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CASE 12.954

MERITS

JINETH BEDOYA LIMA AND OTHER
COLOMBIA

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Colombia. December 7, 2018.



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DECEMBER 7, 2018

I. SUMMARY

1. On June 3, 2011, the Inter-American Commission on Human Rights (hereinafter “Commission,” “Inter-American Commission,” or “IACHR”) received a petition filed by the *Fundación para la Libertad de Prensa* (hereinafter “the petitioner”), alleging the international responsibility of the Republic of Colombia (hereinafter “the State” or “Colombia”) to the detriment of journalist Jineth Bedoya Lima and her mother, Luz Nelly Lima.

2. The Commission adopted the admissibility report No. 50/14 of July 21, 2014.² The parties were given notice of the admissibility report on August 6, 2014, pursuant to Rule 36 of the Rules of Procedure of the IACHR. Likewise, in accordance with Article 48(1)(f) of the American Convention on Human Rights (hereinafter “the American Convention” or “the Convention”), and Article 37(4) of its Rules of Procedure, the IACHR made itself available to the parties in order to reach a friendly solution in the matter. The parties had the time periods established in the rules to submit additional observations on the merits. On April 5, 2016, the Commission held a public hearing on the merits of the case during which it heard the parties’ submissions. All the information received was duly transmitted between the parties.

3. The petitioner alleged that journalist Jineth Bedoya Lima was abducted, tortured and raped on May 25, 2000, for reasons related to her profession. It asserted that the State failed to take adequate and timely measures to protect the alleged victim, despite knowing that she was at risk because of her work. It maintained that no effective and diligent investigation was conducted into these facts consistent with the applicable international standards.

4. For its part, the State asked the IACHR to declare that it is not responsible for the violation of rights alleged in the present case by the petitioner. It maintained that State authorities have taken various criminal and disciplinary actions, along with protection and reparation measures, in order to safeguard the rights of the alleged victim in this case. In particular, it stated that the authorities have acted objectively and comprehensively in accordance with established constitutional and legal procedures and that this work has resulted in significant progress in the investigation of the facts alleged.

5. Based on the findings of fact and law, the Inter-American Commission concluded that the State is responsible for the violation of the rights enshrined in Articles 4.1, 5.1, 5.2, 7, 8.1, 11, 13, 22, 24 and 25.1 of the American Convention in relation to the obligations established in Article 1.1 of the same instrument. The Commission also concluded that the State is responsible for the violation of Articles 7b of the Inter-American Convention on the Prevention and Eradication of Violence against Women (Convention of Belém do Pará) and Articles 1, 6, and 8 of the Inter-American Convention to Prevent and Punish Torture (hereinafter “the IACPPPT”). The Commission made the respective recommendations.

¹ In compliance with the terms of Article 17.2 of the Commission’s Rules of Procedure, Commissioner Luis Ernesto Vargas Silva, a Colombian national, did not participate in discussing or deciding this case.

² Inter-American Commission on Human Rights (IACHR), Report No. 50/14/10, Petition 779-01, Admissibility, Jineth Bedoya Lima. Colombia, July 21, 2014. In this report, the IACHR declared that the Petition meets the applicable admissibility requirements concerning the possible violation of: i) Articles 4, 5, 7, 8, 11, 13, 17, 22, 24 and 25 of the American Convention on Human Rights, in connection with articles 1.1 and 2 thereof; ii) articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture; and iii) article 7 of the Convention of Belém do Pará.

II. POSITIONS OF THE PARTIES

A. The petitioner

6. The petitioner alleged that on May 25, 2000, journalist Jineth Bedoya Lima was abducted outside the National Model Prison (*Cárcel Nacional Modelo*) in the city of Bogotá. It maintains that during her kidnapping, which lasted approximately 16 hours, the alleged victim was severely abused and tortured by her captors, who subjected her to various forms of physical, sexual, and psychological violence and told her on several occasions that the kidnapping was due to her journalistic work. It denounced that, at the time of the events, the journalist was working for the newspaper *El Espectador* as chief editor of prison news and was covering a massacre that had taken place on April 27, 2000 at La Modelo.

7. La the petitioner alleges that the State failed in its duty to guarantee **the rights to humane treatment, freedom, and privacy**, since it did not take protective measures on behalf of Jineth Bedoya Lima, even though it was aware of the risks she faced because of the work she was doing. It indicated that Jineth Bedoya Lima informed the authorities of the threats she had received; however, the State did not take effective protection measures. The petitioner alleged that the State's failure to protect Jineth Bedoya Lima also constitutes a violation of her **right to freedom of expression** in both its individual and collective dimensions. It also argued that, because of the threats against her and the lack of government protection, she had to leave the country in 1998, which was a violation of her **right of free movement and residence**.

8. The petitioner raised various allegations, arguing that the Colombian State violated the alleged victim's rights to judicial guarantees and protection by failing to conduct a diligent and effective investigation into these acts, consistent with applicable international standards. The petitioner maintained that "until 2011 there was no impetus to the investigation" and that it was only in 2011, with the prompting and intervention of the alleged victim and her legal representatives, that the investigation was reactivated; therefore, the State is responsible for an undue delay in the investigation. In addition, it argued that the State omitted to conduct and assess evidentiary proceedings in a timely manner, making it impossible in several instances to include evidence in the criminal file that could have been decisive. It stated that, on the contrary, there was stalling and discontinuity in the lines of investigation; duality in the investigations of gender-based violence; the transfer of the investigative activity to the victim; a lack of investigative memory and coherence; ineffective investigative activities; and the delayed examination of relevant evidence. It also argued that from the outset there was evidence of involvement of State agents in the alleged acts, and yet this line of investigation has not been a major part of the judicial proceedings in the case. Specifically, it said that the facts involving State agents should have been considered as possible torture in accordance with the requirements derived from Articles 1, 6, and 8 of the Inter-American Convention to Prevent and Punish Torture. In addition, the petitioner asserted that the investigation was not conducted properly, that the victim was forced to provide multiple statements in court, and that the evidence and the establishment of lines of investigation were discriminatory, in breach of the enhanced obligation to investigate acts of sexual violence contained in Article 7.b of the Convention of Belém do Pará.

9. Based on the foregoing, the petitioner alleged that the State of Colombia is responsible for the violation of Articles 5, 7, 8, 11, 13, 22, and 25 of the American Convention in relation to Articles 1.1 and 2 thereof. It also alleged noncompliance with the obligations established in Articles 1, 6, and 8 of the IACPPT and Article 7.b of the Convention of Belém do Pará.

10. The petitioner maintains that this case is framed within the context of the internal armed conflict in Colombia, which has had a differentiated and disproportionate impact on both journalists and women.

11. Finally, the petitioner asked the Commission to find that the State violated the right to humane treatment, in relation to Article 1.1 of the ACHR, to the detriment of Luz Nelly Lima Gutiérrez, Jineth Bedoya's mother. In this regard, it alleged that she "has been suffering and fearful of the threats to her daughter since 1998, aggravated by the ongoing impunity in the case, and that in 1999 she was injured in an attack directed against the alleged victim, and had to be hospitalized for several days."

B. The State

12. The State indicated that it deeply regrets the events of May 25, 2000, when journalist Jineth Bedoya was the victim of acts constituting kidnapping, torture, and sexual violence, and expressed its appreciation for the journalistic work of Jineth Bedoya. It also acknowledged that “There was a context of violence against journalists at the time of the events involved in this case,” and asked the IACHR for legislative and public policy measures aimed at “respecting and guaranteeing the practice of journalism and access to justice for crimes of sexual violence against women within and outside the context of the armed conflict.”

13. The State alleged that government authorities have taken various criminal and disciplinary actions, as well as protection and reparation measures in order to safeguard the rights of the alleged victim in the present case. As to the protective measures, the State acknowledged that it was aware of the journalist’s risk prior to her abduction. It affirmed that in 1999 the State assessed the risk at a medium level; “however, it is not certain whether the journalist accepted the provisional security detail offered by the DAS.” It also stated that the Ministry of Defense was indeed aware of the threats received by Jineth Bedoya the day before her kidnapping and that “it dealt with the situation described by journalists through the National Police, taking security measures to prevent the risk from becoming a reality.” It added that she was assigned a security detail in March 2014, consisting of police officers, an armored vehicle, a conventional vehicle, a communication device, and a bulletproof vest.

14. With regard to the criminal investigation into the threats, the State maintained that it opened three criminal investigations, which were closed for good cause after the end of the inquiry stage. However, the State reported that “a Legal Technical Committee of the Office of the Prosecutor General is considering the possibility of ordering the reopening of these investigations, in order to continue gathering evidence to clarify the facts reported by the journalist.”

15. Regarding the investigations related to the events that occurred on May 25, 2000, the State argued that the authorities have acted objectively and comprehensively following established constitutional and legal procedures and that significant progress has been made as a result of that work. It stated that once it learned of the journalist’s kidnapping, the authorities immediately took action to determine her whereabouts and initiated the necessary procedures to identify those responsible. It maintained that despite the difficulties encountered in the investigation of these facts, the authorities have assumed their duty with all seriousness, impartiality, and speed, which has enabled the following advances: 1) the conviction of two of the perpetrators, 2) the declaration of the crimes against Jineth Bedoya Lima as crimes against humanity, in accordance with the international instruments ratified by Colombia, 3) the identification of the motives for the crimes, which concluded that the intent was to intimidate the journalist and restrict the exercise of her activity, and 4) progress in establishing the facts. The State indicated that the Public Ministry has been actively involved in the criminal case since its inception and that since January 2011, when Jineth Bedoya Lima became a civil party to the investigation, the alleged victim has been fully involved in the case. In addition, the State maintained that the investigation followed the standards established for dealing with victims of sexual violence, and that at no time did the authorities engage in “actions that could have re-victimized and/or discriminated against the journalist,” nor did they make stereotypical assessments in the investigation. The State contended that at the beginning of the investigation there was not enough evidence to pursue a line of investigation related to the involvement of State agents in the facts of the instant case, but that new elements have recently been added to the case in that regard and the relevant evidence has been requested in order to resolve that theory.

16. With regard to comprehensive reparation measures, the State indicated that the Unit for Comprehensive Victim Support and Reparation granted the alleged victim a sum equivalent to 40 monthly minimum salaries as a compensation measure. It also issued a decree declaring May 25 the “*National Day for the Dignity of Women Victims of Sexual Violence in the Armed Conflict*” and gave Jineth Bedoya Lima a “letter to restore dignity” [*carta de dignificación*] in light of the events of May 25, 2000.

17. Based on the foregoing, the State maintained that it did not violate the rights to a fair trial and judicial protection enshrined in Articles 8 and 25 of the American Convention, nor did it violate Article 7.b of the Convention of Belém do Pará, or Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture. The State further contended that it is not responsible for the alleged violation of the right to humane treatment of Jineth Bedoya Lima's mother, Mrs. Luz Nelly Lima.

III. ESTABLISHED FACTS

18. Pursuant to Article 43.1 of its Rules of Procedure, the Commission shall take into account the arguments and evidence presented by the parties, as well as information that is a matter of public knowledge.³ The latter may include laws, decrees, and other laws and regulations in force in Colombia at the time of the events at issue in this case.

