude that the positive results arose from their police duties; the planimetric study effectively demonstrated the presence and movement of two vehicles, as well as other descriptive elements that coincide with the officers' version; and, as regards the participation of the officers named by the parents of Eduardo José Landaeta Mejías as the persons who made the earlier threats, those officers were not present at the scene of the crime.¹⁹⁷

154. After the deferring the hearing set for September 28, 2004, due to the absence of one of the defendants,¹⁹⁸ on November 9, 2004, a special dismissal hearing was held before the Fourth Court of First Instance. After hearing the arguments of the prosecutor's office and Ignacio Landaeta Muñoz,¹⁹⁹ the court decided to reject the motion to dismiss as the investigative procedures designed to elucidate the facts had not been exhausted.²⁰⁰ On November 30, 2004, the Transitional Prosecutor's Office submitted a brief reiterating its arguments on dismissal.²⁰¹

155. From that point until October 2005 there is no record of any procedures, other than the transfer and consignment of the case file among different authorities.²⁰²

¹⁹⁴ Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, pages 410 and 411 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁹⁵ Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, page 412 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁹⁶ Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, page 413 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

¹⁹⁷ Appendix 42. Motion to dismiss presented on July 18, 2004 by the Office of the Prosecutor for the Transitional Procedural Regime of Aragua State Judicial Circuit to the Sixth Court of First Instance Acting As Court of Control of Aragua State Criminal Circuit (Appendix 2 to the initial petition received on April 24, 2006).

¹⁹⁸ Appendix 8. Official letters addressed to various authorities by Ignacio Landaeta Muñoz (Appendix 1. D to the petitioners' brief with observations on merits of July 18, 2007).

¹⁹⁹ Ignacio Landaeta moved that the motion to dismiss be ruled without merit until: i) a reconstruction of the events was carried out; ii) a statement was taken from the owner of the house from which officer Carlos Alexander Rojas allegedly called his superiors to report what had happened; iii) the causes of the injuries—apparently resulting from torture—found on the body of Eduardo José during the autopsy were investigated; iv) ballistics tests were performed on the three bullets removed from Eduardo José's corpse, among other steps.

²⁰⁰ Appendix 9. Exhibit 3. Domestic proceeding. Case 4C-4822/04, pages 68-72 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

²⁰¹ Appendix 9. Exhibit 3. Domestic proceeding. Case 4C-4822/04, pages 90-93 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007). In particular, the brief noted that "the injuries on the buttock and wrists revealed by the autopsy do not constitute evidence linking the death of the deceased to the police officers who were transferring them, particularly considering that the deceased had been detained by police officers other than those under investigation, [and therefore] these injuries can scarcely be attributed to the officers involved in the investigation."

²⁰² Appendix 9. Exhibit 3. Domestic proceeding. Case 4C-4822/04, pages 121 and 125-139 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007); Appendix 43. Brief presented on May 12, 2005, to the Superior Court

Continues...

156. On October 11, 2005, in his capacity as victim, Ignacio Landaeta Muñoz, presented a brief in which he provided an account of the events that culminated in the death of Eduardo José Landaeta, including the prior harassment.²⁰³

157. On October 31, 2005, the Transitional Prosecutor's Office requested the Civil Registry Office for a copy of the burial certificate of Eduardo José Landaeta.²⁰⁴

158. On November 7, 2005, the Transitional Prosecutor's Office requested the office of the director of Maracay Medical Center in Aragua State for information on whether or not "Freddy Blanco Pérez, who allegedly provided medical assistance in the emergency area of that health care center on December 31, 1996," was attached to that institution.²⁰⁵ The medical center submitted its reply on November 10, 2005, saying that it had no record of any doctor with that name.²⁰⁶

159. On November 11, 2005, the Transitional Prosecutor's Office requested the Criminal Records Office for any records that it might have on Freddy Antonio Blanco Pérez, Carlos Andrés Requena Mendoza, Carlos Alexander Rojas Alvarado, Francisco Alberto Castillo Matute, and Andrés José Castillo García.²⁰⁷ On November 15, 2005, that office advised that none of them had criminal records.²⁰⁸

160. On November 21, 2005, the Transitional Prosecutor's Office made the following requests to the CSOP to: i) provide a certified copy of the daybook for December 29, 1996; ii) provide information on the weapons that were assigned to officers Freddy Antonio Blanco Pérez, Carlos Andrés Requena Mendoza, Carlos Alexander Rojas Alvarado, Francisco Alberto Castillo Matute, and Andrés José Castillo García; and iii) issue instructions to enable the appearance of Héctor Padilla Gorrín, Samuel Uzcátegui, and José Cortez.²⁰⁹ That same day, a request was made for any criminal records that Yuribet del Valle Castro and Virginia Hernández de Duarte might have.²¹⁰ A negative response to this request was received on November 30, 2005.²¹¹

161. That same day, the Transitional Prosecutor's Office requested the CICPC to adopt the following measures:

...continuation

Prosecutor's Office of the Office of the Attorney General of Aragua State Judicial District (Appendix 1 to the initial petition received on April 24, 2006); and Appendix 9. Exhibit 4. Domestic proceeding. E-782046. Request, processing, and results of the exhumation of Eduardo Landaeta. pages 1 and 7 (Appendix 3 to the petitioners' brief with observations on merits of July 18, 2007).

²⁰³ Appendix 44. Brief presented on October 11, 2005 to the Directorate of Procedural Action of the Office of the Attorney General (Appendix 1 to the initial petition received on April 24, 2006).

²⁰⁴ Appendix 9. Exhibit 4. Domestic proceeding. E-782046. Request, processing, and results of the exhumation of Eduardo Landaeta. page 3 (Appendix 3 to the petitioners' brief with observations on merits of July 18, 2007).

²⁰⁵ Appendix 9. Exhibit 4. Domestic proceeding. E-782046. Request, processing, and results of the exhumation of Eduardo Landaeta. page 4 (Appendix 3 to the petitioners' brief with observations on merits of July 18, 2007).

²⁰⁶ Appendix 9. Exhibit 4. Domestic proceeding. E-782046. Request, processing, and results of the exhumation of Eduardo Landaeta. page 13 (Appendix 3 to the petitioners' brief with observations on merits of July 18, 2007).

²⁰⁷ Appendix 9. Exhibit 4. Domestic proceeding. E-782046. Request, processing, and results of the exhumation of Eduardo Landaeta. pages 5 and 6 (Appendix 3 to the petitioners' brief with observations on merits of July 18, 2007).

²⁰⁸ Appendix 9. Exhibit 4. Domestic proceeding. E-782046. Request, processing, and results of the exhumation of Eduardo Landaeta. pages 8-12 (Appendix 3 to the petitioners' brief with observations on merits of July 18, 2007).

²⁰⁹ Appendix 9. Exhibit 4. Domestic proceeding. E-782046. Request, processing, and results of the exhumation of Eduardo Landaeta. page 16 (Appendix 3 to the petitioners' brief with observations on merits of July 18, 2007).

²¹⁰ Appendix 9. Exhibit 4. Domestic proceeding. E-782046. Request, processing, and results of the exhumation of Eduardo Landaeta. page 15 (Appendix 3 to the petitioners' brief with observations on merits of July 18, 2007).

²¹¹ Appendix 9. Exhibit 4. Domestic proceeding. E-782046. Request, processing, and results of the exhumation of Eduardo Landaeta. pages 20 and 21 (Appendix 3 to the petitioners' brief with observations on merits of July 18, 2007).

i) advise if, prior to December 31, 1996, that office opened an investigation against citizen Eduardo José Landaeta Mejías, (...); ii) assign a group of officers to identify and locate the person who was serving as a private security guard at the Valle Lindo Urbanization (...) on December 31, 1996; iii) fingerprint the corpse, as requested in memorandum No. 0074 of January 3, 2007.”²¹² On November 23, 2005, the Transitional Prosecutor's Office requested the following investigative procedures: “i) hematology test on the three projectiles that were collected and sent to the Recovered Objects Room (...) 1997 (...); ii) recover the photographs and latent fingerprints collected according to report (...) of March 10, 1997 (...)²¹³

162. On January 24, 2006, the Transitional Prosecutor's Office requested Maracay Medical Center for information on whether or not Dr. Julio César Álvarez, “who allegedly provided medical assistance in the emergency area (...) on December 31, 1996, since he was on duty at the time,” was attached to that institution.²¹⁴

163. In February 2006, the Transitional Prosecutor's Office requested the CSOP for a certified copy of the pages of the daybook kept at the Mácaro command, Municipality of Santiago Mariño, on December 31, 1996.²¹⁵

164. On March 3, 2006, Maracay Medical Center sent a communication to the Transitional Prosecutor's Office advising that Dr. Julio César Álvarez was part of the group of specialized surgeons and that “the other information requested is in the past.”²¹⁶

165. On April 29, 2006, the Transitional Prosecutor's Office requested a ballistic trajectory analysis²¹⁷ and further autopsy examination.²¹⁸ On May 25, 2006, the CICPC sent the results of the further autopsy examination, indicating that “based on a correlation of each of the wounds sustained by the deceased, a projectile must have remained inside the corpse (...)²¹⁹

166. On June 2, 2006, the Transitional Prosecutor's Office requested the cooperation of the CSOP in arranging for officer Eduardo Ramírez to come forward to make a statement.²²⁰

167. On June 19, 2006, the Transitional Prosecutor's Office wrote to the CICPC, reiterating its request made on November 23, 2005, for procedures to be carried out.²²¹ That same day it reiterated the

²¹² Appendix 9. Exhibit 4. Domestic proceeding. E-782046. Request, processing, and results of the exhumation of Eduardo Landaeta. page 17 (Appendix 3 to the petitioners' brief with observations on merits of July 18, 2007).

²¹³ Appendix 9. Exhibit 4. Domestic proceeding. E-782046. Request, processing, and results of the exhumation of Eduardo Landaeta. page 18 (Appendix 3 to the petitioners' brief with observations on merits of July 18, 2007).

²¹⁴ Appendix 9. Exhibit 4. Domestic proceeding. E-782046. Request, processing, and results of the exhumation of Eduardo Landaeta. page 26. (Handwritten) (Appendix 3 to the petitioners' brief with observations on merits of July 18, 2007).

²¹⁵ Appendix 9. Exhibit 4. Domestic proceeding. E-782046. Request, processing, and results of the exhumation of Eduardo Landaeta. page 31. (Handwritten) (Appendix 3 to the petitioners' brief with observations on merits of July 18, 2007).

²¹⁶ Appendix 9. Exhibit 4. Domestic proceeding. E-782046. Request, processing, and results of the exhumation of Eduardo Landaeta. page 32. (Handwritten) (Appendix 3 to the petitioners' brief with observations on merits of July 18, 2007).

²¹⁷ Appendix 9. Exhibit 4. Domestic proceeding. E-782046. Request, processing, and results of the exhumation of Eduardo Landaeta. page 34. (Handwritten) (Appendix 3 to the petitioners' brief with observations on merits of July 18, 2007).

²¹⁸ Appendix 9. Exhibit 4. Domestic proceeding. E-782046. Request, processing, and results of the exhumation of Eduardo Landaeta. page 35. (Handwritten) (Appendix 3 to the petitioners' brief with observations on merits of July 18, 2007).

²¹⁹ Appendix 9. Exhibit 4. Domestic proceeding. E-782046. Request, processing, and results of the exhumation of Eduardo Landaeta. page 42. (Handwritten) (Appendix 3 to the petitioners' brief with observations on merits of July 18, 2007).

²²⁰ Appendix 9. Exhibit 4. Domestic proceeding. E-782046. Request, processing, and results of the exhumation of Eduardo Landaeta. page 50. (Handwritten) (Appendix 3 to the petitioners' brief with observations on merits of July 18, 2007).

²²¹ Appendix 9. Exhibit 4. Domestic proceeding. E-782046. Request, processing, and results of the exhumation of Eduardo Landaeta. page 51. (Handwritten) (Appendix 3 to the petitioners' brief with observations on merits of July 18, 2007).

request made to the CSOP in February 2006 for a copy of the pages of the daybook for December 31, 1996,²²² which was also requested to forward a certified copy of the pages of the daybook for December 29, 1996, from San Carlos Precinct, Municipality of Girardot.²²³ The latter copies were sent on June 26, 2006.²²⁴

168. On August 9, 2006, the corpse of Eduardo José Landaeta was exhumed.²²⁵ The record states that it was not possible to recover the projectile supposedly located in the body.²²⁶

169. On September 22, 2006, the Transitional Prosecutor's Office requested the CSOP to issue instructions for the appearance of officers Héctor Padilla, Samuel Uzcátegui, and José Cortez.²²⁷ On October 2, 2006, Samuel Uzcátegui and Manuel Ramón Briceño appeared at the Transitional Prosecutor's Office.²²⁸

170. On November 1, 2006, Ignacio Landaeta Muñoz, wrote to the Transitional Prosecutor's Office to report that that day he had gone to Turmero municipal cemetery to visit his two sons' graves and while he was there a man named Jesús Martínez—a gravedigger—gave him a projectile that was found in the urn that contained the remains of Eduardo José on the day of the exhumation. That projectile was enclosed in that same letter.²²⁹

171. On November 2, 2006, the Transitional Prosecutor's Office sent the CICPC the projectile in order to conduct a hematology test and a legal examination to determine the type and make of the weapon it came from.²³⁰

172. On November 22, 2006, the Transitional Prosecutor's Office requested the cooperation of the CSOP in arranging for officers Héctor Padilla Gorrín, José Cortez, and Eduardo Ramírez to come forward to make a statement.