A. Prior threats against Jineth Bedoya Lima

19. Jineth Bedoya Lima is a well-known Colombian journalist and human rights defender. She began her career in 1995 and since then has worked in various radio, print, and television media in the country, providing special coverage of the armed conflict in Colombia.⁴ She has authored several journalistic books⁵ and won a number of national and international awards for her work.⁶ At the time of the adoption of this report, Jineth Bedoya is serving as deputy editor of the justice section of the newspaper *El Tiempo* and leads the “*No Es Hora De Callar*” [“It’s No Time to Be Quiet”] campaign that promotes the reporting and documentation of sexual and gender-based violence.⁷

20. Jineth Bedoya has been the victim of threats and acts of harassment since the beginning of her career as a journalist, especially since she started covering the internal armed conflict and judicial affairs in 1998. On February 15, 1999, Jineth Bedoya began working for the newspaper *El Espectador* as a reporter on law and order issues in the judicial section.⁸ During that year the journalist published several reports on clashes and acts of violence inside the National Model Prison in Bogotá, in which she exposed allegations of human rights violations and arms trafficking in the prison.⁹ The articles recounted the clashes between the

³ Rules of Procedure of the IACHR, article 43.1. “The Commission shall deliberate on the merits of the case, to which end it shall prepare a report in which it will examine the arguments, the evidence presented by the parties, and the information obtained during hearings and on-site observations. In addition, the Commission may take into account other information that is a matter of public knowledge”.

⁴ Communication of the petitioner received by the IACHR on May 11, 2011, p. 9; and communication of the petitioner received on May 29, 2015, pp. 16-18. See also the communication of the State received by the IACHR on April 5, 2016, p. 2.

⁵ According to the information provided by the petitioner, which was not challenged by the State, Jineth Bedoya Lima is the author of the following books: “*Los Patios del Infierno*” (2002); “*Diario de un Combate*” (2005); “*En las Trincheras del Plan Patriota*” (2008); “*La Pirámide de David Murcia*” (2009); “*Te hablo desde la prisión*” (2010); “*Vida y muerte del ‘Mono Jojoy’*” (2010); “*Blanco neutralizado*” (2013); “*Las batallas de Jineth Bedoya*” (2014).

⁶ According to the information provided by the petitioner, which was not challenged by the State, Jineth Bedoya Lima has received the following prizes and awards, among others: Courage in Journalism Award (New York, 2001); CJFE’s International Press Freedom Award (Toronto, Canada, 2000) for her journalistic coverage at Colombian prisons; International Women of Courage Awards (Washington, DC, 2012); The Simón Bolívar National Award for Journalism (Colombia, 2001 and 2012); Honoric Award at the International Pirineos Sur Festival (Aragón, Spain, 2014); Alfonso López Michelsen National Communication and Journalism Award (Colombia, 2014); The Anna Politkovskaya Award (2017).

⁷ Campaign “*No es hora de Callar*” by Jineth Bedoya. The following videos of the campaign are available online: You Tube. *El Tiempo. ¿Qué es No es hora de callar?*; <https://www.youtube.com/watch?v=juBDxVKtess>; <https://www.youtube.com/watch?v=3G818CATeYY>; <https://www.youtube.com/watch?v=LxhpEcMFXyW>; <https://www.youtube.com/watch?v=w89kNT488-0>

⁸ Annex 1. Employment contract between Jineth Bedoya and the newspaper *El Espectador*. February 15, 2015. Office of the National Prosecutor General [*Fiscalía General de la Nación*]. Case 807. C3 pp. 21-22. Annexed to the communication of the petitioner received on May 29, 2015; Annex 2. Office of the National Prosecutor General. UNDH. Sworn statement of Jorge Enrique Cardona Álzate. November 1, 2011. Case 807, C8, pp. 95-107. Annexed to the communication of the petitioner received on May 29, 2015.

⁹ Annex 3. Office of the 49th Special Prosecutor of the National Prosecutor’s Office for Human Rights and International Humanitarian Law [*Dirección de Fiscalía Nacional Especializada de Derechos Humanos y Derecho Internacional Humanitario. Fiscalía Cuarenta y Nueve Especializada*]. Determination on the Merits of the Investigation [*Calificación de Mérito Sumarial*]. September 26, 2014. Case 807, C18, pp. 1-51. Annex 12 to the communication of the petitioner received on May 29, 2015. According to the information presented by the petitioner, which was not challenged by the State, Jineth Bedoya wrote the following articles in 1999 about the La Modelo prison: “*Cerradas casas fiscales de la cárcel Modelo*” (February 1999); “*Masacre en la Modelo*” (April 1999); “*Mando de mujer en la Modelo*” (April 11, 1999); “*Caciques mandan en la cárcel Modelo*” (undated); “*Espectacular fuga de presos*” (undated); “*Otro plan de fuga en la Modelo de Bogotá*” (September 7, 1999); “*Pesca Milagrosa en la Modelo*” (October 23, 1999); “*Asesinado procesado de cartel de la Costa*” (November 27, 1999); “*Tiroteo en la Modelo: once muertos*” (December 9, 1999).

guerrilla, paramilitary, and common criminal groups that resulted in dozens of deaths and injuries, such as those of April 5, 1999, September 24, 1999, September 8, 1999, and April 27, 2000. The articles “painted a very bad picture of the penitentiary authorities of the Colombian State, as well as the law enforcement authorities in charge of guarding the outside of the prison.”¹⁰

21. In the context of this journalistic work, Jineth Bedoya began to receive death threats and was the victim of an attack in which her mother, Luz Nelly Lima, was injured.¹¹

22. Jineth Bedoya reported these events to the Security Administration Department [*Departamento Administrativo de Seguridad*] (DAS).¹² On August 25, 1999, the Director of Protection of the DAS sent a written communication to the journalist, informing her that the technical risk study conducted by the DAS Protection Committee revealed “factors constituting a risk to her rights to freedom, life, and personal integrity,” which led to the provisional assignment of a protection detail to her.¹³ On September 20 of the same year, Jineth Bedoya addressed a communication to the DAS, stating that she would accept the protection detail offered “due to the resumption of threats against her life.”¹⁴ The protection detail was never implemented and the threats continued.¹⁵ *El Espectador* decided to send the journalist out of the country for two weeks as a protective measure. On her return in October 1999, she again received threats, which she reported to the DAS. In November, she was followed, which she also reported to the DAS.¹⁶ However, on November 24, 1999, the Coordinator of the Protection Department of the Ministry of the Interior notified the journalist that “in response to the request for protection made to this Office [...] it is concluded that your case does not fall within the target population covered by the Protection Program of this Ministry, in accordance with the provisions of Decree 0372 of 1996, Article 32,” and recommended that she contact the State security agencies directly.¹⁷

23. On April 27, 2000, there was a confrontation between paramilitaries and groups of inmates convicted of common crimes inside the Modelo National Prison, which resulted in the death of 27 detainees. Jineth Bedoya reported the events systematically and, in particular, investigated complaints about the role of the paramilitaries in the massacre and the actions of law enforcement authorities.¹⁸

¹⁰ Annex 3. Office of the 49th Special Prosecutor of the National Prosecutor’s Office for Human Rights and International Humanitarian Law. Determination on the Merits of the Investigation. September 26, 2014. Case 807, C18, pp. 1-51. Annex 12 to the communication of the petitioner received on May 29, 2015.

¹¹ Annex 4. Office of the National Prosecutor General. UNDH. Supplemental statement of Jineth Bedoya Lima. June 8, 2000. Case 807, C1, pp. 85-94. Annexes to the communication of the petitioner received on May 29, 2015; Annex 2. Office of the National Prosecutor General. UNDH. Sworn statement of Jorge Enrique Cardona Álzate. November 1, 2011. Case 807, C8, pp. 95-107. Annex 12 to the communication of the petitioner received on May 29, 2015; and Annex 5. Office of the National Prosecutor General. Anti-Extortion and Kidnapping Sub-Unit. Complaint filed by Jorge Cardona Alzate. May 26, 2000. C1, pp. 1-4. Annex 12 to the communication of the petitioner received on May 29, 2015.

¹² Annex 4. Office of the National Prosecutor General. UNDH. Supplemental statement of Jineth Bedoya Lima. June 8, 2000. Case 807, C1, pp. 85-94. Annex 12 to the communication of the petitioner received on May 29, 2015; Annex 2. Office of the National Prosecutor General. UNDH. Sworn statement of Jorge Enrique Cardona Álzate. November 1, 2011. Case 807, C8, pp. 95-107. Annex 12 to the communication of the petitioner received on May 29, 2015; and Annex 5. Office of the National Prosecutor General. Anti-Extortion and Kidnapping Sub-Unit. Complaint filed by Jorge Cardona Alzate. May 26, 2000. C1, pp. 1-4. Annex 12 to the communication of the petitioner received on May 29, 2015.

¹³ Annex 6. Security Administration Department (DAS). August 25, 1999. Annex 13 to the communication of the petitioner received on May 29, 2015.

¹⁴ Annex 7. Jineth Bedoya Lima. Communication to the DAS Director of Protection. September 20, 1999. Annex 13 to the communication of the petitioner received on May 29, 2015.

¹⁵ Annex 4. Office of the National Prosecutor General. UNDH. Supplemental statement of Jineth Bedoya Lima. June 8, 2000. Case 807, C1, pp. 85-94. Annex 12 to the communication of the petitioner received on May 29, 2015.

¹⁶ Annex 4. Office of the National Prosecutor General. UNDH. Supplemental statement of Jineth Bedoya Lima. June 8, 2000. Case 807, C1, pp. 85-94. Annex 12 to the communication of the petitioner received on May 29, 2015.

¹⁷ Annex 8. Ministry of the Interior. Special Administrative Unit for Human Rights. Communication of the Director of Protection to Jineth Bedoya. November 24, 1999. Annex 24 to the communication of the petitioner received on May 29, 2015.

¹⁸ Annex 8. Ministry of the Interior. Special Administrative Unit for Human Rights. Communication of the Director of Protection to Jineth Bedoya. November 24, 1999. Annex 24 to the communication of the petitioner received on May 29, 2015; Annex 4. Office of the National Prosecutor General. UNDH. Supplemental statement of Jineth Bedoya Lima. June 8, 2000. Case 807, C1, pp. 85-88. Annex 12 to the communication of the petitioner received on May 29, 2015; Annex 2. Office of the National Prosecutor General. UNDH. Sworn statement of Jorge Enrique Cardona Álzate. November 1, 2011. Case 807, C8, pp. 95-107. Annex 12 to the communication of the petitioner received on May 29, 2015.

24. On May 7, journalist Bedoya Lima entered the penitentiary center with “a visitor’s pass to enter as a relative,” since entry was restricted.¹⁹ There, she was threatened by inmates, who told her that if she did not leave the penitentiary they would kill her, and that her publications had annoyed several people who were supposedly members of paramilitary groups.²⁰

25. On May 9, envelopes containing photocopies of the articles published by the newspaper about the Model Prison massacre were found in the mailboxes of *El Espectador* journalists Jineth Bedoya, Jorge Cardona, Julián Ríos Rojas, and Ignacio Gómez Gómez. Lines related to paramilitary groups and law enforcement authorities were highlighted.²¹ These threats were reported to the National Police.²²

B. The events of May 25, 2000

26. On the night of Wednesday, May 24, 2000, Jineth Bedoya Lima received a call from an individual who called himself “Ramiro,” who informed her that a person held in the National Model Prison known as “El Panadero” wanted to meet with her. They arranged an interview for the following day, May 25, at 10:00 a.m. at the prison headquarters. Alias “Ramiro” assured the journalist that the then warden of the prison was aware of the interview and that he had already authorized the journalist’s entry at the specified time.²³

27. On May 25, the journalist went to the supposed appointment with “El Panadero,” accompanied by the newspaper’s legal affairs editor, Jorge Cardona, a photographer, and their driver. The photographer and the driver waited in the vehicle, while Jineth Bedoya and Jorge Cardona went to the main entrance of the prison where they were assisted by the guard on duty at the information booth. After a while, the guards informed Jineth Bedoya that her entry pass was ready, so she went to her colleague, Jorge Cardona, and asked him to go to the vehicle that was parked one block away from the prison to call the photographer.²⁴ At that moment, Jineth Bedoya was approached by a woman who asked her if she was the journalist. At the same time, a man approached her and asked if she was the one who was going to the interview with “El Panadero.” When she answered in the affirmative, the man held her by the arm and pointed a gun at her, warning her that if she screamed she was going to kill the people who had come with her, including “*the guy with the mustache*,” referring to Jorge Cardona. The man led her on foot to a warehouse near the prison, where two more men were waiting.²⁵

¹⁹ Annex 9. Office of the National Prosecutor General. UNDH. Supplemental statement of Jineth Bedoya Lima. May 30, 2000. Case 807, C1, pp. 60-68. Annexes to the communication of the petitioner received on May 29, 2015; and Annex 2. Office of the National Prosecutor General. UNDH. Sworn statement of Jorge Enrique Cardona Álzate. November 1, 2011. Case 807, C8, pp. 95-107. Annex 12 to the communication of the petitioner received on May 29, 2015.

²⁰ Annex 9. Office of the National Prosecutor General. UNDH. Supplemental statement of Jineth Bedoya Lima. May 30, 2000. Case 807, C1, pp. 60-68. Annexes to the communication of the petitioner received on May 29, 2015; Annex 4. Office of the National Prosecutor General. UNDH. Supplemental statement of Jineth Bedoya Lima. June 8, 2000. Case 807, C1, pp. 85-88. Annexes to the communication of the petitioner received on May 29, 2015.

²¹ Annex 2. Office of the National Prosecutor General. UNDH. Sworn statement of Jorge Enrique Cardona Álzate. November 1, 2011. Case 807, C8, pp. 95-107. Annex 12 to the communication of the petitioner received on May 29, 2015, Annex 5. Office of the National Prosecutor General. Anti-Extortion and Kidnapping Sub-Unit. Complaint filed by Jorge Cardona Alzate. May 26, 2000. C1, pp. 1-4. Annex 12 to the communication of the petitioner received on May 29, 2015; Annex 10. Office of the National Prosecutor General. UNDH. Statement of Julian Oswaldo Rios Rojas. June 22, 2000. Case 807, C1, pp. 178-183. Annex 12 to the communication of the petitioner received on May 29, 2015; Annex 11. Office of the National Prosecutor General. UNDH. Statement of Arle Oyala. April 26, 2001. Case 807, C1, pp. 178-183. Annex 12 to the communication of the petitioner received on May 29, 2015.

²² Annex 2. Office of the National Prosecutor General. UNDH. Sworn statement of Jorge Enrique Cardona Álzate. November 1, 2011. Case 807, C8, pp. 95-107. Annex 12 to the communication of the petitioner received on May 29, 2015.

²³ Annex 9. Office of the National Prosecutor General. UNDH. Supplemental statement of Jineth Bedoya Lima. May 30, 2000. Case 807, C1, pp. 60-68. Annexes to the communication of the petitioner received on May 29, 2015.

²⁴ Annex 9. Office of the National Prosecutor General. UNDH. Supplemental statement of Jineth Bedoya Lima. May 30, 2000. Case 807, C1, pp. 60-68. Annexes to the communication of the petitioner received on May 29, 2015; Annex 2. Office of the National Prosecutor General. UNDH. Sworn statement of Jorge Enrique Cardona Álzate. November 1, 2011. Case 807, C8, pp. 95-107. Annex 12 to the communication of the petitioner received on May 29, 2015; Annex 5. Office of the National Prosecutor General. Anti-Extortion and Kidnapping Sub-Unit. Complaint filed by Jorge Cardona Alzate. May 26, 2000. C1, pp. 1-4. Annex 12 to the communication of the petitioner received on May 29, 2015.

²⁵ Annex 9. Office of the National Prosecutor General. UNDH. Supplemental statement of Jineth Bedoya Lima. May 30, 2000. Case 807, C1, pp. 60-68. Annexes to the communication of the petitioner received on May 29, 2015; and Annex 3. Office of the 49th Special Prosecutor of

[continúa...]

28. When they got to the place, they put a rag over her eyes, beat her, used foul language towards her, pulled her by the hair, and sat her on a chair while she screamed and asked the kidnappers what they wanted. The men told her that they had come on behalf of the top boss but would not give her a name. After a while the men tied her up and told her they were going out for a ride. The journalist insisted on asking them who had sent them and one of them told her that *“they had been sent to clean up the media because there were so many sons of bitches out there [...]”* They put her in a car, replaced her blindfold with adhesive tape, and continued to beat her.²⁶ After a while, the car stopped and the men removed the tape from her mouth and committed acts of sexual violence against her. The kidnappers told her: *“[...] ‘You fucking journalists have turned the country into shit, it’s because of you that this country is like this! He pointed at me and said, ‘You know what we’re going to turn the country over to Patricia Uribe, to Jolman Morris, and to Ignacio Gomez [also journalists] turned to shit, because they are sons of bitches paid by the guerrillas’ [...] [!]”* The kidnappers continued beating her and threatening her and her boss. They also accused her of going to Modelo prison to give press coverage to the guerrillas.²⁷

29. Jineth Bedoya Lima says that during the kidnapping she heard the men constantly talking to someone who was referred to as the boss, and telling him that everything was going well and that the package was fine. Finally, after dark, they put a gun to her head and told her that the outing was over. She says she was waiting to be killed and closed her eyes. The kidnappers, meanwhile, took her wallet, tied her arms, and left her in the middle of the road.²⁸ The alleged victim was left on the road outside the city of Villavicencio. A taxi driver picked her up and took her to the Emergency Police Assistance Center. From there she was taken to a National Police clinic in Villavicencio.²⁹

30. While this was happening, the El Espectador team thought that Jineth Bedoya had entered the penitentiary and stayed nearby waiting for her. At six o’clock in the afternoon, after waiting for several hours for Jineth Bedoya to come out and trying to communicate with her, journalist Jorge Cardona called the Director of the Technical Investigations Unit (CTI) and informed him of the situation. The CTI tracked down Jineth Bedoya’s cell phone, while several journalists from the newspaper, accompanied by the Director of the District Office of the Public Prosecutor, entered the National Model Prison to search for Jineth Bedoya. In the evening, they were informed that the journalist had been found in Villavicencio and that she was in the police hospital there.³⁰

C. Investigation of the events of May 25, 2000

31. On May 26, 2000, Special Prosecutor 103 assigned to the Bogotá Specialized Anti-kidnapping Unit [*Grupo de Acción Unificada por la Libertad Personal - GAULA*] of the Office of the Prosecutor General reported to the main office of the newspaper El Espectador to take a statement from Jorge Cardona, editor of

[... continuación]

the National Prosecutor’s Office for Human Rights and International Humanitarian Law. Determination on the Merits of the Investigation. September 26, 2014. Case 807, C18, pp. 1-51. Annex 12 to the communication of the petitioner received on May 29, 2015.

²⁶ Annex 9. Office of the National Prosecutor General. UNDH. Supplemental statement of Jineth Bedoya Lima. May 30, 2000. Case 807, C1, pp. 60-68. Annexes to the communication of the petitioner received on May 29, 2015.

²⁷ Annex 9. Office of the National Prosecutor General. UNDH. Supplemental statement of Jineth Bedoya Lima. May 30, 2000. Case 807, C1, pp. 60-68. Annexes to the communication of the petitioner received on May 29, 2015.

²⁸ Annex 9. Office of the National Prosecutor General. UNDH. Supplemental statement of Jineth Bedoya Lima. May 30, 2000. Case 807, C1, pp. 60-68. Annexes to the communication of the petitioner received on May 29, 2015.

²⁹ Annex 9. Office of the National Prosecutor General. UNDH. Supplemental statement of Jineth Bedoya Lima. May 30, 2000. Case 807, C1, pp. 60-68. Annexes to the communication of the petitioner received on May 29, 2015; Annex 12. Office of the National Prosecutor General. Technical Investigations Unit of Villavicencio. Report No. 195 FGN.CTI.SI. May 26, 2000. Case 807, C1, pp. 17-20. Annex 12 to the communication of the petitioner received on May 29, 2015; and Annex 5. Office of the National Prosecutor General. Anti-Extortion and Kidnapping Sub-Unit. Complaint filed by Jorge Cardona Alzate. May 26, 2000. C1, pp. 1-4. Annex 12 to the communication of the petitioner received on May 29, 2015; and Annex 3. Office of the 49th Special Prosecutor of the National Prosecutor’s Office for Human Rights and International Humanitarian Law. Determination on the Merits of the Investigation. September 26, 2014. Case 807, C18, pp. 1-51. Annex 12 to the communication of the petitioner received on May 29, 2015.

³⁰ Annex 5. Office of the National Prosecutor General. Anti-Extortion and Kidnapping Sub-Unit. Complaint filed by Jorge Cardona Alzate. May 26, 2000. C1, pp. 1-4. Annex 12 to the communication of the petitioner received on May 29, 2015; and Annex 2. Office of the National Prosecutor General. UNDH. Sworn statement of Jorge Enrique Cardona Alzate. November 1, 2011. Case 807, C8, pp. 95-107. Annex 12 to the communication of the petitioner received on May 29, 2015.

the newspaper's legal section, regarding the crimes committed against journalist Jineth Bedoya.³¹ That same day, Prosecutor 103 ordered the opening of a preliminary criminal investigation for the crime of simple kidnapping and violent sexual act, as well as the performance of the relevant initial proceedings.³² On May 26, the prosecutor also went to the police hospital and tried to take the journalist's statement. However, the proceedings had to be postponed because of Jineth Bedoya's serious emotional and physical condition,³³ and she provided her statement on May 30, 2000.³⁴

32. It is also stated in the case file that on May 26, 2000, Jineth Bedoya was interviewed by the Technical Investigations Unit (CTI) of Villavicencio. The investigators drew up a report and provided a physical description of the individual who abducted the journalist from the National Model Prison. The CTI report determined "the existence of the kidnapping of *El Espectador* journalist JINETH BEDOYA LIMA, apparently perpetrated by Paramilitary groups in retaliation and as a threat because of her journalistic work at the National Model Prison."³⁵ The same day, inspections were conducted in the area surrounding the National Model Prison,³⁶ and a number of newspaper articles on the National Model Prison, written by Jineth Bedoya Lima and published by the newspaper *El Espectador*, were added to the file.³⁷ On June 2, 2000, Special Prosecutor 103 took a sworn statement from Mario Jaimes Mejia, alias "El Panadero."³⁸

33. Through Resolution 0907 of June 6, 2000, the Office of the Prosecutor assigned the investigation of the case to the National Human Rights Unit (NHRU),³⁹ which took cognizance of the case on June 7, 2000 under file No. 807 U.D.H. The same day, the National Human Rights Unit of the Office of the Prosecutor ordered new investigative proceedings. On June 8, a supplemental statement was taken from Jineth Bedoya.⁴⁰ On June 12, the NHRU ordered new proceedings and the taking of statements from inmates at the National Model Prison who might have knowledge of the facts.⁴¹ On 19 June, the journalist provided a supplemental statement.⁴² The same day, the NHRU ordered the taking of new statements and a judicial inspection at the scene of the crime together with Jineth Bedoya,⁴³ which was done on June 20, 2000.⁴⁴

³¹ Annex 5. Office of the National Prosecutor General. Anti-Extortion and Kidnapping Sub-Unit. Complaint filed by Jorge Cardona Alzate. May 26, 2000. C1, pp. 1-4. Annex 12 to the communication of the petitioner received on May 29, 2015.