173. On December 11, 2006, the CICPC sent the Transitional Prosecutor's Office a trajectory report indicating the entry and exit holes of each of the projectiles that struck Eduardo José Landaeta.²³¹ On December 12, 2006, a statement was received on the discovery of the projectile at the place where

²²² Appendix 9. Exhibit 4. Domestic proceeding. E-782046. Request, processing, and results of the exhumation of Eduardo Landaeta. page 53. (Handwritten) (Appendix 3 to the petitioners' brief with observations on merits of July 18, 2007).

²²³ Appendix 9. Exhibit 4. Domestic proceeding. E-782046. Request, processing, and results of the exhumation of Eduardo Landaeta. page 54. (Handwritten) (Appendix 3 to the petitioners' brief with observations on merits of July 18, 2007).

²²⁴ Appendix 9. Exhibit 4. Domestic proceeding. E-782046. Request, processing, and results of the exhumation of Eduardo Landaeta. page 55. (Handwritten) (Appendix 3 to the petitioners' brief with observations on merits of July 18, 2007).

²²⁵ Appendix 9. Exhibit 5. Domestic proceeding. E-782046. Request, processing, and results of the exhumation of Eduardo Landaeta. page 18. (Handwritten) (Appendix 3 to the petitioners' brief with observations on merits of July 18, 2007).

²²⁶ Appendix 9. Exhibit 5. Domestic proceeding. E-782046. Request, processing, and results of the exhumation of Eduardo Landaeta. page 23. (Handwritten) (Appendix 3 to the petitioners' brief with observations on merits of July 18, 2007).

²²⁷ Appendix 9. Exhibit 5. Domestic proceeding. E-782046. Request, processing, and results of the exhumation of Eduardo Landaeta. page 51. (Handwritten) (Appendix 3 to the petitioners' brief with observations on merits of July 18, 2007).

²²⁸ Appendix 9. Exhibit 5. Domestic proceeding. E-782046. Request, processing, and results of the exhumation of Eduardo Landaeta. pages 56 and 57. (Handwritten) (Appendix 3 to the petitioners' brief with observations on merits of July 18, 2007).

²²⁹ Appendix 8. Official letters addressed to various authorities by Ignacio Landaeta Muñoz (Appendix 1. D to the petitioners' brief with observations on merits of July 18, 2007).

²³⁰ Appendix 9. Exhibit 5. Domestic proceeding. E-782046. Request, processing, and results of the exhumation of Eduardo Landaeta. page 64. (Handwritten) (Appendix 3 to the petitioners' brief with observations on merits of July 18, 2007).

²³¹ Appendix 9. Exhibit 5. Domestic proceeding. E-782046. Request, processing, and results of the exhumation of Eduardo Landaeta. page 70. (Handwritten) (Appendix 3 to the petitioners' brief with observations on merits of July 18, 2007).

Eduardo José Landaeta was exhumed.²³² The Commission does not have up-to-date information about this investigation.

174. The Landaeta family, through Ignacio Landaeta Muñoz, has been consistently active in this process. This participation has consisted, *inter alia*, of requests for celerity, expressions of suffering and uncertainty, requests for the case file to be located, recusals, and requests regarding the exhumation.²³³ Mr. Landaeta Muñoz has requested investigative procedures to be carried out on multiple occasions.²³⁴

175. The latest information available regarding this investigation was provided by the State in a brief dated November 25, 2009. The IACHR does not have documentation in this regard. The State's narrative indicates that the Public Prosecutor's Office filed a "formal indictment" and that a preliminary hearing was conducted on April 6, 2009 in the Fourth Control Court of the Aragua State Criminal Judicial Circuit. During that hearing, the court admitted the indictment against Carlos Andrés Requena Mendoza, Freddy Antonio Blanco Pérez, and Carlos Alexander Rojas Alvarado as accomplices in the crime of aggravated homicide. The IACHR's latest information indicates that the case is pending formation of the single-judge court to conduct the oral and public trial.

V. ANALYSIS OF LAW

176. Bearing in mind the sequence and nature of the facts that have been recognized as established, the Commission will analyze their interrelationship and legal consequences under the American Convention, in the following order: i) preliminary question regarding the interrelationship of the deaths of the Landaeta Mejías brothers; ii) the rights to life and humane treatment with respect to the events surrounding the death of Igmarr Alexander Landaeta Mejías; iii) the right to personal liberty and the duty to provide special protection for children with respect to the events surrounding the arrest and transfers of Eduardo José Landaeta Mejías; iv) the right to humane treatment and the duty to provide special protection for children with respect to what Eduardo José Landaeta Mejías experienced while in State custody; v) the right to life and the duty to provide special protection for children with respect to the events surrounding the death of Eduardo José Landaeta Mejías; vi) the right to humane treatment with respect to the relatives of the Landaeta Mejías brothers; and vii) the right to a fair trial and to judicial protection with respect to the investigations and proceedings initiated due to the deaths of the Landaeta Mejías brothers.

A. Preliminary question regarding the interrelationship of the deaths of the Landaeta Mejías brothers

177. Before proceeding with the analysis of specific rights, the Commission considers it relevant to establish that there are various factors that allow for the inference that the deaths of the two brothers are connected.

178. First, the Commission recognized as proven that both Mr. Ignacio Landaeta Muñoz and Mrs. María Magdalena Mejías, the brothers' parents, made reference on repeated occasions during the judicial proceeding, and even in the period between the deaths of Igmarr Alexander and Eduardo José,

²³² Appendix 9. Exhibit 5. Domestic proceeding. E-782046. Request, processing, and results of the exhumation of Eduardo Landaeta. page 67. (Handwritten) (Appendix 3 to the petitioners' brief with observations on merits of July 18, 2007).

²³³ Appendix 8. Official letters addressed to various authorities by Ignacio Landaeta Muñoz (Appendix 1. D to the petitioners' brief with observations on merits of July 18, 2007); Appendix 9. Exhibit 2. Domestic proceeding. Case 4C-4822/04, pages 385-387 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007); Appendix 9. Exhibit 3. Domestic proceeding. Case 4C-4822/04, pages 46-55 (Appendix 2 to the petitioners' brief with observations on merits of July 18, 2007).

²³⁴ Appendix 8. Official letters addressed to various authorities by Ignacio Landaeta Muñoz (Appendix 1. D to the petitioners' brief with observations on merits of July 18, 2007).

that the young men had been threatened previously by the Aragua police. Both parents established that agents of the Security and Public Order Corps (CSOP) had set up to “stalk” them and keep them under “surveillance.” On two occasions the parents said that officers whom they identify by name and surname had threatened Mrs. Mejías that they would kill Eduardo José or his brother or both of them. According to the parents’ statement, this happened in early November 1996, that is, days before the first brother’s death. On another occasion, those officers were reported to have entered the residence where the two brothers lived with their mother María Magdalena Mejías, to ask her about Eduardo José.

179. The threats related by the parents indicate that officers of the CSOP were looking for Eduardo José insistently, who as indicated in various parts of the file, was “sought” for alleged crimes. As mentioned in the section on proven facts, there is witness testimony indicating that when Igmar Alexander died on November 17, 1996 someone approached the officer who shot him and told him he “had the wrong person.” Less than two months later, with continuing threats during that period, Eduardo José was arrested and killed.

180. These events have various elements in common with the context of extrajudicial executions described *supra*. The common elements range from the profile of the victims, the impact of the context in Aragua State, the actions of the police authorities after the fact, and the situation of impunity.

181. The Commission emphasizes that it has sufficient evidence to infer that there is an interrelationship between the deaths of the Landaeta Mejías brothers. These factors linking the events or linking them with a broader context of a high incidence of extrajudicial executions in Aragua have not been investigated. As will be analyzed below, the deaths of the two brothers were investigated separately, without the State’s having set up a line of investigation that would make it possible to disprove or confirm the link between the two cases.

182. Under these circumstances, the Commission will analyze below, in a cross-cutting way, the existence of sufficient factors pointing to an interrelationship between the deaths of the two brothers.

B. The rights to life²³⁵ and humane treatment²³⁶ with respect to the events surrounding the death of Igmar Alexander Landaeta Mejías

183. As regards the right to life, the Inter-American Court has consistently held that it is a fundamental human right, whose full enjoyment is a prerequisite to the enjoyment of all the other human rights.²³⁷ The Court has also said that States have the obligation to ensure the creation of the conditions necessary to avoid the violation of this inalienable right, as well as the duty to prevent its agents, or individuals, from violating it.²³⁸ According to the Court, the object and purpose of the Convention, as an instrument for the protection of the human individual, require that the right to life be interpreted and applied in such a way that its protection is practical and effective (*effet utile*).²³⁹

²³⁵ Article 4.1 of the American Convention states that: 1. Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life.

²³⁶ Articles 5.1 and 5.2 of the American Convention state that: 1. Every person has the right to have his physical, mental, and moral integrity respected. 2. No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. All persons deprived of their liberty shall be treated with respect for the inherent dignity of the human person.

²³⁷ I/A Court HR, *Case Zambrano Vélez and others Vs. Ecuador*. Merits, Reparations and Costs. Judgment of July 4, 2007. Series C No. 166. paragraph 78; I/A Court HR, *Case of the “Niños de la Calle” (Villagrán Morales and others)*. Judgment of November 19, 1999. Series C No. 63. paragraph 144.

²³⁸ I/A Court HR, *Case of the “Street Children” (Villagrán Morales and others)*. Judgment of November 19, 1999. Series C No. 63. paragraph 144.

²³⁹ I/A Court HR, *Case Zambrano Vélez and others Vs. Ecuador*. Merits, Reparations and Costs. Judgment of July 4, 2007. Series C No. 166. paragraph 79; I/A Court HR, *Case Baldeón García*. Judgment of April 6, 2006. Series C No. 147. paragraph 83.

184. As the Court has repeatedly asserted in its case-law that "compliance with the duties imposed by Article 4 of the American Convention, in conjunction with Article 1(1) thereof, does not only presuppose that no person can be arbitrarily deprived of his life (negative duty) but also requires, pursuant to its obligation to guarantee the full and free exercise of human rights, that the States adopt any and all necessary measures to protect and preserve the right to life (positive duty) of the individuals under their jurisdiction."²⁴⁰ Thus the Court held:

States must adopt all necessary measures to create a legal framework that deters any possible threat to the right to life; establish an effective legal system to investigate, punish, and redress deprivation of life by State officials or private individuals; and guarantee the right to unimpeded access to conditions for a dignified life. Especially, States must see that their security forces, which are entitled to use legitimate force, respect the right to life of the individuals under their jurisdiction.²⁴¹

185. The Commission considers it necessary to remind at this point the relevant international standards on the use of force by state security bodies.

186. The IACHR has indicated that even when the State has the right and the obligation to offer protection against threats -and thus may use lethal force on certain occasions- this capacity must be restricted to cases of strict necessity and proportionality. If it does not correspond to these principles, the lethal use of force may constitute an arbitrary deprivation of life or a summary execution. This is the same as saying that the lethal use of force must necessarily be justified by the right of the State to protect everyone's security²⁴²

187. The Commission has also emphasized that the use of force may be justified, for example, in self-defense, or by the need to neutralize or disarm individuals involved in an armed confrontation. Nevertheless, if someone loses their life as a result of the excessive or disproportionate use of force on the part of officials charged with upholding the law, this fact would equate to an arbitrary deprivation of life.²⁴³

188. In this respect, the Court has established that the use of force must be defined as exceptional, and must be planned and proportionally limited by the authorities. In this sense, the Court has made it clear that the use of force, or tools of control, may only be justified when all other means of control have been tried, and have failed.²⁴⁴

189. According to the Court, the lethal use of force and firearms by state security agents against individuals, which must be prohibited as a general rule, is within higher level of exceptionality. Its exceptional use must be set out by law, and be interpreted strictly in a way so as to be minimized, being no more than an "absolute necessity" in relation to the force or threat that it seeks to confront.²⁴⁵ When excessive force is used, all resulting loss of life is arbitrary.²⁴⁶

²⁴⁰ I/A Court HR, *Case Zambrano Vélez and others Vs. Ecuador*. Merits, Reparations and Costs. Judgment of July 4, 2007. Series C No. 166. paragraph 80; I/A Court HR, *Case of the "Street Children" (Villagrán Morales and others)*. Judgment of November 19, 1999. Series C No. 63. paragraph 144.

²⁴¹ I/A Court HR, *Case Zambrano Vélez and others Vs. Ecuador*. Merits, Reparations and Costs. Judgment of July 4, 2007. Series C No. 166, paragraph 81; I/A Court HR, *Case Montero Aranguren and others (Retén de Catia)*. Judgment of July 5, 2006. Series C No. 150. paragraph 66.

²⁴² IACHR. Report on Terrorism and Human Rights, paragraph 88.

²⁴³ IACHR, *Case 10559, Chumbivilcas vs. Peru*, Report 1/96, March 1, 1996; IACHR, *Case 11291, Carandiru v. Brazil*, Report 34/00, April 13, 2000, paragraphs 63, 67, 91.

²⁴⁴ I/A Court HR, *Case Montero Aranguren and others (Retén de Catia)*. Judgment of July 5, 2006. Series C No. 150. paragraph 67.

²⁴⁵ I/A Court HR, *Case Montero Aranguren and others (Retén de Catia)*. Judgment of July 5, 2006. Series C No. 150. paragraph 68. In a similar sense, see: ECHR, *Huohvanainen v. Finland*, 13 March 2007, no. 57389/00, paragraphs 93-94.; ECHR, *Erdogan and Others v. Turkey*, 25 April 2006, no. 19807/92, paragraph 67; ECHR, *Kakoulli v. Turkey*, 22 November 2005, no. 38595/97, paragraphs 107-108; ECHR, *McCann and Others v. the United Kingdom*, judgment of 27 September 1995, Series A no.

190. When it is alleged that as a consequence of the excessive use of force a death has occurred, the Inter-American Court has established clear rules on the burden of proof. In the words of the Tribunal:

whenever the use of force [by state agents] results in the death or injuries to one or more individuals, the State has the obligation to give a satisfactory and convincing explanation of the events and to rebut allegations over its liability, through appropriate evidentiary elements²⁴⁷

191. The Court has specifically laid down that it is up to the State to prove that the state authorities tried other less lethal methods of intervention that proved to be unsuccessful, and that the reaction of the security forces was as necessary and proportional as the situation required, in particular the threat posed by the victim.²⁴⁸

192. The European Court of Human Rights has also detailed the contents that an effective investigation should fulfill in order to evaluate the legality of the lethal use of force. In the words of this Tribunal "the essential aim of the investigation is to ensure the effective implementation of national laws which protect the right to life and in cases involving state agents or bodies, to assure the accountability for deaths occurring under their responsibility. The investigation must be independent, open to the families of the victim, and take place within a reasonable time, effective - in the sense of being capable of reaching a determination as to whether the force used in such cases was or was not justified, or was illegal - and must allow public scrutiny of the investigation or its conclusions."²⁴⁹

193. In the instant case, the Commission has recognized as proven that Igmarr Alexander Landaeta Mejías lost his life on November 17, 1996 after a firearms incident with persons in civilian dress who were later identified as officers of the CSOP of Aragua State. In addition, the Commission explained that there are two versions of these events, the version of the police officers indicating that it was a confrontation and that Igmarr Alexander Landaeta Mejías was armed, and the version of various witnesses and the family indicating that the young man was extrajudicially executed as he lay wounded on the ground begging them not to kill him.

194. The Commission first notes that it is undisputed that the individuals who killed Igmarr Alexander Landaeta Mejías were agents of the State. The analysis to be done is whether what happened constituted a legitimate use of force and, consequently, whether or not the deprivation of life was arbitrary under the terms of Article 4 of the Convention.

195. To perform this analysis, the Commission emphasizes various factors based on the proven facts. The autopsy conducted on Igmarr Alexander, as well as its evaluation in the context of the judicial proceeding and in various witness statements, indicates that the young man was shot twice, once in the back with a trajectory from back to front and once in the face with a trajectory from front to back.

...continuation

324, paragraphs 148-150, 194, and Code of Conduct for Law Enforcement Officials adopted by the General Assembly of United Nations, Resolution 34/169, December 17, 1979, Article 3.

²⁴⁶ I/A Court HR, *Case Montero Aranguren and others (Retén de Catia)*. Judgment of July 5, 2006. Series C No. 150. paragraph 68. In a similar sense, see also the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, Principle 9.

²⁴⁷ I/A Court HR, *Case Zambrano Vélez and others Vs. Ecuador*. Merits, Reparations and Costs. Judgment of July 4, 2007. Series C No. 166, paragraph 108; I/A Court HR, *Case Montero Aranguren and others (Retén de Catia)*. Judgment of July 5, 2006. Series C No. 150. paragraph 80; I/A Court HR, *Case Baldeón García*. Judgment of April 6, 2006. Series C No. 147. paragraph 117 and paragraph 120.

²⁴⁸ I/A Court HR, *Case Zambrano Vélez and others Vs. Ecuador*. Merits, Reparations and Costs. Judgment of July 4, 2007. Series C No. 166, paragraph 108.

²⁴⁹ ECHR. *Hugh Jordan v. the United Kingdom*, no. 24746/94, paragraphs 105-109, 4 May 2001; *Douglas-Williams v. the United Kingdom* (December), no. 56413/00, 8 January 2002.

According to the forensic evidence, it was this second shot that caused the death of Igmár Alexander, who ultimately died from “severe cerebral contusion” and a “faciocranial injury” from a firearm. The Commission notes that the first instance judge, when convicting one officer and acquitting the other, emphasized that the firearm injury that was punishable was precisely the second one, the one that caused the death of Igmár Alexander.

196. The Commission notes that whether or not Igmár Alexander Landaeta Mejías was armed is subject to dispute. According to the version of the Aragua State CSOP officers, the young man was armed and used his weapon. There is also a gunpowder trace test of the hands of Igmár Alexander that yielded positive results. Nonetheless, there is testimony indicating that the young man was not armed. In addition, within the framework of the context described *supra*, the *modus operandi* of the regional police who carry out extrajudicial executions includes simulating a confrontation by various means such as placing a weapon in the hands of the corpse and shooting that weapon. The Commission does not have additional evidence to resolve the dispute as to whether Igmár Alexander Landaeta Mejías was armed and/or shot a weapon.

197. The Commission notes that over and above this dispute, what is relevant is to determine whether the use of force was justified under the particular circumstances of the case, in the light of the standards of necessity and proportionality described. The Commission feels that even if the young man was armed and shot at the police officers, the State did not justify the second shot that caused his death. On this point, the Commission notes that the investigation conducted and the assessment made by the first instance court provided important evidence regarding the absence of a need for and the disproportionality of the second shot. This is consistent with the statements made by most of the eye witnesses. In effect, all the eye witnesses called, with the exception of the police officers and an acquaintance of another CSOP officer, agreed that Igmár Alexander was wounded on the ground and begged the officers not to kill him.

198. Bearing in mind the burden of proof rules in cases where force is used, the Commission believes that the State failed to satisfactorily justify the use of force in the domestic investigation and criminal proceeding or in the inter-American process, at least with respect to the second shot to the face of Igmár Alexander Landaeta Mejías, according to the principles of necessity and proportionality.

199. The Commission also emphasizes the narrative of Mrs. Mejías and Mr. Landaeta Muñoz regarding the existence of prior threats against the two brothers, precisely in the days before the death of Igmár Alexander Landaeta Mejías, and the lack of investigation regarding these threats, even though they were made by officers of the same police corps that killed the victim. In this context of police threats against both brothers, after Igmár Alexander died, Eduardo José was killed one and a half months later, while in the custody of the same police corps.

200. Besides the above, the Commission also notes the obvious illegality of the actions taken by the officers who participated in these events. This illegality is based in part on their failure to identify themselves at the time of the events. As indicated by the proven facts, the officers were in civilian dress and in an automobile not identified as belonging to the police. Nonetheless, they stated on various occasions that they were acting in “intelligence functions.” In addition, the illegality is based on the attitude of those officers once the death occurred. The Commission has recognized as proven that the police officers transported the lifeless body to the medical center without identifying themselves there as police officers and without providing any explanation of what had happened. These actions are clearly incompatible with any regulations or procedure governing the actions of police officers.

201. This conduct was not investigated or punished in disciplinary terms. For the Commission, this type of conduct by police officers, in addition to tolerance of that conduct by the authorities competent to investigate and punish it, generates serious doubts regarding the legitimate use of force on the one hand and, on the other hand, constitutes additional evidence regarding the arbitrariness of the use of force in this case. These questions are also consistent with the context described *supra*.

202. Based on the foregoing considerations, the Commission concludes that Igmarr Alexander Landaeta Mejías was extrajudicially executed by the Aragua State Security and Public Order Corps. Consequently, the Commission concludes that the State of Venezuela failed to fulfill its obligation to respect the right to life established in Article 4 of the Convention Americana in connection with Article 1.1 of the same instrument, to the detriment of Igmarr Alexander Landaeta Mejías.

203. Moreover, taking into account the circumstances of the facts, that the death occurred as a result of a second shot while the victim was already wounded and begging not to be killed, the Commission considers it reasonable to infer that at that point the young man experienced profound feelings of fear that in themselves constitute a violation of the obligation to respect the right to humane treatment established in Article 5 of the American Convention in connection with Article 1.1 of the same instrument. In addition, taking into account what is pointed out *infra* in the analysis of the right to a fair trial and judicial protection, the State failed in its duty to guarantee such rights by not conducting a serious and diligent investigation to clarify what had happened to the victim, to adequately determine the legality of the lethal use of force and, if appropriate, to impose the corresponding punishment.

C. The right to personal liberty²⁵⁰ and the duty to provide special protection for children²⁵¹ with respect to the events surrounding the arrest and transfer of Eduardo José Landaeta Mejías

204. The Inter-American Court has stated that “Article 7 of the Convention contains two distinct types of regulations: one general, the other specific. The general one is contained in the first subparagraph: “[e]very person has the right to personal liberty and security;” while the specific one is composed of a series of guarantees that protect the right not to be deprived of liberty unlawfully (Art. 7(2)) or in an arbitrary manner (Art. 7(3)), to be informed of the reasons for the detention and the charges brought against him (Art. 7(4)), to judicial control of the deprivation of liberty and the reasonable length of time of the remand in custody (Art. 7(5)), to contest the lawfulness of the arrest (Art. 7(6)), and not to be detained for debt (Art. 7(7)).”²⁵²

205. In addition, it has stated that any violation of subparagraphs 2 to 7 of Article 7 of the Convention shall necessarily entail the violation of Article 7.1 thereof, because the failure to respect the guarantees of the person deprived of liberty leads to a failure to protect that person’s right to liberty.²⁵³

206. In cases involving children, the Court has said that the content of the right to personal liberty cannot be separated from the best interests of the child and the State’s role as guarantor with respect to children²⁵⁴ and that this requires the adoption of special measures for their protection in view of their vulnerable condition.²⁵⁵

²⁵⁰ Articles 7.1 – 7.5 of the American Convention establish: 1. Every person has the right to personal liberty and security. 2. No one shall be deprived of his physical liberty except for the reasons and under the conditions established beforehand by the Constitution of the State Party concerned or by a law established pursuant thereto. 3. No one shall be subject to arbitrary arrest or imprisonment. 4. Anyone who is detained shall be informed of the reasons for his detention and shall be promptly notified of the charge or charges against him. 5. Any person detained shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to be released without prejudice to the continuation of the proceedings. His release may be subject to guarantees to assure his appearance for trial.

²⁵¹ Article 19 of the American Convention states: Every minor child has the right to the measures of protection required by his condition as a minor on the part of his family, society, and the State.

²⁵² I/A Court HR. *Chaparro Álvarez and Lapo Íñiguez v. Ecuador Case*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 21, 2007. Series C, No. 170. para. 51.

²⁵³ I/A Court HR. *Chaparro Álvarez and Lapo Íñiguez v. Ecuador Case*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 21, 2007. Series C, No. 170. para. 54.

²⁵⁴ I/A Court HR., *Bulacio Case*. Judgment of September 18, 2003. Series C, No. 100. para. 135.

²⁵⁵ I/A Court HR., *Case of the “Juvenile Reeducation Institute.”* Judgment of September 2, 2004. Series C, No. 112. para. 225.

207. Based on the facts that the Commission has recognized as proven and taking into account the condition of the minor Eduardo José Landaeta at the time of his arrest, the right to personal liberty will be analyzed in the following order: 1) The right not to be unlawfully deprived of liberty; 2) The right not to be deprived of liberty arbitrarily; 3) The right of the detained and family members to know the reasons for the arrest and the charges against the detainee; and 4) The right to prompt judicial control.