³² Annex 13. Office of the National Prosecutor General. Anti-Extortion and Kidnapping Sub-Unit. Order to Open Preliminary Criminal Investigation. May 26, 2000, Case 807, C1, pp. 9-12. Annex 12 to the communication of the petitioner received on May 29, 2015. The Prosecutor ordered the obtaining of: 1) a sworn statement of Jineth Bedoya; 2) Bedoya's forensic medical studies and medical record; 3) a statement of the director of *El Espectador*; 4) a statement of Jineth Bedoya's colleagues who were also threatened; 5) a list of the inmates of the Cárcel Nacional Modelo who were at courtyards 4 and 5, and the visitor log books listing Bedoya's visits; and 6) Bedoya's phone call records.

³³ Annex 14. Office of the National Prosecutor General. Office of the Prosecutor assigned to the Bogotá Specialized Anti-kidnapping Unit [*Grupo de Acción Unificada por la Libertad Personal - GAULA*]. Minutes of May 26, 2000. Case 807, C1, pp. 14-15. Annex 12 to the communication of the petitioner received on May 29, 2015.

³⁴ Annex 9. Office of the National Prosecutor General. UNDH. Supplemental statement of Jineth Bedoya Lima. May 30, 2000. Case 807, C1, pp. 60-68. Annexes to the communication of the petitioner received on May 29, 2015.

³⁵ Annex 12. Office of the National Prosecutor General. Technical Investigations Unit of Villavicencio. Report No. 195 FGN.CTI.SI. May 26, 2000. Case 807, C1, pp. 17-20. Annex 12 to the communication of the petitioner received on May 29, 2015.

³⁶ Annex 15. Office of the National Prosecutor General. Report 2803 FGN-DNCTI-SI-DE-C3-4-Z3. May 26, 2000. Preliminary Proceeding No. 807, C1, pp. 32-38. Annex 12 to the communication of the petitioner received on May 29, 2015.

³⁷ Annex 16. Office of the National Prosecutor General. Preliminary Proceeding No. 807. C1, pp. 39-50. Annex 12 to the communication of the petitioner received on May 29, 2015.

³⁸ Annex 17. Office of the National Prosecutor General. Statement of Mario Jaimes Mejia. June 2, 2000. Preliminary Proceeding No. 807. C1, pp. 76-78. Annex 12 to the communication of the petitioner received on May 29, 2015.

³⁹ Annex 18. Office of the National Prosecutor General. Resolution 0907. June 6, 2000. Preliminary Proceeding No. 807. C1, pp. 80-81. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁴⁰ Annex 4. Office of the National Prosecutor General. UNDH. Supplemental statement of Jineth Bedoya Lima. June 8, 2000. Case 807, C1, pp. 85-94. Annexes to the communication of the petitioner received on May 29, 2015.

⁴¹ Annex 19. Office of the National Prosecutor General. UNDH. Resolution of June 12, 2000. Case 807. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁴² Annex 20. Office of the National Prosecutor General. UNDH. Supplemental statement procedure by Jineth Bedoya Lima. June 19, 2000. Case 807. C1, pp. 156-158. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁴³ Annex 21. Office of the National Prosecutor General. UNDH. Resolution of June 19, 2000. Case 807. C1, pp. 162-163. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁴⁴ Annex 22. Office of the National Prosecutor General. UNDH. Judicial inspection. June 20, 2000. Case 807. C2, p. 169. Annex 12 to the communication of the petitioner received on May 29, 2015.

34. A new report was received from the CTI on June 20, 2000, and the gynecological exams performed on Jineth Bedoya, as well as her clinical history, were incorporated into the file.⁴⁵ On September 1, 2000, the Institute of Forensic Medicine sent the results of the journalist's urine tests to the Prosecutor's Office.

35. Another CTI report was received on October 3, 2000, on proceedings ordered on June 19, including statements by alias "Popeye" and the warden of the National Model Prison.⁴⁶ Based on this report, the Prosecutor ordered new proceedings on October 4, including the taking of statements from a guerrilla member in La Picota prison and from the deputy warden of the National Model Prison, and a judicial inspection of the disciplinary proceedings carried out by the Office of the Inspector General of Colombia into what happened. On November 22⁴⁷ and December 13⁴⁸ and 20,⁴⁹ 2000, the CTI sent reports containing information on the proceedings conducted at the Prosecutor's request.

36. On January 23⁵⁰ and April 18, 2001,⁵¹ the Prosecutor's Office once again ordered that a number of proceedings be conducted. The CTI reported on the completion of those proceedings on February 2,⁵² April 26,⁵³ and December 10, 2001.⁵⁴

37. On April 1, 2002, the newspaper *El Espectador* was instructed via official letter to send a copy of Jineth Bedoya's employment contract.⁵⁵ The newspaper replied to the request on April 12.⁵⁶ On August 28, 2002, the Prosecutor's Office issued an official letter stating that it had not received "any information about the investigations carried out by the CTI investigators supporting this investigation with a view to clarifying the facts" and ordered the investigators to submit a report on the work they had carried out.⁵⁷

38. The CTI submitted the requested report on April 1, 2003.⁵⁸ That report presents data gathered from interviews with alias Popeye and journalist Jineth Bedoya, which point to the possible motives for the crimes and the alleged responsibility of members paramilitary groups and State intelligence agencies. The report notes, in particular, that according to alias Popeye, "*No member of the self-defense groups had any*

⁴⁵ Annex 23. Office of the National Prosecutor General. CTI. Report No. 03342 FGN-DNCTI-SI-DE-C3-4-Z3 and attached documents (Opinion 398-EZ-LBF2000SME of the National Forensic Medicine and Sciences Institute dated June 2, 2000, and Official Communication HOCEN.BIO.EST/447 No. 1158 dated May 31 with a photocopy of the medical record of Jineth Bedoya Lima). June 20, 2000. Case 807. C1, pp. 162-163. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁴⁶ Annex 24. Office of the National Prosecutor General. CTI (illegible date). Mission No 3612.00 GDH. Report on resolution proceedings dated June 19, 2000. Case 807. C2, pp. 181-187. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁴⁷ Annex 25. Office of the National Prosecutor General. CTI. Report No. 178-2000. Mission No 123-2000. Report on resolution proceedings dated November 8, 2000. Case 807. C2, pp. 220-263. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁴⁸ Annex 26. Office of the National Prosecutor General. CTI. Report No. 183-2000. Mission No 123-2000. Case 807. C2, pp. 265-266. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁴⁹ Annex 27. Office of the National Prosecutor General. CTI. Report (illegible document number and date). Mission No. 4799. Case 807. C2, pp. 361-364. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁵⁰ Annex 28. Office of the National Prosecutor General. UNDH. Resolution dated January 23, 2001. Case 807. C2, p. 377. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁵¹ Annex 29. Office of the National Prosecutor General. UNDH. Resolution dated April 18, 2001. Case 807. C3, p. 1. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁵² Annex 30. Office of the National Prosecutor General. UNDH. Photo array. February 2, 2001. Case 807. C2, p. 379. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁵³ Annex 31. Office of the National Prosecutor General. UNDH. Statement of Arle Olaya. April 26, 2001. Case 807. C3, pp. 6-9. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁵⁴ Annex 32. Office of the National Prosecutor General. UNDH. Official Communication FGN CTI GDH 0039422/C6. December 10. Transmission of Report No. 6191 by the CTI. Case 807. C3, pp. 12-16. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁵⁵ Annex 33. Office of the National Prosecutor General. UNDH. Resolution dated April 1, 2002. Case 807. C3, p. 17. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁵⁶ Annex 34. Newspaper *El Espectador*. UNDH. Note of April 12, 2002, and annexes. Case 807. C3, pp. 20-24. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁵⁷ Annex 35. Office of the National Prosecutor General. UNDH. Resolution dated August 28, 2002 and Official Communication No. 155. Case 807. C3, pp. 26-7. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁵⁸ Annex 36. Office of the National Prosecutor General. UNDH. Report No. 01429 dated April 1, 2003. Case 807. C3, pp. 30-35. Annex 12 to the communication of the petitioner received on May 29, 2015.

responsibility for the kidnapping of the journalist; for them, those responsible for what happened were the members of the Police or Military Intelligence.” The report further stated that, “A human source informs us that the people who attacked the journalists JINETH BEDOYA are members of a State Intelligence Agency [and that the attack was] a consequence of the journalist’s publications, especially regarding events that implicate the police institution. This person is not willing to testify because he would immediately be targeted for murder.” Finally, it was established that a book titled “*El General Serrucho*,” authored by Manuel Vicente Peña, indicates that it was General José Leonardo Gallego who ordered Jineth Bedoya’s kidnapping in retaliation for publications of hers that implicated the DIJIN and tied the institution to the “Los Calvos” criminal gang.

39. On April 25, journalist Jineth Bedoya submitted documentation obtained in the course of her journalistic activity concerning possible perpetrators, and requested that it be included in the investigation.⁵⁹ On May 22, 2003, the journalist provided a statement on the information that she had submitted,⁶⁰ and on June 19, 2003, a statement was obtained from the journalist’s source.⁶¹ On August 26,⁶² and September 26, 2003,⁶³ the Prosecutor’s Office ordered new proceedings based on the information gathered.

40. On February 20, 2004, the Prosecutor’s Office reiterated the orders issued in August and September 2003, since “for reasons of availability the investigators have not fully completed the assigned proceedings.” On February 27, 2004, the CTI investigators presented a report on their investigative work.⁶⁴ On May 11, 2004, a voluntary statement was provided by a person detained in La Picota prison,⁶⁵ and on June 29, the production of evidence requested by the Office of the Inspector General of Colombia was ordered.⁶⁶ On July 24, 2004, a report was received that had been requested from the DAS, and on October 1, 2004, a new report was received from the CTI on new investigative proceedings conducted.⁶⁷

41. On January 31, 2005, the Prosecutor’s Office ordered new investigative proceedings to be carried out,⁶⁸ and on April 13, 2005, the CTI’s report was received.⁶⁹ On the basis of that report, on April 27, 2005, the Prosecutor’s Office ordered the taking of statements from two individuals being held in Colombian prisons.⁷⁰ One of them gave a statement on May 26, 2005, and the other on June 12, 2006.

42. On August 13, 2007, the Prosecutor’s Office ordered that a statement be taken from Jineth Bedoya, as well as a statement from Mario Jaimes Mejía, alias “El Panadero,” and instructed the CTI to continue to investigate the facts and submit the respective report.⁷¹ On August 28, 2007, Jineth Bedoya Lima

⁵⁹ Annex 37. Note dated April 25, 2003, signed by Jineth Bedoya Lima and annexes. Case 807. C3, pp. 36-50. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁶⁰ Annex 38. Office of the National Prosecutor General. UNDH. Supplemental statement procedure by Jineth Bedoya Lima. May 22, 2003. Case 807. C3, pp. 59-67. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁶¹ Annex 39. Office of the National Prosecutor General. UNDH. Statement of Oscar Alberto Tarazona. June 19, 2003. Case 807. C3, pp. 72-75. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁶² Annex 40. Office of the National Prosecutor General. UNDH. Resolution dated August 26, 2003. Case 807. C3, p. 76. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁶³ Annex 41. Office of the National Prosecutor General. UNDH. Official Communication of September 23, 2003. Case 807. C3, p. 80. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁶⁴ Annex 42. Office of the National Prosecutor General. UNDH. CTI. Report No. 155406 dated February 27, 2004. Case 807. C3, pp. 93-113. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁶⁵ Annex 43. Office of the National Prosecutor General. UNDH. Voluntary Statement of José Ricardo Rodríguez. May 11, 2004. Case 807. C3, pp. 123-126. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁶⁶ Annex 44. Office of the National Prosecutor General. UNDH. Resolution dated June 29, 2004. Case 807. C3, pp. 129-130. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁶⁷ Annex 45. Office of the National Prosecutor General. UNDH. CTI. Report No. 077 CTI-UDH-DIH dated October 1, 2004. Case 807. C3, pp. 148-150. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁶⁸ Annex 46. Office of the National Prosecutor General. UNDH. Resolution dated January 31, 2004. Case 807. C3, pp. 155-156. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁶⁹ Annex 47. Office of the National Prosecutor General. UNDH. CTI. Report No. 1530 FGN-SIA-CTI dated April 13, 2004. Case 807. C3, pp. 158-159. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁷⁰ Annex 47. Office of the National Prosecutor General. UNDH. CTI. Report No. 1530 FGN-SIA-CTI dated April 13, 2004. Case 807. C3, pp. 158-169. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁷¹ Annex 48. Office of the National Prosecutor General. UNDH. Resolution dated August 13, 2004. Case 807. C3, p. 200. Annex 12 to the communication of the petitioner received on May 29, 2015.

provided a statement⁷² regarding her knowledge of new developments leading to the identification of the perpetrators of the crimes committed against her. On September 15⁷³ and October 31, 2007,⁷⁴ the CTI presented reports on the proceedings conducted.