1. The right not to be deprived of liberty illegally

208. The Inter-American Court has stated that Article 7.2 of the Convention “recognizes the main guarantee of the right to physical liberty: the legal exception, according to which the right to personal liberty can only be affected by a law.”²⁵⁶ In addition, it has held that “the legal exception must necessarily be accompanied by the principle of legal definition of the offense (*tipicidad*), which obliges the States to establish as specifically as possible and “beforehand,” the “reasons” and “conditions” for the deprivation of physical liberty. Hence, Article 7.2 of the Convention refers automatically to domestic law. Accordingly, any requirement established in domestic law that is not complied with when depriving a person of his liberty will cause this deprivation to be unlawful and contrary to the American Convention.”²⁵⁷

209. Article 60 of the Political Constitution of Venezuela of 1961, in effect at the time of the events, indicated that:

No one may be arrested or detained, unless caught *in flagrante*, except by virtue of a written order of an official authorized to decree the detention, in the cases and with the formalities prescribed by law.

210. Article 182 of the Code of Criminal Procedure in effect at the time regulated this constitutional provision as follows:

So long as it has been indisputably proven that a crime has been committed that merits corporal punishment and there is no obvious penalty prescribed for such offense, and there are well-founded indications of an individual's culpability, the Examining Magistrate Court will issue a warrant for the arrest of the accused that will contain the following:

1. The full name of the accused and any other identifying information.
- C. A brief summary of the factual and legal grounds for the arrest order and the provisional classification of the crime.

The Examining Magistrate Court, if the accused is before him, will issue an order of imprisonment and send it to the office responsible for the management of the corresponding prison facility. That order will contain:

- a) Indication of the Court issuing the order.
- b) Identifying information on the accused.
- c) The classification given to the crime in the order of arrest.
- d) The issue date and signatures of the Judge and Clerk.

When the accused is not under arrest, the Court will issue an arrest warrant to the police authorities, indicating the identity of the accused and his or her location, if known. If not known, a summons will be issued.

The accused will be notified of the arrest order when it is executed or immediately thereafter.

²⁵⁶ I/A Court HR. *Chaparro Álvarez and Lapo Íñiguez v. Ecuador Case*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 21, 2007. Series C, No. 170. para. 56.

²⁵⁷ I/A Court HR. *Chaparro Álvarez and Lapo Íñiguez v. Ecuador Case*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 21, 2007. Series C, No. 170. para. 57.

When the crime does not merit corporal punishment, the Examining Magistrate Court will issue an order declaring the accused subject to trial and ordering the accused to appear to make a statement in the investigation.

(...)

211. Article 183 of the same Code established:

No one may be arrested without the requirements established in the preceding article, unless the crime merits corporal punishment and the person is caught *in flagrante*. In this case, any authority should and any individual may arrest the person thus caught.

212. On the concept of *in flagrante*, Article 184 of the Code stated:

For purposes of the preceding article, a crime shall be considered *in flagrante* if being committed or if it has just been committed.

A crime shall also be considered *in flagrante* when the guilty person is sought by the police authority, the aggrieved party, or public outcry, or when he is caught, shortly after committing the crime, in the same place or close to the place where the crime was committed, with weapons, tools or other items that in some way lead to a well-founded presumption that he is the criminal.

213. As indicated in the section on proven facts, Eduardo José Landaeta was arrested on December 29, 1996, when he was 17 years old, without a court order and in the absence of any *in flagrante* situation as this concept is defined in domestic legislation.

214. The only document in the file related to the arrest is the “arrest order” issued by the CSOP, which indicates that the cause for the procedure was the fact that Eduardo José Landaeta “is being sought by the CTPJ Mariño Section,” and that the authority who ordered the arrest was police officer Carlos Requena.

215. The Commission notes that although the constitutional provision cited did not specify which “authorized official” should order the arrest, the Code did clearly provide that “a court” should be involved, i.e., a judicial authority. In the instant case, the arrest was ordered by a CSOP police officer as the result of a request from the CTPJ, a body that, while it carried out investigative functions, was essentially a police agency.

216. In this respect, the Commission feels that the arrest of Eduardo José Landaeta was illegal. The Commission also feels that this situation has an aggravating factor in that Eduardo José was a minor at the time of his arrest, which entailed a special duty to protect on the part of the State, which should have sought to ensure that the deprivation of his liberty was effected in accordance with domestic standards governing such arrest and, in any case, with the international obligations assumed by Venezuela. The Commission concludes that the State violated Article 7.1 and 7.2 of the Convention, in connection with Article 19 and 1.1 of the same instrument, to the detriment of Eduardo José Landaeta.

2. The right not to be deprived of liberty arbitrarily

217. Although it has already been determined that Eduardo José Landaeta was illegally deprived of liberty and bearing in mind the victim's special condition as a minor, the Commission considers it necessary to analyze whether his arrest was also arbitrary in the sense of being based on a legitimate purpose, appropriate, necessary, and proportional.

218. With respect to these factors directly related to the right to personal liberty, the Court has stated that

...it is not sufficient that any reason for the deprivation or restriction of the right to liberty is embodied in the law, but this law and its application must be compatible with the Convention. In other words, to ensure that this measure is not arbitrary, it must respect the following requirements: i) that the purpose of the measures that deprive or restrict liberty is legitimate (it is worth noting that the Court has recognized that ensuring that the accused does not impede the development of the proceedings or evade the action of justice are legitimate purposes),²⁵⁸ ii) that the measures adopted are appropriate to achieve the intended objective; iii) that they are necessary, in the sense that they are absolutely essential to attain the desired objective, and that there is no measure that is less onerous in relation to the affected right, among all those that are similarly appropriate to achieve the proposed objective (for this reason, the Court has indicated that the right to personal liberty presupposes that any limitation must be exceptional)²⁵⁹, and iv) that the measures are strictly proportionate,²⁶⁰ so that the sacrifice inherent in the restriction of the right to liberty is not exaggerated or disproportionate compared with the advantages obtained by the use of this restriction and the achievement of the intended objective. Any restriction of liberty that does not include sufficient grounds that allow an assessment to be made of whether it is adapted to these conditions will be arbitrary and, consequently, will violate Article 7(3) of the Convention.²⁶¹

219. The Court has specified that in order to meet the requirements for restricting the right to personal liberty "there must be sufficient evidence to lead to a reasonable supposition of guilt of the person submitted to a proceeding and the arrest must be strictly necessary to ensure that the accused party will not impede an effective development of the investigations nor will he evade the action of justice. When ordering restrictive measures to freedom it is precise [sic] that the State justify and prove the existence, in the specific case, of those requirements demanded by the Convention."²⁶²

220. The Convention on the Rights of the Child, ratified by Venezuela and used by the Inter-American Court to determine the scope of Article 19 of the Convention, establishes as follows in Article 37 b):

The States Parties shall ensure that:

b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.

²⁵⁸ I/A Court HR., *Servellón García et al. Case*. Judgment of September 21, 2006. Series C, No. 152. para. 111. [Translator's note: English translation quoted via *Yvon Neptune v. Haiti*, Judgment of May 6, 2008, para. 98.

²⁵⁹ I/A Court HR., *Palamara Iribarne Case*. Judgment of November 22, 2005. Series C, No. 135. para. 197; I/A Court HR., *García Asto and Ramírez Rojas Case*. Judgment of November 25, 2005. Series C, No. 137. para. 106.

²⁶⁰ I/A Court HR., *Case of the "Juvenile Reeducation Institute."* Judgment of September 2, 2004. Series C, No. 112. para. 228.

²⁶¹ I/A Court HR. *Case of Chaparro Álvarez and Lapo Íñiguez v. Ecuador*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 21, 2007. Series C, No. 170. para. 128.

²⁶² I/A Court HR., *López Álvarez Case*. Judgment of February 1, 2006. Series C, No. 141. para. 69; I/A Court HR., *Palamara Iribarne Case*. Judgment of November 22, 2005. Series C, No. 135. para. 198; and I/A Court HR., *Acosta Calderón Case*. Judgment of June 24, 2005. Series C, No. 129. para. 111.

221. Reiterating this provision, the Committee on the Rights of the Child in General Comment No. 10 stated that “the arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.”²⁶³

222. Children are different from adults both in terms of their physical and psychological development and their emotional and educational needs, which justify the State’s special obligations to provide protection. Thus, the Commission feels that only exceptional reasons – according to relevant international standards – can justify depriving children under the age of 18 of liberty.

223. In the instant case, the decision by police to arrest Eduardo José Landaeta was based on the sole factor that he was “sought” by the CTPJ for an alleged connection to the crime of murder. The file contains no order or resolution of any kind that would define just how the juvenile was linked to a proceeding, whether possible evidence against him was such that it justified his arrest, or whether his actions could ultimately thwart the process.

224. In addition, the Venezuelan State presented no argument justifying the order to arrest Eduardo José Landaeta in accordance with the aforementioned parameters, despite the fact that the burden of supporting the reasons for which a right enshrined in the Convention is restricted falls exclusively on the State.

225. In this vein, the Commission feels that depriving the victim of liberty, in addition to being illegal, was arbitrary and thus ignored the rights enshrined in Articles 7.1 and 7.3 of the American Convention, in connection with the obligations established in Articles 19 and 1.1 of the same instrument, to the detriment of Eduardo José Landaeta.

3. The right of the detained and family members to know the reasons for the detention and the charges against the detainee

226. Developing the content of Article 7.4 of the Convention, the Inter-American Court has stated that “the information on the motives and reasons for the arrest must be provided when the arrest occurs, as this constitutes a mechanism to avoid unlawful or arbitrary arrests as of the very moment of the deprivation of liberty and, also, guarantees the individual’s right of defense.”²⁶⁴

227. In addition, the Court has emphasized that “the information about the motives and reasons for the arrest necessarily supposes, first, providing information on the arrest itself. The detained person must understand that he is being detained. Second, the agent who carries out the arrest must inform him in simple language, free of technical terms, about the essential legal grounds and facts on which the arrest is based.”²⁶⁵

228. In cases where the detainee is a minor child, the Court has maintained that “those who represent him or are his legal guardians have the right to be informed of the motives and reasons of the detention when it takes place, as well as regarding the rights of the detained.”²⁶⁶ It has also stated that the right to establish contact with a relative is particularly important in cases where a minor child is

²⁶³ “Children’s rights in juvenile justice. CRC/C/GC/10 April 25, 2007, para. 79

²⁶⁴ I/A Court HR. *Chaparro Álvarez and Lapo Íñiguez v. Ecuador Case*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 21, 2007. Series C, No. 170. para. 70; I/A Court HR., *Juan Humberto Sánchez Case*. Judgment of June 7, 2003. Series C, No. 99. para. 82.

²⁶⁵ I/A Court HR. *Chaparro Álvarez and Lapo Íñiguez v. Ecuador Case*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 21, 2007. Series C, No. 170. para. 71.

²⁶⁶ I/A Court HR., *Case of the Gómez Paquiyauri Brothers*. Judgment of July 8, 2004. Series C, No. 110. para. 92; I/A Court HR., *Maritza Urrutia Case*. Judgment of November 27, 2003. Series C, No. 103. para. 72; I/A Court HR., *Bulacio Case*. Judgment of September 18, 2003. Series C, No. 100. para. 128; I/A Court HR., *Juan Humberto Sánchez Case*. Judgment of June 7, 2003. Series C, No. 99. para. 82.

detained,²⁶⁷ that this notification must be carried out immediately by the authorities conducting the detention²⁶⁸ and that they must take the necessary steps for the notification to effectively take place.²⁶⁹ On the State's duty in this regard, the Court has emphasized that Article 7(4) of the ACHR imposes specific requirements for both agents of the State and third parties who act with the tolerance and agreement of the former and who are responsible for carrying out detentions.²⁷⁰

229. The Commission notes that in the instant case, as they alleged both before the Commission and in their statements on the domestic level, Mr. Ignacio Landaeta and Mrs. María Magdalena Mejías learned that their son had been arrested through a phone call he made several hours after his arrest. The petitioners reported that no official communicated immediately with Mr. Ignacio Landaeta and María Magdalena Mejías to inform them of the arrest, of the reasons for it, or the charges against their son. The facts also indicate that the Eduardo José's parents were unable to have direct contact with him while he was in State custody.

230. In the instant case, the Venezuelan State did not dispute the fact that the parents of the minor child, Eduardo José Landaeta, were not informed of his arrest immediately by the officer who carried out the arrest, nor were they able to have direct contact with their son. In addition, the Commission notes that the available information does not indicate the adoption of any special measure to ensure the rights and interests of the minor child, Eduardo José Landaeta Mejías, once he was arrested. There is no information on notice to the public defender in the matter to guarantee his rights as a detainee and more specifically as a child detainee. The State failed to meet its burden of proof. In this respect, the Commission concludes that the Venezuelan State violated the rights enshrined in Articles 7.1 and 7.4 of the American Convention, in connection with the obligations established in Articles 19 and 1.1 of the same instrument, to the detriment of Eduardo José Landaeta.