43. On August 21, 2008, the Prosecutor's Office requested information on security cameras at the National Model Prison and reiterated the order to take a statement from Mario Jaimes Mejía, alias "El Panadero."⁷⁵

44. In 2008, the Constitutional Court of Colombia issued Order 092, acknowledging the particular impact of the armed conflict on women.⁷⁶ This decision was accompanied by a Confidential Exhibit listing 183 cases in which "the situation of impunity remains nearly absolute." The Court called upon the competent authorities to take the necessary steps to ensure that ongoing investigations move forward expeditiously. The case of Jineth Bedoya is one of the 183 cases identified by the high court.⁷⁷ As a result of this decision, the 226th Prosecutor's Office of the Unit for Crimes against Sexual Freedom, Integrity and Self-Determination launched a new investigation, despite the existence of the ongoing investigation under file 807 of the Human Rights Unit. The 226th Prosecutor's Office took some actions and then declined to exercise jurisdiction over the case, transferring the proceedings to the Human Rights Unit.⁷⁸

45. On January 7, 2009, the SIJIN reported on its efforts to determine the existence and location of security cameras at the National Model Prison and possible video records. According to the report, there are no records of cameras existing prior to May 2002.⁷⁹ That same day, the Prosecutor's Office renewed the order to take a statement from Mario Jaimes Mejía, alias "El Panadero,"⁸⁰ which was done on September 18, 2009.⁸¹ On December 30, 2009, the taking of new evidence was ordered, including obtaining the "order of battle of the 'Capital Bloc' of the self-defense groups for the year 2000," a "copy of the videos from the tolls located on the Bogotá-Villavicencio road on May 25, 2000," and a judicial inspection of the guard's logbook from the CAI Catama in the city of Villavicencio, in order to determine whether he left any notes regarding the discovery of journalist Jineth Bedoya, the place where she was dumped, the circumstances in which she was found, and what he told the police," as well as to ask the National Penitentiary and Prison Institute (INPEC) to provide "the names of the guard personnel stationed at the entrance of that establishment on May 25, 2000."⁸²

46. On February 1, 2010, the Prosecutor's Office ordered that statements be taken from several of the guards at the National Model Prison⁸³ who had been on duty at the entrance door on the day of the events, as well as from the Inspector of the National Penitentiary and Prison Institute, which was done on

⁷² Annex 49. Office of the National Prosecutor General. UNDH. Supplemental statement procedure by Jineth Bedoya Lima. August 28, 2007. Case 807. C3, pp. 203-206. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁷³ Annex 50. Office of the National Prosecutor General. UNDH. CTI. Report No. 362253 FGN-CTI-DI dated September 15, 2007. Case 807. C3, pp. 207-209. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁷⁴ Annex 51. Office of the National Prosecutor General. UNDH. CTI. Report No. 369037 FGN-DSCITI-UPE dated April 13, 2004. Case 807. C3, pp. 228-231. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁷⁵ Annex 52. Office of the National Prosecutor General. UNDH. Resolution dated August 21, 2008. Case 807. C3, pp. 251-253. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁷⁶ Annex 53. Constitutional Court of Colombia. Ruling 092 of 2008. J. Manuel Jose Cepeda Espinosa. April 14, 2008. Annex 17 to the communication of the petitioner received on May 29, 2015.

⁷⁷ Annex 54. Constitutional Court of Colombia. Fifth follow-up report on Ruling 092 of the Constitutional Court of Colombia (Classified). Annex. October 2013. Annex 19 to the communication of the petitioner received on May 29, 2015.

⁷⁸ Annex 55. Office of the National Prosecutor General. UNDH. Case 807. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁷⁹ Annex 56. Department of Criminal Investigations. Resolution dated January 7, 2009. Case 807. C3, pp. 257-258. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁸⁰ Annex 57. Office of the National Prosecutor General. UNDH. Resolution dated January 7, 2009. Case 807. C3, pp. 263-266. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁸¹ Annex 58. Office of the National Prosecutor General. UNDH. Statement of Mario Jaimes Mejía. September 18, 2009. Case 807. C3, pp. 297-299. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁸² Annex 59. Office of the National Prosecutor General. UNDH. Resolution dated December 30, 2009. Case 807. C4, p. 9. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁸³ Annex 60. Office of the National Prosecutor General. UNDH. Resolution dated February 1, 2010. Case 807. C3, pp. 263-266. Annex 12 to the communication of the petitioner received on May 29, 2015.

May 5 and 18 and August 11, 2010. On March 4, a report was received from the Bureau of Criminal Investigation and Interpol on the order of battle of the Capital Bloc of the self-defense groups.⁸⁴ In addition, on February 8, 2010, the National Institute of Concessions responded to a communication sent by the Prosecutor's Office requesting a copy of the videos taken at tolls on the Bogotá-Villavicencio road. In this communication, the institute stated that "the recordings made at the tolls are only kept for a maximum of thirty days, and therefore we are unable to comply with your request."⁸⁵

47. On July 27, 2010, the Prosecutor's Office ordered the taking of a supplemental statement from journalist Jineth Bedoya "who, on that same date, was informed of the current status of the investigation."⁸⁶ The journalist provided her statement on August 11.⁸⁷ Based on Jineth Bedoya's statement, on August 12, 2010, the Prosecutor's Office ordered new evidentiary proceedings, including the taking of a statement from Jhon Jairo Velázquez Vásquez, alias "Popeye."⁸⁸ This statement was provided on September 9, 2010.⁸⁹ On November 12, 2010 a new CTI report was added to the case file,⁹⁰ but there is no indication that any further action has been taken based on the information provided by the declarant.

48. In these ten years, the investigation never went beyond the preliminary investigation stage.

49. In January 2011, Jineth Bedoya became a civil party to the case, and on April 12 and 20, through her legal representatives, requested clarification on the progress of the preliminary investigation.⁹¹ On April 14⁹² and 29,⁹³ 2011, the Prosecutor's Office responded to the civil party's request and ordered the production of certain evidence, including "taking a preliminary statement from General Leonardo Gallego," as well as a supplemental statement from Mario Jaimes Mejía, alias "El Panadero." On May 4, the civil party⁹⁴ reiterated her April 20, 2011 request for evidence.⁹⁵ On May 6, the CTI added its report on the evidence taken,⁹⁶ and on May 16 the Prosecutor's Office issued a decision both admitting and denying evidence requested by the civil party,⁹⁷ and the following day the civil party filed motions for the reconsideration and appeal of that decision. On May 23, a statement was provided by Mario Jaimes Mejía, who said he was willing to tell the justice authorities everything he knew about what happened to journalist Jineth Bedoya, "as long as the demands made to INPEC are met."⁹⁸ General Gallego did not appear on the scheduled date and the

⁸⁴ Annex 61. Ministry of National Defense. National Police. Department of Criminal Investigations and Interpol. Official Communication No. 0796 and annexes. March 4, 2010. Case 807. C4, pp. 15-18. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁸⁵ Annex 62. National Institute of Concessions. Communication to the Prosecutions Assistant II UNHR and IHL, dated February 8, 2010. Annex to the communication of the petitioners received on June 20, 2011.

⁸⁶ Annex 63. Office of the National Prosecutor General. UNDH. Resolution dated July 27, 2010. Case 807. C4, p. 34. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁸⁷ Annex 64. Office of the National Prosecutor General. UNDH. Supplementary complaint filed by Jineth Bedoya Lima. August 11, 2010. Case 807. C4, pp. 41-42. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁸⁸ Annex 65. Office of the National Prosecutor General. UNDH. Resolution dated August 12, 2010. Case 807. C4, p. 44. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁸⁹ Annex 66. Office of the National Prosecutor General. UNDH. Statement of Jhon Jairo Velázquez Vásquez dated September 9, 2010. Case 807. C4, pp. 48-52. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁹⁰ Annex 67. Office of the National Prosecutor General. UNDH. CTI. Report No. 571005 dated November 12, 2010. Case 807. C4, unnumbered. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁹¹ Annex 68. Fundación para la Libertad de Prensa. Communications of April 12 and 19, 2011. Case 807. C4, pp. 120-137. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁹² Annex 69. Office of the National Prosecutor General. UNDH. Resolution dated April 14, 2010. Case 807. C4, pp. 118. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁹³ Annex 70. Office of the National Prosecutor General. UNDH. Resolution dated April 29, 2010. Case 807. C4, pp. 139-140. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁹⁴ Annex 71. Fundación para la Libertad de Prensa. Communication of May 2, 2011. Case 807. C4, pp. 144-151. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁹⁵ Annex 72. Fundación para la Libertad de Prensa. Communication dated May 4, 2011. Case 807. C4, pp. 153-172. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁹⁶ Annex 73. Office of the National Prosecutor General. UNDH. CTI. Report No. 602029 dated April 29, 2011. Case 807. C4, pp. 173-176. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁹⁷ Annex 74. Office of the National Prosecutor General. UNDH. Resolution dated April 29, 2011. Case 807. C4, pp. 191-198. Annex 12 to the communication of the petitioner received on May 29, 2015.

⁹⁸ Annex 75. Office of the National Prosecutor General. UNDH. Statement of Mario Jaimes Mejía dated May 24, 2011. Case 807. C4, pp. 229-230. Annex 12 to the communication of the petitioner received on May 29, 2015.

proceeding was postponed; General Oscar Naranjo's statement was also not received on time. On June 8, 2011, the Prosecutor's Office issued a resolution on the motion for reconsideration filed by the civil party and ordered the evidence she had requested.⁹⁹ On June 22, 2011 the Prosecutor's Office ordered Jineth Bedoya to provide a statement in order to establish whether she "ha[d] been subjected to any kind of threats subsequent to the events under investigation."¹⁰⁰ On June 30, 2011, a new police report was received on the evidentiary proceedings ordered,¹⁰¹ and on July 22, the Prosecutor's Office ordered new evidence, including interviews of Alejandro Cárdenas Orozco and Jesús Emiro Pereira, and it once again ordered that statements be taken from Mario Jaimes Mejor and General José Gallego.¹⁰² On July 28, the statement of Alejandro Cárdenas Orozco, an inmate at La Picota prison, was added to the file. He stated that he was responsible for the kidnapping of Jineth Bedoya, on the orders of the "Centaurus Bloc."¹⁰³

50. On August 5, 2011, the Prosecutor's Office ordered the opening of an investigation against Alejandro Cárdenas Orozco.¹⁰⁴ On August 11, the Prosecutor's Office decided to cancel the proceedings to take a voluntary statement from General Leonardo Gallego, on the grounds of inadmissibility, once the criminal investigation had been opened in the case.¹⁰⁵ General Naranjo submitted a written statement on August 18, 2011.¹⁰⁶

51. On August 23, 2011, an order was issued to reassign the investigation to Office of the 49th Special Prosecutor of the National Human Rights Unit (NHRU).¹⁰⁷ On September 2, 2011, Office of the 49th Special Prosecutor took charge of the investigation and, among other proceedings, ordered Alejandro Cárdenas Orozco to be bound over for investigation.¹⁰⁸ On September 13, 2011, the statement provided by Alejandro Cárdenas Orozco in the Justice and Peace Court on September 6 was added to the case file.¹⁰⁹ In that statement, he claimed responsibility for the journalist's kidnapping. On September 13 and October 12, 2011, the Prosecutor's Office ordered several proceedings and evidentiary measures to be taken.¹¹⁰ This was followed by the taking of statements from several witnesses, and another statement was provided by Jineth Bedoya Lima on November 26, 2011.¹¹¹ That day, after the victim's statement, the Prosecutor's Office issued a resolution ordering that Jesús Emiro Pereira Rivera be bound over for investigation on charges of "aggravated kidnapping, in teleological connection with torture against a protected person and violent aggravated sexual assault against a protected person." The Prosecutor's Office further ordered that a statement be taken from

⁹⁹ Annex 76. Office of the National Prosecutor General. UNDH. Resolution dated June 8, 2011. Case 807. C4, pp. 243-246. Annex 12 to the communication of the petitioner received on May 29, 2015.

¹⁰⁰ Annex 77. Office of the National Prosecutor General. UNDH. Decision dated June 22, 2011. Case 807. C4, p. 284. Annex 12 to the communication of the petitioner received on May 29, 2015.

¹⁰¹ Annex 78. Office of the National Prosecutor General. UNDH. CTI. Report No. 611687 dated June 29, 2011 and annexes. Case 807. C4 and C5, p. 287 ff. Annex 12 to the communication of the petitioner received on May 29, 2015.

¹⁰² Annex 79. Office of the National Prosecutor General. UNDH. Resolution dated July 22, 2011. Case 807. C5, p. 90. Annex 12 to the communication of the petitioner received on May 29, 2015.

¹⁰³ Annex 80. Office of the National Prosecutor General. UNDH. CTI. Report No. 618177 dated June 29, 2011. Case 807. C5, pp. 101-104. Annex 12 to the communication of the petitioner received on May 29, 2015.

¹⁰⁴ Annex 81. Office of the National Prosecutor General. UNDH. Order to Open Pretrial Investigation [*Apertura de Instrucción*] August 5, 2011. Case 807. C5, pp. 112-116. Annex 12 to the communication of the petitioner received on May 29, 2015.

¹⁰⁵ Annex 82. Office of the National Prosecutor General. UNDH. Decision of August 11, 2011. Case 807. C5, p. 126. Annex 12 to the communication of the petitioner received on May 29, 2015.

¹⁰⁶ Annex 83. Ministry of National Defense. National Police. No. 0991-DIPON-SEGEN-ARJUR-15.1. Statement of Oscar Naranjo Trujillo. August 18, 2011. Case 807. C5, pp. 153-161. Annex 12 to the communication of the petitioner received on May 29, 2015.

¹⁰⁷ Annex 84. Office of the National Prosecutor General. UNDH. Resolution No. 000172 dated August 23, 2011. Case 807. C5, pp. 163-166. Annex 12 to the communication of the petitioner received on May 29, 2015.

¹⁰⁸ Annex 85. Office of the National Prosecutor General. UNDH. Resolution dated September 2, 2011. Case 807. C5, pp. 169-171. Annex 12 to the communication of the petitioner received on May 29, 2015.

¹⁰⁹ Annex 86. Office of the National Prosecutor General. National Prosecution Unit for Justice and Peace. Case 807. C8, pp. 24-32. Annex 12 to the communication of the petitioner received on May 29, 2015.

¹¹⁰ Annex 87. Office of the National Prosecutor General. UNDH. Office of the 49th Special Prosecutor. Resolution dated September 13, 2011. Case 807. C8, pp. 11-12. Annex 12 to the communication of the petitioner received on May 29, 2015; and Annex 88. Office of the National Prosecutor General. UNDH. Office of the 49th Special Prosecutor. Resolution dated October 12, 2011. Case 807. C8, pp. 46-50. Annex 12 to the communication of the petitioner received on May 29, 2015.

¹¹¹ Annex 89. Office of the National Prosecutor General. UNDH. Statement of Jineth Bedoya Lima dated November 26, 2011. Case 807. C8, pp. 267-274. Annex 12 to the communication of the petitioner received on May 29, 2015.

Pereira Rivera.¹¹² On December 2, 2011, the Prosecutor's Office took new formal statements from the alleged perpetrators, Jesús Emiro Pereira, Mario Jaimes Mejía, and Alejandro Cárdenas Orozco.¹¹³

52. On February 6, 2012, Alejandro Cárdenas Orozco gave a formal statement at the La Picota Prison in Bogotá, in which he admitted the charges of kidnapping and torture, and expressed his willingness to enter into a plea agreement.¹¹⁴ On February 8, 2012 Mario Jaimes Mejía, who denied involvement in the case and denied the charges against him, was bound over for trial after providing a formal statement.¹¹⁵

53. During 2012, a number of statements were given by inmates who allegedly had knowledge of the events, as well as by public officials who participated in the preliminary investigation into the facts of this case. A number of evidentiary proceedings and work missions were also carried out by the CTI. In particular, on April 30, 2012, a supplemental statement was provided by journalist Jineth Bedoya and she was shown a photo array of the alleged perpetrators, and on June 25, 2012, a judicial inspection was performed on the premises of the National Model Prison in the victim's presence.¹¹⁶

54. On September 10, 2012, the Prosecutor's Office issued a resolution declaring that the case involved a crime against humanity. It issued a determination on the legal status, and ordered preventive measures against, Alejandro Cárdenas Orozco, Jesús Emiro Pereira, and Mario Jaimes Mejía, a.k.a. "El Panadero," all former members of paramilitary groups.¹¹⁷

55. On February 22, 2013, the charging document was signed for the plea agreement of Alejandro Cárdenas Orozco, in which he accepted the charges of aggravated kidnapping and torture of a protected person.¹¹⁸ On February 23 the Prosecutor's Office issued a resolution ordering the suspension of the investigation against Messrs. Mario Jaimes Mejía, Alejandro Cárdenas Orozco, and Jesús Emiro Pereira Rivera, pursuant to Article 22 of Law 1592 of December 3, 2012, due to their status as former paramilitary members with applications pending before the National Unit for Justice and Peace. In the voluntary statement provided by Alejandro Cárdenas Orozco on August 5 and 6, 2013, he recanted his confession and said that he had agreed to admit responsibility in exchange for money, without specifying who allegedly offered him that money. Because of this, on September 30, 2013, the Justice and Peace Prosecutor decided to remand the case again to Office of the 49th Special Prosecutor. On October 7, 2013, the Prosecutor's Office issued a resolution setting aside the stay of proceedings with respect to the accused's formal statement. This ruling states that "[...] in the case of the defendants, it is improper for the Office of the Assistant Prosecutor for Justice and Peace to exercise investigative jurisdiction over the events of May 25, 2000 [...] These applicants have been repetitive, reluctant to accept their perpetration, participation, and responsibility in those events, as they have expressed in their various voluntary statements given to the prosecutors from that unit who were and are in charge of the investigation of that case [...] Thus, the stay of proceedings applied with respect to these defendants, although in keeping with the instrumental content of the provision, cannot remain in effect because it will then be impossible to consider the two proceedings to be equivalent." Subsequently, the Prosecutor's Office resumed several evidentiary proceedings.¹¹⁹

¹¹² Annex 90. Office of the National Prosecutor General. UNDH. Office of the 49th Special Prosecutor. Resolution dated November 26, 2011. Case 807. C8, p. 275. Annex 12 to the communication of the petitioner received on May 29, 2015.

¹¹³ Annex 91. Office of the National Prosecutor General. UNDH. Office of the 49th Special Prosecutor. Case 807. C8, p. 275. Annex 12 to the communication of the petitioner received on May 29, 2015.

¹¹⁴ Annex 92. Office of the National Prosecutor General. UNDH. Statement of Alejandro Cárdenas dated February 6, 2012. Case 807. C9, pp. 176-183. Annex 12 to the communication of the petitioner received on May 29, 2015.

¹¹⁵ Annex 93. Office of the National Prosecutor General. UNDH. Statement of Mario Jaimes Mejía dated February 8, 2012. Case 807. C9, pp. 187-190. Annex 12 to the communication of the petitioner received on May 29, 2015.

¹¹⁶ Annex 94. Office of the National Prosecutor General. UNDH. Judicial inspection dated June 25, 2012. Case 807. C11, pp. 264-265. Annex 12 to the communication of the petitioner received on May 29, 2015.

¹¹⁷ Information provided by the State of Colombia via communication received on April 5, 2016, which was not challenged by the petitioner.

¹¹⁸ Annex 95. Office of the National Prosecutor General. UNDH. Charging Document for the Plea Agreement [*Sentencia Anticipada*] of Alejandro Cárdenas Orozco. February 22, 2014. Case 807. C14, pp. 33-265. Annex 12 to the communication of the petitioner received on May 29, 2015.

¹¹⁹ Information provided by the State of Colombia via communication received on April 5, 2016, which was not challenged by the petitioner.

56. On April 8, 2014, the Prosecutor's Office ordered the partial closure of the investigation as it related to the responsibility of Mario Jaimes Mejía, alias "El Panadero," and its continuation with respect to the other persons under investigation.¹²⁰ That same day, it denied a request for the revocation of preventive measures and termination of the investigation with respect to Alejandro Cárdenas.¹²¹ On June 6, 2014, the Prosecutor's Office conducted proceedings to take a supplemental formal statement from defendant Alejandro Cárdenas Orozco. On June 25, 2014, the Office of the Inspector General of Colombia filed its initial pleadings in the case and requested that the acts of torture and violent sexual assault of a protected person remain classified as a crime against humanity.¹²² The civil party filed her pleadings the same day.¹²³ On September 26, the Prosecutor's Office issued a decision determining the merits of the investigation against Mario Jaimes Mejía¹²⁴ as a joint perpetrator responsible for the intentional commission of the offenses of aggravated kidnapping, in teleological connection with torture against a protected person and in conjunction with the separate offense of violent aggravated sexual assault against the victim, Jineth Bedoya.

57. On February 27, 2015, former paramilitary member Armando Lugo, then being held in a Colombian prison, gave a statement in which he indicated that he had witnessed the events. In that proceeding, Lugo admitted the charges and accepted a plea agreement.¹²⁵ In his statement, he asserted that members of the self-defense groups, as well as members of the Colombian military and police, participated in the crime. On May 28, 2015, the preventive measure of pretrial detention and termination of the investigation was revoked with regard to Alejandro Cárdenas Orozco.¹²⁶

58. According to the information provided by the State, and not disputed by the petitioner, on June 12, 2015 Resolution No. 0165 was issued, reassigning the case to the Office of the 50th Special Prosecutor for Human Rights and IHL. On June 22, 2015, the 50th Special Prosecutor's Office partially closed the investigation with respect to Alejandro Cárdenas Orozco and Jesús Emiro Pereira. On July 13, 2015, the case file was sent to the Criminal Chamber of the Superior Court of Bogotá. On July 16, 2015, the Prosecutor decided not to object to the decision to close the investigation against Alejandro Cárdenas Orozco regarding the sex crime.¹²⁷

59. According to the Colombian State, on February 2, 2017, the public trial of defendant Mario Jaimes Mejía was held before the Fifth Criminal Judge of the Specialized Circuit of Bogotá, in which he pleaded guilty to all charges brought by the 50th Special Prosecutor for Human Rights and IHL for "aggravated kidnapping, in teleological connection with torture against a protected person and violent aggravated sexual assault against a protected person." The judge who heard the case handed down the conviction on March 18, 2017, sentencing Mario Jaimes Mejía, as a joint perpetrator, to 28 years, 2 months, and 10 days in prison, among other penalties, for the crimes of violent aggravated sexual assault, aggravated kidnapping, and torture.¹²⁸

¹²⁰ Annex 96. Office of the National Prosecutor General. UNDH. Partial closure of investigations related to Mario Jaimes Mejía. April 8, 2014. Case 807. C16, pp. 219-222. Annex 12 to the communication of the petitioner received on May 29, 2015.