4. The right to prompt judicial control

231. The content of Article 7.5 of the American Convention has been established by the Inter-American Court as follows: "The first part of Article 7.5 of the Convention establishes that the detained person must be brought promptly before a judge. Prompt judicial control is a measure intended to avoid arbitrary or unlawful arrests, bearing in mind that, under the rule of law, the judge is responsible for guaranteeing the rights of the detained person, authorizing the adoption of precautionary or coercive measures when strictly necessary and, in general, ensuring that the accused is treated in a manner in keeping with the presumption of innocence."²⁷¹

232. In the instant case, the Commission has recognized as proven that when Eduardo José Landaeta was arrested on December 29, 1996, the officers took him to the local police station, from where he was transferred the next day to the Central Command of the Aragua State Police.

²⁶⁷ I/A Court HR., *Case of the Gómez Paquiyauri Brothers. Judgment of July 8, 2004.* Series C, No. 110. para. 93; I/A Court HR., *Bulacio Case.* Judgment of September 18, 2003. Series C, No. 100. para. 130.

²⁶⁸ I/A Court HR., *Case of the Gómez Paquiyauri Brothers. Judgment of July 8, 2004.* Series C, No. 110. para. 93; I/A Court HR., *Bulacio Case.* Judgment of September 18, 2003. Series C, No. 100. para. 130; and I/A Court HR., *The Right to Information on Consular Assistance in the Framework of the Guarantees of the Due Process of Law.* Advisory Opinion OC-16/99 of October 1, 1999. Series A, No. 16. para. 106.

²⁶⁹ I/A Court HR., *Case of the Gómez Paquiyauri Brothers. Judgment of July 8, 2004.* Series C, No. 110. para. 93; I/A Court HR., *Bulacio Case.* Judgment of September 18, 2003. Series C, No. 100. para. 130. Citing: Council of Europe. Committee on the Prevention of Torture. 2nd General Report on the CPT's activities covering the period 1 January to December 1991, paras. 36-43.

²⁷⁰ I/A Court HR., *Maritza Urrutia Case.* Judgment of November 27, 2003. Series C, No. 103. para. 71; and I/A Court HR., *Juan Humberto Sánchez Case.* Judgment of June 7, 2003. Series C, No. 99. para. 81.

²⁷¹ I/A Court HR. *Case of Chaparro Álvarez and Lapo Íñiguez v. Ecuador.* Preliminary Objections, Merits, Reparations and Costs. Judgment of November 21, 2007. Series C, No. 170. para. 81; I/A Court HR., *Case of the Gómez Paquiyauri Brothers. Judgment of July 8, 2004.* Series C, No. 110. para. 96; and I/A Court HR., *Maritza Urrutia Case.* Judgment of November 27, 2003. Series C, No. 103. para. 66.

Subsequently, Eduardo José was ordered transferred to the CTPJ and during the transfer – according to the version of the officers tasked to carry out the transfer – the victim was killed. From the time of the arrest until his death, which occurred two days later, Eduardo José was not brought before a court for judicial control of the deprivation of his liberty.

233. The Commission has established that the Venezuelan State did not indicate the reasons why Eduardo José's arrest was not submitted to judicial control. On the contrary, over a period of 48 hours the victim was ordered transferred twice, neither time to appear before the competent judicial authority. In this respect, the Commission feels that the Venezuelan State violated the rights enshrined in Articles 7.1 and 7.5 of the Convention Americana, in connection with the obligations established in Articles 1.1 and 19 of the same instrument, to the detriment of Eduardo José Landaeta.

234. In the instant case, the lack of judicial control is particularly serious because Eduardo José lost his life while in the custody of police officers who arrested him unlawfully and arbitrarily, without a judge being given the opportunity to rule on the lawfulness of his arrest. As will be indicated *infra* with respect to the right to life, compliance with Venezuela's international obligations regarding the judicial control of the arrest of Eduardo José, for the purpose of releasing him or adopting special measures to protect his condition as a minor child, could have represented one of the many mechanisms the State had to prevent the fatal outcome of his death.

D. The right to humane treatment and the duty to provide special protection for children with respect to what Eduardo José Landaeta Mejías experienced while in State custody.

235. With regard to the rights enshrined in Articles 5.1 and 5.2 of the Convention, the Court has repeatedly held that "International Human Rights Law strictly prohibits torture and cruel, inhuman or degrading punishment or treatment. The absolute prohibition of torture, both physical and psychological, is currently part of the domain of the international *jus cogens*. Said prohibition remains valid even under the most difficult circumstances, such as war, threat of war, the fight against terrorism and other crimes, stage of siege or state of emergency, civil commotion or domestic conflict, suspension of constitutional guarantees, domestic political instability or other public emergencies or catastrophes."²⁷²

236. In addition, the Court has stated that various international and regional treaties establish that prohibition and enshrine the irrevocable right not to be tortured. Similarly, various international instruments enshrine this right and reaffirm that prohibition, including international humanitarian law.²⁷³

²⁷² I/A Court HR., *Bueno Alves Case*. Judgment of May 11, 2007. Series C, No. 164. para. 76; I/A Court HR., *Miguel Castro Castro Prison Case*. Judgment of November 25, 2006. Series C, No. 160. para. 271; and I/A Court HR., *Baldeón García Case*. Judgment of April 6, 2006. Series C, No. 147. para. 117.

²⁷³ I/A Court HR., *Bueno Alves Case*. Judgment of May 11, 2007. Series C, No. 164. para. 77. Citing: International Covenant on Civil and Political Rights, Art. 7; Convention against Torture and Other cruel, Inhuman or Degrading Treatment or Punishment, Art. 2; Convention on the Rights of the Child, Art. 37, and the International Convention on the Protection of the Rights of All Migratory Workers and the Members of Their Families, Art. 10; Inter-American Convention to Prevent and Punish Torture, Art. 2; African Charter on the Rights of Men and of People, Art. 5; African Charter on the Rights and Welfare of the Child, Art. 16; Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará), Art. 4, and European Convention for the Protection of Fundamental Freedoms, Art. 3; Set of principles for the protection of all individuals subject to any form of detention or imprisonment, Principle 6; Code of conduct for law enforcement officers, Art. 5; UN Rules on Juveniles Deprived of Liberty, Rule 87(a); Declaration on the Human Rights of Individuals who are not Nationals of the Country in which they Live, Art. 6; UN Rules for the Administration of Juvenile Justice (Beijing Rules), Rule 17.3; Declaration on the Protection of Women and Children in Emergency and Armed Conflict, Art. 4, and Guidelines of the European Council of Ministers on Human Rights and the Fight against Terrorism, Guidelines IV; and Art. 3 common to the four Geneva Conventions; Geneva Convention governing war prisoners (Convention III), Arts. 49, 52, 87 and 89, 97; Geneva Convention relative to the protection of civilian persons in time of war (Convention IV), Arts. 40, 51, 95, 96, 100 and 119; Additional Protocol to the Geneva Conventions of August 12, 1949, on protection of victims in international armed conflict (Protocol I), Art. 75.2.ii, and Additional Protocol to the Geneva Conventions of August 12, 1949, on protection of victims of non-international armed conflict (Protocol II), Art. 4.2.a.

237. Regarding the duty to guarantee under Article 5 of the American Convention, the Court has held that this embodies the duty of the State to investigate possible acts of torture or other cruel, inhuman or degrading treatment.²⁷⁴ In addition, the Court has indicated that

In the light of the general obligation to guarantee all persons under their jurisdiction the human rights enshrined in the Convention, established in Article 1(1) of the same, along with the right to humane treatment pursuant to Article 5 (Right to Humane Treatment) of said treaty, there is a state obligation to start *ex officio* and immediately an effective investigation that allows it to identify, prosecute, and punish the responsible parties, when there is an accusation or well-grounded reason to believe that an act of torture has been committed.²⁷⁵

238. In cases involving children, the Court has stated that the fact that the victims were children requires applying the highest standard in determining the seriousness of actions that violate their right to humane treatment.²⁷⁶

239. In the instant case, it has been demonstrated that, according to the autopsy, the body of Eduardo José Landaeta had, in addition to firearm wounds, other injuries that suggested *prima facie* that the victim had been subjected to torture or other cruel treatment. These injuries, unrelated to the firearm wounds, were: “a) Partial tear of the skin of the right gluteus like a burn, with similar characteristics on both elbows; b) Circular marks on the wrist joint of both hands, discretely deep and incomplete; and c) Bruising of the lower lip.”

240. The Commission feels that even the possibility that the minor Eduardo José was subjected to torture or other cruel treatment entailed a duty on the part of the State to initiate an *ex officio* investigation regarding possible acts of torture. The Commission notes that the Prosecutor for the Transitory Regime, in a memorandum submitted on November 30, 2004, recognized the existence of wounds other than those caused by the firearm, indicating that they had been inflicted by the officers who had custody of the victim earlier and not by the police who were carrying out the transfer. Despite all this, the State did not point to any inquiry designed to shed light on these facts and, if true, to punish the officers responsible. In response to this situation, Mr. Ignacio Landaeta on various occasions sought an investigation into possible acts of torture that, in his view, were confirmed in the autopsy, but even in response to an *ex parte* petition the State failed to initiate that investigation.

241. In addition, the Commission feels that the situation of unlawful and arbitrary deprivation of liberty in which Eduardo José found himself, in the absence of judicial control, in addition to the death of his brother Igmar Alexander – one month earlier – at the hand of officers of the same police corps in whose custody he found himself, and the threats that he had received previously, constituted a series of acts of cruel and inhumane treatment that affected his emotional and moral integrity, as he could anticipate that this situation would culminate with this death, as effectively happened.²⁷⁷

242. In conclusion, the Commission feels that i) the existence of wounds on the corpse of Eduardo José Landaeta suggesting the possible practice of torture; ii) the fact that the victim had spent two days in the custody of State security agents without any judicial control and following an illegal and arbitrary arrest; iii) the absence of an investigation to determine the cause of those wounds as well as

²⁷⁴ I/A Court HR. *Escué Zapata v. Colombia Case*. Merits, Reparations and Costs. Judgment of July 4, 2007. Series C, No. 165. para. 73; I/A Court HR., *Case of the Pueblo Bello Massacre*. (Interpretation of the Judgment of Merits, Reparations and Costs) (Art. 67 of the American Convention on Human Rights). Judgment of November 25, 2006. Series C, No. 159. para. 142; I/A Court HR., *Bueno Alves Case*. Judgment of May 11, 2007. Series C, No. 164. para. 88.

²⁷⁵ I/A Court HR. *Escué Zapata v. Colombia Case*. Merits, Reparations and Costs. Judgment of July 4, 2007. Series C, No. 165. para. 74; I/A Court HR., *Baldeón García Case*. Judgment of April 6, 2006. Series C, No. 147. para. 117. para. 156; and I/A Court HR., *Miguel Castro Castro*. Judgment of November 25, 2006. Series C. No. 164. para. 89.

²⁷⁶ I/A Court HR., *Case of the Gómez Paquiyauri Brothers*. Judgment of July 8, 2004. Series C, No. 110. para. 170.

²⁷⁷ In a similar vein, see: I/A Court HR. *Case of Cantoral Huamaní and García Santa Cruz v. Peru*. Preliminary Objection, Merits, Reparations and Costs. Judgment of July 10, 2007. Series C, No. 167. para. 99.

those possibly responsible for them; and iv) the victim's status as a minor child under such circumstances and the profound fear he felt knowing what his fate would be, are sufficient evidence to conclude that the Venezuelan State ignored its duty to respect and guarantee the right enshrined in Articles 5.1 and 5.2 of the Convention to the detriment of the minor child Eduardo José Landaeta, in connection with the obligations established in Articles 19 and 1.1 of the same instrument.

243. The specific questions regarding the State's lack of due diligence in the investigation of these facts will be analyzed in the section on the rights enshrined in Articles 8.1 and 25.1 of the Convention.