¹²¹ Annex 97. Office of the National Prosecutor General. UNDH. Decision on the request for the revocation of preventive measures and termination of the investigation of Alejandro Cárdenas. April 8, 2014. Case 807. C16, pp. 209-218. Annex 12 to the communication of the petitioner received on May 29, 2015.

¹²² Annex 98. Office of the National Inspector General [*Procuraduría General de la Nación*]. Initial pleadings [*Alegatos precalificatorios*]. June 25, 2014. Case 807. C17, pp. 189-223. Annex 12 to the communication of the petitioner received on May 29, 2015.

¹²³ Annex 99. FLIP. Initial pleadings. June 25, 2014. Case 807. C17, pp. 224-234. Annex 12 to the communication of the petitioner received on May 29, 2015.

¹²⁴ Annex 100. Office of the National Prosecutor General. UNDH. Determination on the Merits of the Investigation against Mario Jaimes Mejía, alias el Panadero. April 8, 2014. Case 807. C16, pp. 209-218. Annex 12 to the communication of the petitioner received on May 29, 2015.

¹²⁵ Annex 101. Office of the National Prosecutor General. UNDH. Statement of Armando Lugo dated February 27, 2015. Case 807. C18, pp. 179-187. Annex 12 to the communication of the petitioner received on May 29, 2015.

¹²⁶ Information provided by the State of Colombia via communication received on April 5, 2016, which was not challenged by the petitioner.

¹²⁷ Information provided by the State of Colombia via communication received on April 5, 2016, which was not challenged by the petitioner.

¹²⁸ Information provided by the State of Colombia via communication received on April 5, 2016, which was not challenged by the petitioner.

60. According to the information provided by the State, and not disputed by the petitioner, on February 24, 2016, the Fifth Criminal Judge of the Specialized Circuit of Bogotá convicted Alejandro Cárdenas Orozco, as a joint perpetrator, and sentenced him to 11 years and 5 months in prison, for the offenses of aggravated kidnapping and torture of a protected person, according to the defendant's guilty plea. On February 26, 2017, the 43rd Assistant Prosecutor's Office before the Superior Court of Bogotá confirmed the indictment of Jesús Emiro Pereira Rivera for the offenses of aggravated kidnapping, in teleological connection with torture against a protected person and violent aggravated sexual assault against a protected person, at which point the case entered the trial phase. In addition, the aforementioned Prosecutor's Office confirmed the indictment of Alejandro Cárdenas for the offense of sexual violence, which was in the process of appeal, for which reason this case is also at the trial stage. The Fifth Criminal Judge of the Specialized Circuit of Bogotá handed down convictions against Alejandro Cárdenas Orozco, for the offenses of aggravated kidnapping and torture of a protected person, and against Mario Jaimes Mejía, for the three offenses to which he pleaded guilty. In addition, the Prosecutor's Office confirmed the indictment of Jesús Emiro Pereira Rivera for the three offenses for which he had been bound over for investigation, as well as the indictment of Alejandro Cárdenas for the offense of sexual violence.¹²⁹

61. According to information provided by the State to the IACHR, three individuals have been convicted for the events of May 25, 2000. Armando Lugo, who entered into a plea agreement on February 27, 2015; Mario Jaimes Mejía, convicted on March 18, 2016, and Alejandro Cárdenas Orozco, convicted on February 24, 2016.¹³⁰

D. Investigation of the 6th Special Prosecutor for omissions in the criminal proceedings

62. On February 29, 2011, Criminal Judicial Advocate 19 issued an official letter addressed to The 49th Special Prosecutor of the NHRU, ordering that certified copies of the case file be sent to the criminal and disciplinary authorities for proceedings against the 6th Special Prosecutor, Gustavo Adolfo Reyes Leyva. This was for the purpose of investigating him "for the omissions recorded in the criminal proceedings brought in connection with the heinous acts perpetrated against Mrs. GINETH BEDOYA LIMA." In this document, the Judicial Advocate said that she had corroborated "the investigative and evidentiary failures and shortcomings of the criminal case," pointing out that for eleven years no positive results were obtained, even though "the evidentiary material needed to establish the criminal acts and identify their perpetrators was present in the case."¹³¹

63. The Judicial Advocate even stated that, "the incoherent, disjointed, and slow actions [...] have undoubtedly compromised the honorable task of administering justice entrusted to the Office of the Prosecutor General," pointing out among them, "the fact that analyses and inquiries were not made into the telephone records of the calls made to and from the cell phones that were used in the kidnapping," which no longer exist because they have expired, and because the cell phone companies that were operating at the time of the events have been replaced. She also stressed that "the fact that the State's burden of proof has been shifted to the victim of the aggravated offenses under investigation, to the detriment of her own dignity and in a manner that is excessively re-victimizing, is a serious and regrettable evidentiary defect." She noted the numerous interrogatories to which the victim has been subjected, which have been incorporated into the case file "in a disjointed and wholly and utterly mismanaged fashion." Finally, the Judicial Advocate pointed out that on November 26, 2011, it was learned that "the forensic medical report first issued after the events occurred was lost from the case file," and that "the investigators initially assigned to the case and who obtained first-hand information were forced out by shadowy forces, without being heard from in the proceedings."¹³²

¹²⁹ Information provided by the State of Colombia via communication received on April 5, 2016, which was not challenged by the petitioner.

¹³⁰ Information provided by the State of Colombia via communication received on April 5, 2016, which was not challenged by the petitioner.

¹³¹ Annex 102. Office of the National Inspector General. Official Communication No. 011PJ19. Authenticated Copy Request, Case 807 HR and IHL. February 29, 2011. Annex 23 to the communication of the petitioner received on May 29, 2015.

¹³² Annex 102. Office of the National Inspector General. Official Communication No. 011PJ19. Authenticated Copy Request, Case 807 HR and IHL. February 29, 2011. Annex 23 to the communication of the petitioner received on May 29, 2015.

64. On August 2, 2011, the investigation was reassigned to the Unit's Prosecution Office. Through a resolution from the NHRU-IHL Sixth Prosecutor's Office, the pretrial investigation was opened on August 5, 2011. On March 25, 2015, Jineth Bedoya received notice of the decision issued by Chamber 41 of the Superior Court of the Judicial District, according to which: [...] the above-captioned investigation against Mr. GUSTAVO ADOLFO REYES LEYVA (Special Prosecutor 6 of the Human Rights and IHL Unit), for the alleged offense of MALFEASANCE BY OMISSION, in which you are named as the victim, was CLOSED by this Prosecutor's Office, on the grounds that THE CONDUCT DOES NOT MEET THE DEFINITION OF A CRIME, as established in Article 79 of Law 906 of 2004.¹³³

E. Threats and attacks against Jineth Bedoya Lima after May 25, 2000

65. After the kidnapping, assaults, and acts of sexual violence perpetrated against Jineth Bedoya Lima, she continued to receive threats and to this day faces a heightened risk due to the practice of her profession.¹³⁴ Following the alleged events, in a communication received on May 30, 2000, the petitioner asked the IACHR to grant precautionary measures to protect the life and physical integrity of *El Espectador* journalist Jineth Bedoya Lima; Hollman Morris Rincón, the editor of the newspaper's peace section; and Jorge Cardona Alzate, the judicial affairs editor. Pursuant to Article 29 of its Rules of Procedure, the Commission granted the precautionary measures on June 2, 2000, which remain in force at the time this report is issued. In its decision, the IACHR called upon the Colombian State to take steps to protect the life and humane treatment of the alleged victim and the rest of the journalists mentioned, as well as to investigate the situation complained of. In compliance with this decision, the National Police assigned the journalist a security detail in June 2000.

66. In February 2002, Jineth Bedoya Lima began working at the newspaper *El Tiempo*. In May of 2003, the threats against Jineth Bedoya had begun once again. The journalist reported these threats to the State and was assigned a new security detail.¹³⁵ On August 18, 2003, Jineth Bedoya and her *El Tiempo* team were kidnapped again for 5 days while she was working in the town of Puerto Alvira in the department of Meta. The kidnapping was attributed to the Revolutionary Armed Forces of Colombia (FARC).¹³⁶ In November 2008, the journalist was informed that her emails and communications were reportedly being intercepted by the Armed Forces. In November 2010, after publishing her book entitled *Vida y Muerte del Mono Jojoy* ("The Life and Death of Mono Jojoy"), the journalist again received threats that, according to security and intelligence agencies, came from the FARC.¹³⁷ Given the danger, the journalist decided to leave the country temporarily. She filed a complaint regarding these threats, which was dismissed in June 2014 by the Prosecutor's Office, on the grounds that it was impossible to identify those responsible for the threats.¹³⁸ During 2011, Jineth Bedoya Lima received several threats. The court file contains four complaints of threats dated November 2010, May 2011, June 2011, and September 2011.¹³⁹ Those threats continued in 2012.¹⁴⁰ According to the case file, the Prosecutor's Office dismissed the complaints because it was impossible to identify the potential perpetrators of these threats.¹⁴¹

¹³³ Annex 103. Office of the National Prosecutor General. Official Communication No. 01734 to Jineth Bedoya. Record 1200174. March 25, 2015. Annex 28 to the communication of the petitioner received on May 29, 2015.

¹³⁴ Annex 104. IACHR. File of Precautionary Measures. MC 132-00.

¹³⁵ Annex 104. IACHR. File of Precautionary Measures. MC 132-00.

¹³⁶ Inter-American Commission on Human Rights. Annual Report of the Office of the Special Rapporteur for Freedom of Expression. 2003, para. 65.

¹³⁷ Annex 105. Interview (FPJ-14) of Jineth Bedoya Lima, p. 21. December 28, 2012. Annex 14. Office of the National Inspector General, p. 9. Bogota D.C., April 23, 2013.

¹³⁸ Annex 106. Office of the National Prosecutor General. Bogotá D.C., June 13, 2013, p. 129-133. Annex 14 to the communication of the petitioner received on May 29, 2015.

¹³⁹ Annex 107. Office of the National Prosecutor General. Annexes 14, 20, 25 and 26 of the communication of the petitioner received on May 29, 2015.

¹⁴⁰ Annex 108. Office of the National Prosecutor General. Criminal Proceeding, Executive Report. Cundinamarca. Bogotá D.C., 24-02-2014. Annex 26 to the communication of the petitioner received on May 29, 2015.

¹⁴¹ Annex 108. Office of the National Prosecutor General. Criminal Proceeding, Executive Report. Cundinamarca. Bogotá D.C., 24-02-2014. Annex 26 to the communication of the petitioner received on May 29, 2015.