E. The right to life and the duty to provide special protection for children with respect to the events surrounding the death of Eduardo José Landaeta Mejías

244. In addition to the general considerations regarding the right to life indicated *supra*, the Court has said that with respect to the right to life of children deprived of liberty, States have a special role to play as guarantor, in that prison authorities exercise heavy control or command over the persons in their custody.²⁷⁸

245. Particularly important for the instant case, the Inter-American Court has emphasized that "when the person the State deprives of his or her liberty is a child (...) it has the same obligations it has regarding any person, yet compounded by the added obligation established in Article 19 of the American Convention. On the one hand, it must be all the more diligent and responsible in its role as guarantor, and must take special measures based on the principle of the best interest of the child."²⁷⁹ On the other hand, to protect a child's life, the State must be particularly attentive to that child's living conditions while deprived of his or her liberty, as the child's detention or imprisonment does not deny the child his or her right to life or restrict that right."²⁸⁰

246. In the instant case, the Commission has recognized as proven: i) that Eduardo José Landaeta was arrested on December 29, 1996 by CSOP police officers and his parents were not immediately informed of his arrest and the reasons for it, and he was not brought before any competent authority to exercise the corresponding judicial control regarding the deprivation of liberty; ii) that he remained at a local police station on December 29, 1996; iii) that he was taken to the Central Command of the Aragua State Police on December 30, 1996; iv) that on December 31, 1996 Eduardo José should have been transferred to the CTPJ headquarters, which proved impossible since on the morning of that same day he lost his life due to 15 firearms shots; v) that his parents, once they learned of his arrest, showed up outside various sites of detention where Eduardo José was being held, in order to inform them they were dealing with a 17-year-old adolescent who was in danger; vii) that a female officer at the Central Command of the Aragua State Police, as well as a police captain there, told Eduardo José's father that there were some police officers who wanted to kill him; and viii) no specialized entity or authority was notified to ensure the rights of the detained child.

247. The police version was that the squad car in which the victim was transferred from the Central Command of the Aragua State Police to the CTPJ was intercepted by a group of unknown, hooded subjects who proceeded to seize the officers' weapons and shoot Eduardo José Landaeta,

²⁷⁸ I/A Court HR., *Case of the "Juvenile Reeducation Institute."* Judgment of September 2, 2004. Series C, No. 112. para. 152; I/A Court HR., *Case of the Gómez Paquiyauri Brothers. Judgment of July 8, 2004.* Series C, No. 110. para. 98; I/A Court HR., *Juan Humberto Sánchez Case.* Judgment of June 7, 2003. Series C, No. 99. para. 111; and I/A Court HR., *Bulacio Case.* Judgment of September 18, 2003. Series C, No. 100. para. 138.

²⁷⁹ I/A Court HR., *Case of the "Juvenile Reeducation Institute."* Judgment of September 2, 2004. Series C, No. 112. para. 160; I/A Court HR., *Case of the Gómez Paquiyauri Brothers. Judgment of July 8, 2004.* Series C, No. 110. paras. 124, 163-164; and I/A Court HR., *Bulacio Case.* Judgment of September 18, 2003. Series C, No. 100. paras. 126 and 134.

²⁸⁰ I/A Court HR., *Case of the "Juvenile Reeducation Institute."* Judgment of September 2, 2004. Series C, No. 112. para. 160.

allegedly also leaving officer Freddy Blanco, one of the three police officers tasked with the transfer, wounded.

248. For their part, from the start of the domestic proceeding the victim's parents insisted on the inconsistencies in the official version and the technical evidence and that Eduardo José had been extrajudicially executed by CSOP officers, who had threatened him earlier, had conducted illegal searches of his home, and had murdered his brother Igmarr Alexander one month earlier, allegedly in the context of a "confrontation." In this respect, they emphasized that the case of Eduardo José is part of the context of extrajudicial executions that have been occurring in Venezuela for more than a decade, with a pattern of similar characteristics.

249. In the instant case, the Commission will analyze first the actions of the State from the very moment of arrest, then the failure to provide a satisfactory explanation of the violent death in State custody and, finally, a ruling will be issued on the assignment of responsibility.

250. First, the Commission recalls that the arrest of Eduardo José Landaeta Mejías was unlawful and arbitrary, under the terms already described in this report. In particular, it is not clear, in any official document, what purpose was served by arresting a child without a judicial order and in the absence of an *in flagrante* situation. In summary, the purpose of the arrest of Eduardo José Landaeta is not clear. Once he was arrested under these circumstances, the violations continued. The CSOP officers who arrested Eduardo José did not immediately inform his parents of his arrest or the reasons for it, so that they could file a writ of habeas corpus or the equivalent to challenge the arrest of their son. Once arrested, Eduardo José Landaeta was not brought before a competent judicial authority for judicial control of his arrest. Eduardo José remained confined in police stations and the measures needed to take him to a location appropriate to his condition as a minor child were not adopted. Precisely due to the failure to comply with these minimum guarantees, at no time was it possible to shed light on the purpose of the arrest or the transfers ordered.

251. Nor were any measures adopted, once the child's parents appeared and presented information regarding the threats he had received and the extrajudicial execution of his brother one a half months earlier, to protect Eduardo José Landaeta from the risk he ran in the custody of the CSOP. The omissions noted were not addressed at this point either.

252. The State of Venezuela has not conducted a serious, timely, and exhaustive investigation of the death of Eduardo José, even though there was evidence that he had been extrajudicially executed by police officers. In this respect, and as will be analyzed in detail in the section on Articles 8 and 25 of the Convention, the case is still being tried 15 years after the death of Eduardo José, those responsible have not been punished, and no relevant evidence has been produced to shed light on the facts.

253. The Court has stated that States are responsible, in their role as guarantor of the rights enshrined in the Convention, for ensuring the observance of those rights with respect to any individual in State custody.²⁸¹ When anyone, particularly a child, dies violently in its custody, the State has the burden of demonstrating that the death cannot be attributed to it. The Court has stated that it falls to the State to provide a satisfactory and convincing explanation of what happened to those in its custody and to dispute allegations regarding its responsibility by means of appropriate evidence.²⁸²

254. Based on what has been stated to this point, the Commission concludes that State authorities arrested Eduardo José Landaeta, although it is not clear what purpose was served by the police arrest in the absence of an *in flagrante* situation and without a court order. In addition, once he was in State custody, no measures were taken to protect the life of Eduardo José in his particularly vulnerable situation based both on his youth and the threats he had received. Added to this are numerous

²⁸¹ I/A Court HR., *López Álvarez Case*. Judgment of February 1, 2006. Series C, No. 141. paras. 104 – 106.

²⁸² I/A Court HR., *Juan Humberto Sánchez Case*. Judgment of June 7, 2003. Series C, No. 99. para. 111.

circumstantial factors pointing to the execution of Eduardo José Landaeta such as the fact that Ignacio Landaeta Muñoz reported that a female CSOP officer, as well as a sergeant in the same police station, told him that his son was at risk and that some officers wanted to kill him. In addition, according to his statement, when he was already under arrest, Eduardo José himself signaled to his father begging him not to leave him alone. This happened precisely one a half months after the extrajudicial execution of his brother Igmarr Alexander, and after numerous threats and harassment by CSOP officers against both brothers through the intermediary of their mother. These threats included a death threat. The Venezuelan State did not conduct a serious and diligent investigation to provide a satisfactory answer regarding the death of a child in its custody and to punish those responsible. Nor was there a serious investigation of the evidence mentioned or of the relationship of these events with the earlier threats and with the death of his brother. In summary, there are multiple factors that taken as a group point to a direct attribution of responsibility, which is consistent with the prosecutor's indictment of the officers for the crime of murder. The State, with all the resources available to it for doing so, has failed to provide a definitive judicial response regarding what happened in order to dispute the presumption of direct responsibility.

255. Based on the foregoing considerations, the Commission concludes that the State of Venezuela is responsible for violating the duty to respect and guarantee the right to life enshrined in Article 4 of the American Convention in connection with the obligations established in Articles 19 and 1.1 of the same instrument, to the detriment of Eduardo José Landaeta Mejías.

F. The right to humane treatment with respect to the relatives of the Landaeta Mejías brothers

256. As the Inter-American Court has stated, the next of kin of the victims of certain human rights violations may, in turn, be victims.²⁸³ Specifically, the Court has held that the relatives of victims may be mentally and morally affected as a result of the specific situation endured by their loved one, and the subsequent actions or omissions on the part of domestic authorities with respect to these facts.²⁸⁴

257. The Commission believes that in this case the next of kin of the Landaeta Mejías brothers endured profound suffering due to the threats against and subsequent extrajudicial execution of Igmarr Alexander and Eduardo José, events that happened one and a half months apart. The Commission also emphasizes the anguish they must have felt when they anticipated the fate of Eduardo José once he had been arrested and held incommunicado, considering the earlier threats and the death of his brother.

258. This suffering has increased over the years since then, in that despite the tireless search for justice and constant judicial activity driving the domestic proceedings, both deaths continue to go unpunished. In summary, to date the relatives of the Landaeta Mejías brothers still do not know the truth of what happened to Igmarr Alexander and Eduardo José, which keeps their family members in a constant state of frustration, sadness, and impotence.

259. In the Commission's view, the manner in which the facts of this case occurred, as well as the situation of impunity surrounding the case, caused deep suffering and a radical change in the lives of relatives of the Landaeta Mejías brothers. Based on the information in the file, the Commission has been able to identify the following relatives: María Magdalena Mejías (mother), Ignacio Landaeta Muñoz (father), Victoria Eleri and Leydis Rossimar, both with the surname Landaeta Galindo (sisters), Francys Yelut Parra Guzmán (life partner of Igmarr Alexander Landateta Mejías), and Johanyelis Alejandra Parra (daughter of Igmarr Alexander Landaeta Mejías). As a result, the Commission concludes that the State violated the right to mental and moral integrity established in Article 5 of the American Convention in

²⁸³ I/A Court HR. *Cantoral Huamaní and García Santa Cruz v. Peru Case*. Preliminary Objection, Merits, Reparations and Costs. Judgment of July 10, 2007. Series C, No. 167. para. 112; I/A Court HR., *Bueno Alves Case*. Judgment of May 11, 2007. Series C, No. 164. para. 102.

²⁸⁴ I/A Court HR. *Cantoral Huamaní and García Santa Cruz v. Peru Case*. Preliminary Objection, Merits, Reparations and Costs. Judgment of July 10, 2007. Series C, No. 167. para. 112; I/A Court HR., *Vargas Areco Case*. Judgment of September 26, 2006. Series C, No. 155. para. 103. para. 96.

connection with the obligations established in Article 1.1 of the same instrument, to the detriment of these persons.

G. The rights to a fair trial²⁸⁵ and judicial protection²⁸⁶ with respect to the investigations and proceedings initiated due to the death of the Landaeta Mejías brothers

260. Based on the repeated case law of the Inter-American Court, the analysis of the rights enshrined in Articles 8.1 and 25.1 of the American Convention allows us to determine whether the State fulfilled its duty to guarantee the substantive rights protected by the Convention. In addition, these provisions enshrine the right of the next of kin of the victims of these violations to be heard throughout domestic proceedings as well as to obtain the truth and, if appropriate, appropriate punishment for those responsible and comprehensive reparations.

261. In this regard, the Inter-American Court has emphasized the necessary relationship existing between the general duty to guarantee indicated in Article 1.1 of the Convention and the specific rights protected by that instrument²⁸⁷ so that the State can guarantee them. As a result of that duty to guarantee, obligations arise that are incumbent upon the State in order to ensure the free and full exercise of the rights recognized in the Convention for anyone subject to its jurisdiction.²⁸⁸

262. According to the Court, the duty to investigate human rights violations is found among the positive measures that States must undertake to guarantee the rights recognized in the Convention.²⁸⁹ The Court has ruled that in order to fulfill this duty to guarantee, States must not only prevent but must also investigate violations of human rights recognized in that instrument, like those alleged in the present case, and must also seek to reestablish, if possible, the right violated, and when appropriate, redress the damages which resulted from the violations of human rights.²⁹⁰

263. The Court has also indicated that “as a result of the protection granted by Articles 8 and 25 of the Convention, the States are obliged to provide effective judicial recourses to the victims of human rights violations that must be substantiated according to the rules of due process of law.”²⁹¹

²⁸⁵ Article 8.1 of the American Convention states: 1. 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.

²⁸⁶ Article 25.1 of the American Convention establishes: 1. 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.

²⁸⁷ I/A Court HR., *Velásquez Rodríguez Case*. Judgment of July 29, 1988. Series C, No. 4. para. 164; I/A Court HR., *Vargas Areco Case*. Judgment of September 26, 2006. Series C, No. 155. para. 73; and I/A Court HR., *Case of the Rochela Massacre*. Judgment of May 11, 2007. Series C, No. 163. para. 145.

²⁸⁸ I/A Court HR. *Case of García Prieto et al. v. El Salvador*. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 20, 2007. Series C, No. 168. para. 98; I/A Court HR., *Velásquez Rodríguez Case. Preliminary Objections*. Judgment of June 26, 1987. Series C, No. 1. para. 91; and I/A Court HR., *Case of the Rochela Massacre*. Judgment of May 11, 2007. Series C, No. 163. para. 67.

²⁸⁹ I/A Court HR. *Case of García Prieto et al. v. El Salvador*. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 20, 2007. Series C, No. 168. para. 99; I/A Court HR., *La Cantuta Case*. Judgment of November 29, 2006. Series C, No. 162. para. 110; I/A Court HR. *Case of Zambrano Vélez et al. v. Ecuador*. Merits, Reparations and Costs. Judgment of July 4, 2007. Series C, No. 166. para. 88.

²⁹⁰ I/A Court HR. *Case of García Prieto et al. v. El Salvador*. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 20, 2007. Series C, No. 168. para. 99.

²⁹¹ I/A Court HR. *Case of Cantoral Huamaní and García Santa Cruz v. Peru*. Preliminary Objection, Merits, Reparations and Costs. Judgment of July 10, 2007. Series C, No. 167. para. 124; I/A Court HR., *Case of the Rochela Massacre*. Judgment of May 11, 2007. Series C, No. 163. para. 145; I/A Court HR., *Miguel Castro Castro Prison Case*. Judgment of November 25, 2006. Series C, No. 160. para. 381; and I/A Court HR., *Case of the Dismissed Congressional Employees (Aguado Alfaro et al.)*. Judgment of November 24, 2006. Series C, No. 158. para. 106.

264. With respect to the rights of the victims' next of kin to obtain justice and reparations, the Court has said that:

From Article 8 of the Convention it is evident that the victims of human rights violations, or their next of kin, should have substantial possibilities to be heard and to act in the respective proceedings, both to clarify the facts and punish those responsible, and to seek due reparation.²⁹²

265. In this same vein, the Court has indicated that the next of kin have the right, and the States have the obligation, to have what happened to the victims effectively investigated by State authorities; to have a proceeding against those allegedly responsible for these crimes; if applicable to have the relevant punishment imposed on them, and to secure reparations for the damages and prejudice that the next of kin have endured.²⁹³ According to the above, State authorities, once they learn of a human rights violation, particularly with respect to the rights to life, humane treatment, and personal liberty,²⁹⁴ have the duty to initiate *ex officio* and without delay a serious, impartial, and effective investigation,²⁹⁵ which must be conducted within a reasonable period of time.²⁹⁶

266. Based on the precedents cited, the Commission will analyze whether in the instant case the Venezuelan State conducted a serious and diligent investigation, within a reasonable period of time, as a mechanism to guarantee the rights to life of Igmar Alexander Landaeta Mejías, as well as the rights to life, humane treatment, and personal liberty of Eduardo José Landaeta Mejías, and to ensure the rights to the truth, justice, and reparations for the next of kin.

267. According to the facts that the Commission has recognized as proven, this analysis shall proceed in the following order: 1) The right to a diligent and reasonably prompt investigation regarding the death of Igmar Alexander Landaeta Mejías; 2) The right to a diligent and reasonably prompt investigation regarding the death of Eduardo José Eduardo José Landaeta; 3) The failure to investigate the connection between the deaths of the Landaeta Mejías brothers and their possible linkage with the context; 4) The right to a diligent and reasonably prompt investigation regarding the unlawful and arbitrary arrest as well as violations of the right to humane treatment endured by the victim Eduardo José Landaeta; and 5. Conclusion.

1. The right to a diligent and reasonably prompt investigation regarding the death of Igmar Alexander Landaeta Mejías

268. Regarding the substance of the duty to investigate "with due diligence," the Inter-American Court has held that this means that investigations must use all available legal means and be

²⁹² I/A Court HR. *Case of García Prieto et al. v. El Salvador*. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 20, 2007. Series C, No. 168. para. 102; I/A Court HR., *Case of the "Street Children" (Villagrán Morales et al.)*. Judgment of November 19, 1999. Series C, No. 63. para. 227; and I/A Court HR., *Case of the Serrano Cruz Brothers. El Salvador. Merits, Reparations and Costs*. Judgment of March 1, 2005. Series C, No. 120. para. 63.

²⁹³ I/A Court HR. *Case of García Prieto et al. v. El Salvador*. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 20, 2007. Series C, No. 168. para. 103; I/A Court HR., *Bulacio Case v. Argentina. Preliminary Objections, Merits, Reparations and Costs*. Judgment of September 18, 2003. Series C, No. 100. para. 114; and I/A Court HR., *Miguel Castro Castro Prison Case*. Judgment of November 25, 2006. Series C, No. 160. para. 382.

²⁹⁴ I/A Court HR. *Case of Cantoral Huamaní and García Santa Cruz v. Peru*. Preliminary Objection, Merits, Reparations and Costs. Judgment of July 10, 2007. Series C, No. 167. para. 100.

²⁹⁵ I/A Court HR. *Case of García Prieto et al. v. El Salvador*. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 20, 2007. Series C, No. 168. para. 101; I/A Court HR., *Case of the Gómez Paquiyauri Brothers. Judgment of July 8, 2004*. Series C, No. 110. para. 146; I/A Court HR. *Case of Cantoral Huamaní and García Santa Cruz v. Peru*. Preliminary Objection, Merits, Reparations and Costs. Judgment of July 10, 2007. Series C, No. 167. para. 130.

²⁹⁶ I/A Court HR., *Bulacio Case*. Judgment of September 18, 2003. Series C, No. 100. para. 114; I/A Court HR., *Case of the Rochela Massacre*. Judgment of May 11, 2007. Series C, No. 163. para. 146; I/A Court HR., *Miguel Castro Castro Prison Case*. Judgment of November 25, 2006. Series C, No. 160. para. 382.

directed to determining the truth.²⁹⁷ Along the same lines, the Court has indicated that the State has the duty to ensure that everything necessary be done to learn the truth about what happened and that those ultimately responsible are punished,²⁹⁸ involving all state institutions.²⁹⁹

269. As the Court has indicated, to fulfill the duty to investigate with due diligence a violation of the right to life, States are required to act assiduously, starting with the initial proceedings.³⁰⁰ In this regard, the Inter-American Court has taken into consideration the United Nations Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, specifying that “State authorities that conduct an investigation must, *inter alia*, a) identify the victim; b) recover and preserve the probative material related to the death, in order to facilitate any investigation; c) identify possible witnesses and obtain their statements in relation to the death under investigation; d) determine the cause, method, place and moment of the death, as well as any pattern or practice that could have caused the death; and e) distinguish between natural death, accidental death, suicide, and murder. In addition, it is essential to search exhaustively the scene of the crime and autopsies and analyses of human remains must be carried out rigorously by competent professionals, using the most appropriate procedures.”³⁰¹

270. The Court has also stated that authorities must adopt reasonable methods to ensure the collection of the evidence needed to conduct the investigation.³⁰²

271. Regarding the importance of the actions taken by the authorities carrying out the initial steps in the investigation, the Court has held that due diligence “and criteria of independence and impartiality also extend to the non-judicial bodies responsible for the investigation prior to the judicial proceedings, conducted to determine the circumstances of a death and the existence of sufficient evidence. In the absence of these requirements, the State cannot subsequently exercise effectively and efficiently its authority to bring charges and the courts cannot conduct the judicial proceedings that this type of violation calls for.”³⁰³

272. In addition, and particularly important for this case, the Court has emphasized that

The State’s obligation to carry out investigations with due diligence includes the obligation of all State authorities to collaborate in the gathering of evidence so that the objectives of an investigation may be achieved. The authority in charge of the investigation must ensure that all necessary investigate steps are undertaken and must take appropriate action, in accordance with domestic legislation, when this does not occur. At the same time, all other State authorities must

²⁹⁷ I/A Court HR. *Case of García Prieto et al. v. El Salvador*. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 20, 2007. Series C, No. 168. para. 101.

²⁹⁸ I/A Court HR., *Bulacio Case*. Judgment of September 18, 2003. Series C, No. 100. para. 114; I/A Court HR., *Case of the Rochela Massacre*. Judgment of May 11, 2007. Series C, No. 163. para. 146; I/A Court HR., *Miguel Castro Castro Prison Case*. Judgment of November 15, 2006. Series C, No. 160. para. 382.

²⁹⁹ I/A Court HR. *Case of Cantoral Huamaní and García Santa Cruz v. Peru*. Preliminary Objection, Merits, Reparations and Costs. Judgment of July 10, 2007. Series C, No. 167. para. 130; I/A Court HR., *Case of the Pueblo Bello Massacre*. Judgment of January 31, 2006. Series C, No. 140. para. 120; and I/A Court HR., *Huilca Tecse Case*. Judgment of March 3, 2005. Series C, No. 121, para. 66.

³⁰⁰ I/A Court HR. *Case of Zambrano Vélez et al. v. Ecuador*. Merits, Reparations and Costs. Judgment of July 4, 2007. Series C, No. 166. para. 121.

³⁰¹ I/A Court HR., *Case of the Moiwana Community*. Judgment of June 15, 2005. Series C, No. 124. para. 149; I/A Court HR., *Miguel Castro Castro Prison Case*. Judgment of November 25, 2006. Series C, No. 160. para. 383. Citing the United Nations Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, Doc. E/ST/CSDHA/12 (1991).

³⁰² I/A Court HR. *Case of Zambrano Vélez et al. v. Ecuador*. Merits, Reparations and Costs. Judgment of July 4, 2007. Series C, No. 166. para. 122.

³⁰³ I/A Court HR. *Case of Cantoral Huamaní et García Santa Cruz v. Peru*. Preliminary Objection, Merits, Reparations and Costs. Judgment of July 10, 2007. Series C, No. 167. para. 133.

collaborate with the examining judge and abstain from acts that obstruct the investigative process.³⁰⁴

273. Although the obligation is an obligation of means rather than results, it must be undertaken by the State as its own legal duty and not as a mere formality condemned in advance to be fruitless³⁰⁵ or merely as a step taken by private interests that depends on the initiative of the victim or his family or upon the submission of evidence by private individuals.³⁰⁶

274. The Commission has isolated procedural documents from the file on the investigation into the death of Igmarr Alexander Landaeta Mejías, during which various steps were taken. Based on its analysis of the items available in the file, the Commission emphasizes the following omissions, among others:

- Even though the investigation began immediately after the event, no investigative measures are recorded after January 1997 and up to July 21, 1998. Throughout all of 1997, procedural activity involved the conclusion of the summary investigation by the Municipal Court of Santiago Mariño and Libertador and the appeals filed against this ruling. However, there is no indication of specific measures taken during this extended period.

- The investigation and criminal process lasted for approximately seven years, during which there are long periods of inactivity and as yet unjustified delays in conducting tests and in resolving the appeal.

- Although there are consistencies in the assessment of the first instance judge and other authorities who heard the appeal regarding the implications of the abrasion ring [*halo de contusion*] in the evaluation of the evidence, there are no specific measures taken to resolve this contradiction. The Commission feels that this test is fundamentally important in determining the legality of the use of force.

- As indicated above, the fact that the officers were acting while “on duty” but dressed as civilians and carrying no identification, while riding a vehicle without plates, and that they later left the body of Igmarr Alexander at a medical center without providing any explanation of what had happened amounts to evidence that what happened was an extrajudicial execution. Despite the importance of these components of the case, no serious disciplinary investigations were conducted against the participating officers regarding the obvious violation of the minimum standards of police operation.

- The Court of Appeals of the Criminal Court Circuit of the State of Aragua, in its decision of November 10, 2003 in which it definitively dismissed the charges against the accused, did not address the central issues on which the first instance judge based his decision to convict one of the accused. Thus, for example, the Court did not refer to the contradictions in the statements made by the accused, the evidence supporting the lack of any need for the second shot or the actions of the police officers at the hospital. The reasoning of the Court of Appeals of the Criminal Court Circuit is not sufficient to conclude that the State provided a satisfactory explanation regarding the use of force. On the contrary, that court applied grounds for exemption from liability without responding to the evidence of extrajudicial execution.

275. Based on the foregoing considerations, the Commission concludes that the State failed in its duty to carry out a diligent and timely investigation regarding the death of Igmarr Alexander Landaeta

³⁰⁴ I/A Court HR. *Case of García Prieto et al. v. El Salvador*. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 20, 2007. Series C, No. 168. para. 112.

³⁰⁵ I/A Court HR., *Velásquez Rodríguez Case*. Judgment of July 29, 1988. Series C, No. 4. para. 177; I/A Court HR. *Case of Cantoral Huamaní and García Santa Cruz v. Peru*. Preliminary Objection, Merits, Reparations and Costs. Judgment of July 10, 2007. Series C, No. 167. para. 131; y I/A Court HR. *Case of Zambrano Vélez et al. v. Ecuador*. Merits, Reparations and Costs. Judgment of July 4, 2007. Series C, No. 166. para. 120.

³⁰⁶ I/A Court HR., *Velásquez Rodríguez Case*. Judgment of July 29, 1988. Series C, No. 4. para. 177; I/A Court HR. *Case of Zambrano Vélez et al. v. Ecuador*. Merits, Reparations and Costs. Judgment of July 4, 2007. Series C, No. 166. para. 120.

Mejías. This meant that his next of kin had no effective judicial remedy for establishing the truth of what happened, for ensuring the punishment of the masterminds and perpetrators of the crimes, and for securing appropriate reparations.

2. The right to a diligent and reasonably prompt investigation regarding the death of Eduardo José Landaeta Mejías

276. In the investigation into the death of Eduardo José Landaeta Mejías, the Commission notes that numerous irregularities were committed. The following merit notice:

- The authorities responsible for the investigation had no knowledge of the facts they were investigating nor of steps that had already been taken.
- The ignorance regarding the facts that were the subject of the investigation was such that, on two occasions – August 13, 1998 and March 2, 1999 – the authorities charged with the investigation issued orders that the deceased Eduardo José Landaeta be summoned to make a statement regarding what happened. This ignorance led to time spent in requesting and repeating tests that were already in the file, such as seeking information regarding the duties of officers Carlos Andrés Requena, Carlos Alexander Rojas, and Freddy Antonio Blanco, and seeking information regarding the criminal and police record of Eduardo José Landaeta.
- This ignorance is also evident in the fact that on November 7, 2005 the Transitory Prosecutor's Office sent an official letter to the Maracay Medical Center asking for information regarding the medical care given by the so-called "Doctor Freddy Blanco," who was actually one of the police officers investigated for having been part of the CSOP team that was to effect the transfer of Eduardo Landaeta to the CTPJ.
- On two occasions, six months apart, on August 13, 1998 and March 2, 1999, the Municipal Court issued the same order initiating the summary investigation.
- There have been extended periods of inactivity throughout the investigation. The file indicates that in some cases these periods of inactivity have lasted for up to three years. At other times, the inactivity has been due to delays in forwarding the file between prosecutors' offices and judicial authorities who have heard the matter. An example of this is the six month delay in returning the file to the Transitory Prosecutor's Office once the decision was made to reject the petition for dismissal on January 26, 2005.
- Inactivity during extended periods meant that an excessive amount of time was taken up asking for vitally important tests. Examples are the request to expand the autopsy eight years after it was performed, the request regarding the bullet trajectory eight years after the fact, and the request to exhume the body of Eduardo José Landaeta ten years after his death, despite the fact that the precariousness of the autopsy protocol was known from the outset of the investigation.
- The deleterious effects of the passage of time on the ability to seek certain evidence was obvious in the request made on February 26, 2004 regarding the emergency care provided by the Maracay Medical Center, when the center's Director responded by indicating that they only kept records for five years.
- Some witnesses that seemed connected to the events from the start of the investigation were summoned to make statements between eight and ten years later. This is true of Officers Samuel Uzcátegui and Yasmira Thais Díaz.
- Many of the few measures sought and actually carried out by the respective institutions were designed to determine the victim's police and criminal records.
- There were irregularities in the safeguarding of evidence essential to determining the facts. This was the case with the photographs taken of the visual inspection of the corpse of Eduardo José on the day he died, which were lost and could not be included in the file.
- Fifteen years after these events occurred, tests essential for determining the truth and assigning responsibility have not been conducted. This was recognized by the Fourth Court on

November 9, 2004 in rejecting the petition for dismissal, precisely because vitally important technical evidence had not been produced. These omissions were also recognized by the Office of the Senior Prosecutor on July 14, 2005.

- Logical lines of investigation that were essential for determining the facts were not followed. For example, no investigative measure was taken regarding the death threats previously received by Eduardo José and his family. In addition, there was no investigation of the repeated assertions made by Eduardo José's parents to the effect that a female officer at the Central Command of the Aragua Police and a sergeant in the same office suggested to them that they shouldn't leave since there was strange activity going on around Eduardo José Landaeta Mejías. There was no investigation regarding the alleged presence at the Central Police Command of the officers who participated in the extrajudicial execution that caused the death of Igmair Alexander Landaeta, who were at that Command asking for Eduardo José on the night before he was killed.

- Many of the procedures and much of the information sought by the officials in charge of the investigation were not carried out or sent. In this situation, either the requests were not repeated or were repeated years later. This was the case with the bullet trajectory, post-mortem fingerprints, and testimony regarding the planimetric survey, all of which are relevant for reconstructing the facts.

- Most of the officers summoned by the CSOP did not appear to make statements, and they were not told of their duty to collaborate in investigating the truth or informed of the penalties that their failure to appear could entail.

277. Before analyzing the criteria with respect to a reasonable period of time, the Commission emphasizes that Venezuela did not submit any arguments to justify the 15 year delay in the investigations.

278. Secondly, the Commission notes that the victim in this case was one person, whose identity could easily be determined, the facts were immediately known by the State, and the respective authorities had free access to the scene of the events. Consistent with the criteria of the Inter-American Court,³⁰⁷ the Commission feels that this case was not particularly complicated.

279. In any case, the Commission notes that the failure to shed light on the facts, to conduct an investigation, and to punish all those responsible reflected the already detailed acts of omission on the part of the agencies that were responsible for the investigation. In particular, the Commission emphasizes that the case was totally inactive for periods of more than six months. The Commission notes with concern the fact that no steps were taken during the years 2000, 2001, and 2002 and from 2002 on it was Mr. Ignacio Landaeta Muñoz, Eduardo José's father, who drove the investigation, asking that tests be conducted and denouncing the procedural delay.

280. Based on the foregoing considerations, the Commission concludes that the State failed in its duty to conduct a diligent and reasonably timely investigation regarding the death of Eduardo José Landaeta Mejías. This means that his next of kin had no effective judicial remedy in which the truth could be established, punishment could be imposed on the masterminds and perpetrators of the crimes, and appropriate reparations could be obtained.

3. The failure to investigate the interrelationship between the deaths of the Landaeta Mejías brothers and their linkage with the context

281. In addition to what has been established in the preceding sections, the Commission emphasizes that the investigations were conducted in isolation and individually. None of them seriously analyzed the interrelationship between the deaths of the two brothers, based on the evidence described in the corresponding section of this report. Nor did they analyze the facts in the light of the context of similar situations that occur quite frequently in Venezuela and that, in a large number of cases, continue

³⁰⁷ I/A Court HR., *Vargas Areco Case*. Judgment of September 26, 2006. Series C, No. 155. para. 103.

to go unpunished. In that sense, the Commission feels that the institutions responsible for directing the investigations were responsible not only for taking the appropriate steps according to logical lines of investigation but also for determining whether in the instant case there was a link between the deaths and whether those deaths reflected the pattern of extrajudicial executions existing at the time.³⁰⁸ The failure to investigate these aspects represented an additional factor contributing to impunity in both cases, obstructing the determination of the truth and ultimately the punishment of those responsible.

4. The right to a diligent and reasonably prompt investigation regarding the unlawful and arbitrary detention and the violations of the right humane treatment endured by the victim Eduardo José Landaeta

282. As indicated by the facts in this case, the Venezuelan State did not take undertake any procedures to investigate the conduct of the police officers who unlawfully and arbitrarily arrested Eduardo José Landaeta and then failed to make him available to judicial authority.

283. Nor did the State initiate any investigation into the conduct of the police officers who had custody of Eduardo José Landaeta from the time of his arrest, in order to determine who was responsible for the signs of torture revealed on his body during the autopsy. In this regard, the Inter-American Court has stated that the obligation to guarantee the right recognized in Article 5.1 of the Convention entails the duty of the State to adequately investigate possible acts of torture or other cruel, inhuman, or degrading treatment.³⁰⁹

284. The Commission emphasizes the case law of the Inter-American Court in the sense that

in those cases where alleged torture or mistreatment have been claimed, the time elapsed till [sic] the performance of the pertinent medical examinations is essential in order to unquestionably determine the existence of damage, specially [sic] when there are no witnesses other than the perpetrators and the victims themselves, and consequently, the evidence may be scarce. Thus, it may be concluded that in order for an investigation regarding facts involving torture to be effective, the same must be promptly conducted.³¹⁰

285. In addition there was no investigation as to why Eduardo José Landaeta Mejías, a minor, was arrested without a court order and in the absence of an *in flagrante* situation, without his parents being informed, without any judicial control and without notice to the specialized authority for the defense of children.

286. In this section, there is no need to perform a detailed analysis as to whether or not the State acted with due diligence and within a reasonable period of time, since on the subject of violations of the right to humane treatment and personal liberty the inaction of the domestic authorities was absolute. It is sufficient to conclude on this point that the Venezuelan State failed to provide an effective judicial remedy for Eduardo José Landaeta Mejías' next of kin with respect to the violations of his right to humane treatment and the unlawful deprivation of his liberty.

5. Conclusion

³⁰⁸ In a similar vein, see: I/A Court HR. *Case of Escué Zapata v. Colombia*. Merits, Reparations and Costs. Judgment of July 4, 2007. Series C, No. 165. para. 106: "It is vital that the complexity of the matter, the context and the circumstances in which it occurred and the patterns that explain its commission must be taken into account when carrying out a due diligence in the investigative procedures."

³⁰⁹ I/A Court HR., *Vargas Areco Case*. Judgment of September 26, 2006. Series C, No. 155. para. 103. para. 78; and I/A Court HR., *Ximenes Lopes Case*. Judgment of July 4, 2006. Series C, No. 149. para. 147.

³¹⁰ I/A Court HR., *Bueno Alves Case*. Judgment of May 11, 2007. Series C, No. 164. para. 111.

287. Based on the foregoing considerations, the Commission concludes that the State of Venezuela did not provide the Landaeta Mejías brothers' next of kin an adequate and effective remedy, with the guarantees of due process, in order to shed light on the facts and impose the appropriate punishment for the death of the two brothers, as well as the unlawful and arbitrary deprivation of Eduardo José Landaeta Mejías' liberty and the violation of his right to humane treatment. As a result, the State is responsible for violating the rights to a fair trial and judicial protection established in Articles 8 and 25 of the American Convention, in connection with the obligations indicated in Article 1.1 of the same instrument, to the detriment of María Magdalena Mejías (mother), Ignacio Landaeta Muñoz (father), Victoria Eneri and Leydis Rossimar, both with the surname Landaeta Galindo (sisters), Francly Yelut Parra Guzmán (life companion of Igmarr Alexander Landateta Mejías), and Johanyelis Alejandra Parra (daughter of Alexander Landaeta Mejías).

VI. CONCLUSIONS

288. Based on the factual and legal considerations presented throughout this report, the Inter-American Commission concludes that the State of Venezuela is responsible for:

- a) Violating the rights to life and humane treatment enshrined in Articles 4 and 5 of the American Convention in connection with Article 1.1 of the same instrument, to the detriment of Igmarr Alexander Landaeta Mejías.
- b) Violating the right to life, humane treatment, personal liberty, and special protection for children, established in Articles 4, 5, 7, and 19 of the American Convention in connection with Article 1.1 of the same instrument, to the detriment of Eduardo José Landaeta Mejías.
- c) Violating the rights to humane treatment, a fair trial, and judicial protection, enshrined in Articles 5, 8, and 25 of the American Convention, in connection with Article 1.1 of the same instrument, to the detriment of María Magdalena Mejías (mother), Ignacio Landaeta Muñoz (father), Victoria Eneri and Leydis Rossimar, both with the surname Landaeta Galindo (sisters), Francly Yelut Parra Guzmán (life companion of Igmarr Alexander Landateta Mejías), and Johanyelis Alejandra Parra (daughter of Igmarr Alexander Landaeta Mejías).

VI. RECOMMENDATIONS

289. Based on the foregoing conclusions,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, RECOMMENDS THAT THE VENEZUELAN STATE,

1. Conduct a complete, impartial, effective, and timely investigation of the human rights violations described in this report, in order to establish and impose punishment for the intellectual and material responsibility for the facts described.
2. These investigations must be conducted in such a way as to establish the links between each of the events covered in this report, as well as between those events and the more general context of violence and extrajudicial executions committed by the regional police.
3. Provide appropriate administrative, disciplinary, and criminal measures to address the actions and omissions of the State officials who contributed to justice denied and impunity surrounding the facts in this case.
4. Make adequate reparations for the human rights violations related in this report in both material and moral terms.
5. Provide mechanisms to prevent repetition, including: i) training programs on international human rights standards in general, and with respect to children and adolescents, directed to the Aragua

State Police; ii) measures to ensure effective accountability in the criminal, disciplinary, and administrative sphere, in cases of alleged abuse of power by State agents responsible for public security; and iii) legislative, administrative, and other types of measures for investigating with due diligence and in accordance with relevant international standards the need for and proportionality of the lethal use of force by police officers, to ensure the existence of effective protocols so that adequate control and accountability mechanisms can be implemented in response to the actions of such officers.