F. The Context

67. The parties acknowledge that, at the time of the events in this case, Colombia was embroiled in an internal armed conflict involving several illegal armed groups. In the context of this armed conflict, the Inter-American case law has demonstrated the existence of links between the armed forces and paramilitary groups at different times and places, which included omissions that allowed or facilitated the commission of acts by paramilitary groups,¹⁴² and even specific acts of support¹⁴³ and the direct participation of State agents in paramilitary groups.¹⁴⁴ These ties have also been acknowledged in several decisions handed down by Colombia's high courts, as the Inter-American Court observed in the case of the Afro-descendant communities displaced from the Cacarica River Basin (Operation Genesis).¹⁴⁵

68. The violence perpetrated in the armed conflict victimized women in a differential and aggravated manner. In Order 092 of 2008, the Constitutional Court of Colombia recognized that, in the context of the armed conflict, women were exposed to particular risks and specific vulnerabilities, including the risk of sexual violence.¹⁴⁶ The armed conflict also exacerbated and deepened pre-existing discrimination, exclusion and gender-based violence in the country.¹⁴⁷ In this context, sexual violence against women in Colombia has been a common, widespread, systematic, and invisible practice in the country, committed by all the illegal armed groups and in isolated cases by law enforcement officers. In addition, the most serious thing about this type of violence, according to the Constitutional Court, is that it tends to be officially and unofficially invisible, with victims remaining silent and perpetrators going unpunished.¹⁴⁸

69. At the time of the events, Colombia was also one of the most dangerous countries in the world in which to practice journalism. The National Center for Historical Memory (CNMH) reported that between December 1977 and August 2015, 152 journalists were murdered on account of their profession—not to mention the hundreds of journalists, especially in outlying regions, who have been subjected to threats and kidnapping by the various armed actors, and the many who have been forced into exile.¹⁴⁹ These acts are aggravated by the persistent impunity with which they are met. For instance, the CNMH reported in 2015 that of the 152 murders perpetrated against journalists in Colombia, only four cases had resulted in the conviction of all the perpetrators, while fifty percent of the cases had already been time-barred by the statute of limitations, thus giving rise to a scenario of total impunity.¹⁵⁰

70. With regard to this context, in the 2005 report *Impunity, Self-censorship and Armed Internal Conflict: An Analysis of the State of Freedom of Expression in Colombia*, the IACHR and its Office of the Special Rapporteur found that “The exercise of freedom of expression in Colombia has been gravely affected in recent

¹⁴² Cfr. Inter-American Court of Human Rights (I/A Court H.R.). *Case of the 19 Tradesmen v. Colombia*. Merits, Reparations and Costs. Judgment of July 5, 2004. Series C, No. 109, para. 86c.

¹⁴³ Cfr. I/A Court H.R. *Case of the “Mapiripán Massacre” v. Colombia*. Judgment of September 15, 2005. Series C, No. 134, para. 123; I/A Court H.R. *Case of the “La Rochela Massacre” v. Colombia*. Merits, Reparations and Costs. Judgment of May 11, 2007. Series C, No. 163, para. 82, 93 and 101.a.

¹⁴⁴ Cfr. I/A Court H.R. *Case of the 19 Tradesmen v. Colombia*. Merits, Reparations and Costs. Judgment of July 5, 2004. Series C, No. 109, para. 86a.

¹⁴⁵ Cfr. I/A Court H.R. *Case of the Afro-Descendant Communities Displaced from the Cacarica River Basin (Operation Genesis) v. Colombia*, para. 249. Cfr. also Supreme Court of Justice of Colombia, Criminal Chamber: Review Judgment No 30516, March 11, 2009, Appeal Judgment No. 24448, September 12, 2007, cited by: Section on Prosecutor Offices [*Director Seccional de Fiscalías*], Memorandum No. 0035 dated April 28, 2009 pp. 106-18; Constitutional Court of Colombia, Ruling 005 dated January 26, 2009; and State Council, Third Section, Direct Compensation Process, Judgment No. 68001-23-15-000-1996-01698-01, Reporting Counselor Olga Melida Valle de la Oz, dated February 27, 2013 p. 13.

¹⁴⁶ Annex 53. Constitutional Court of Colombia. Ruling 092 of 2008. J. Manuel Jose Cepeda Espinosa. April 14, 2008. Annex 17 to the communication of the petitioner received on May 29, 2015.

¹⁴⁷ Annex 53. Constitutional Court of Colombia. Ruling 092 of 2008. J. Manuel Jose Cepeda Espinosa. April 14, 2008. Annex 17 to the communication of the petitioner received on May 29, 2015.

¹⁴⁸ Annex 53. Constitutional Court of Colombia. Ruling 092 of 2008. J. Manuel Jose Cepeda Espinosa. April 14, 2008. Annex 17 to the communication of the petitioner received on May 29, 2015.

¹⁴⁹ Annex 109. *La Palabra y el Silencio: La violencia contra periodistas en Colombia (1977-2015)*. Report of the National Center for Historical Memory [*Centro Nacional de Memoria Histórica*]. November 2015, pp. 19-24.

¹⁵⁰ Annex 109. *La Palabra y el Silencio: La violencia contra periodistas en Colombia (1977-2015)*. Report of the National Center for Historical Memory. November 2015, pp. 19-24.

decades by the internal armed conflict.”¹⁵¹ The report pointed out that crimes against journalists have a dual impact on the situation of freedom of expression in Colombia. *“On one [hand], the violence looks to eliminate those who attempt to investigate abuses and irregularities and to ensure that their investigations do not come to light. But [...] the violence is [also] designed to be a tool of intimidation directed at those conducting these types of investigations.”*¹⁵²

IV. LEGAL ANALYSIS

71. In this case the petitioner alleged that the international responsibility of the Colombian State for the kidnapping, torture, and sexual violence perpetrated against Jineth Bedoya stems from its failure to comply with its State obligations: i) to protect the journalist from the risk of attacks and threats associated with the practice of journalism, and ii) to investigate with due diligence and, where appropriate, prosecute and punish the perpetrators of the crimes committed. In particular, the petitioner argued that the lack of a thorough and diligent investigation has prevented the identification of the masterminds of the crime and the possible participation of State agents. Consequently, it argues, the threats and the ongoing risks to the journalist have not been neutralized thus far. For its part, the State maintained that the kidnapping, torture, and rape of Jineth Bedoya was committed not by State agents, but by private individuals, and asserted that it had taken all necessary measures to investigate the facts, prosecute, and punish the perpetrators, and that, therefore, it could not be held internationally responsible for the alleged violations.

72. In light of the foregoing and the findings of fact made, the Inter-American Commission will now determine whether the State met its obligations to respect and guarantee the rights of journalist Jineth Bedoya.

A. **Analysis of the alleged violation of the rights to life, humane treatment, personal freedom, privacy, dignity and autonomy, freedom of thought and expression, and equality and non-discrimination (Articles 4,¹⁵³ 5,¹⁵⁴ 7,¹⁵⁵ 11,¹⁵⁶ 13,¹⁵⁷ and 24¹⁵⁸ of the American Convention), in relation to the obligation to respect and protect rights (Articles 1.1¹⁵⁹ of the American Convention, 7 of the Convention of Belém do Pará,¹⁶⁰**

¹⁵¹ IACHR. Office of the Special Rapporteur for Freedom of Expression. Impunity, Self-censorship and Armed Internal Conflict: An Analysis of the State of Freedom of Expression in Colombia. OEA/Ser.L/V/II, Doc.51, August 25, 2005. Para. 5.

¹⁵² IACHR. Office of the Special Rapporteur for Freedom of Expression. Impunity, Self-censorship and Armed Internal Conflict: An Analysis of the State of Freedom of Expression in Colombia. OEA/Ser.L/V/II, Doc.51, August 25, 2005. Para. 53.

¹⁵³ Article 4 of the American Convention establishes that “[e]very 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”.

¹⁵⁴ Article 5 of the American Convention establishes that: “1) [e]very 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”.

¹⁵⁵ In this regard, Article 7 of the American Convention establishes that: “1) [e]very 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”.

¹⁵⁶ Article 11 of the American Convention establishes, in this regard: 1) [e]veryone has the right to have his honor respected and his dignity recognized. 2) No one may be the object of arbitrary or abusive interference with his private life, his family, his home, or his correspondence, or of unlawful attacks on his honor or reputation.

¹⁵⁷ Article 13 of the American Convention establishes, in this regard, that “[e]veryone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice”.

¹⁵⁸ Article 24 of the American Convention establishes, in this sense: “All persons are equal before the law. Consequently, they are entitled, without discrimination, to equal protection of the law”.

¹⁵⁹ Article 1.1 of the American Convention establishes that: “[t]he States Parties to this Convention undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition”.

¹⁶⁰ Article 7.a) of the Convention of Belém do Pará affirms: “The States Parties condemn all forms of violence against women and agree to pursue, by all appropriate means and without delay, policies to prevent, punish and eradicate such violence and undertake to: refrain from engaging in any act or practice of violence against women and to ensure that their authorities, officials, personnel, agents, and institutions act in conformity with this obligation”.

and 1¹⁶¹ and 6¹⁶² of the IACPPT)

1. General considerations on the obligation to protect journalists at particular risk

73. As the Commission has repeatedly held, violence targeting journalists or media workers with the aim of silencing them constitutes a violation of the victim's right to freedom of expression, and has a profound negative effect on the exercise of freedom of expression by those who practice journalism and on the right of society in general to seek and receive all kinds of information and ideas in a peaceful and free manner.¹⁶³ As the Inter-American Court has observed, “journalism can only be exercised freely when those who carry out this work are not victims of threats or physical, mental or moral attacks or other acts of harassment.”¹⁶⁴

74. In this regard, the Inter-American Court has held that “it is essential that journalists who work in the media should enjoy the necessary protection and independence to exercise their functions to the fullest, because it is they who keep society informed, an indispensable requirement to enable society to enjoy full freedom and for public discourse to become stronger.”¹⁶⁵ Similarly, it has affirmed that “the combination of violence against journalists and impunity has a highly negative impact, first, on journalists themselves and their families, and second, because it has resulted in diverse communities [...] not receiving information on issues that affect them, such as armed conflict, organized crime, drug trafficking, and political corruption.”¹⁶⁶

75. In the case of violence committed against journalists or media workers for exercising their right to freedom of expression, the Inter-American case law has explained that the rights to life, humane treatment, and freedom of expression are closely related¹⁶⁷ and that they give rise to positive State obligations. In this regard, the IACHR has recognized that States have an obligation to protect those who are exposed to a special risk by reason of the practice of their profession.¹⁶⁸ The scope of the State's positive obligation to protect persons who are exposed to a special risk was defined by the Inter-American Court, when it noted that “For a positive obligation to arise, it must be established that the authorities knew or ought to have known at the time of the existence of a real and immediate danger to the life of an identified individual or individuals from the criminal acts of a third party and that they failed to take measures within the scope of their powers which, judged reasonably, might have been expected to avoid that danger.”¹⁶⁹

76. According to the Inter-American case law and scholarship, this special risk must be evaluated in light of the existing country context, and may arise from factors such as the type of events they cover, the public interest of the information they disseminate, or the area they must go to in order to do their work, as well as to those who are the target of threats in relation to the dissemination of that information or for denouncing or promoting the investigation of violations that they suffered or of those they became aware

¹⁶¹ Article 1 of the Inter-American Convention to Prevent and Punish Torture affirms: “The State Parties undertake to prevent and punish torture in accordance with the terms of this Convention”.

¹⁶² In this regard, article 6 of the Inter-American Convention to Prevent and Punish Torture highlights that: “[i]n accordance with the terms of Article 1, the States Parties shall take effective measures to prevent and punish torture within their jurisdiction”.

¹⁶³ IACHR. Report No. 136/10. Case 12.658. Luis Gonzalo “Richard” Vélez Restrepo and Family (Colombia). October 23, 2010. Para. 136; IACHR. Report No. 50/99. Case 11.739. Héctor Félix Miranda (Mexico). April 13, 1999. Para. 52; IACHR. Report No. 130/99. Case No. 11.740. Víctor Manuel Oropeza (Mexico). November 19, 1999. Para. 58. See also I/A Court H.R. *Case of Vélez Restrepo and Family v. Colombia*. Preliminary Objection, Merits, Reparations and Costs. Judgment of September 3, 2012. Series C, No. 248. Para. 194; and I/A Court H.R. *Case of Carvajal Carvajal et al. v. Colombia*. Merits, Reparations and Costs. Judgment of March 13, 2018. Para. 175.

¹⁶⁴ I/A Court H.R. *Case of Vélez Restrepo and Family v. Colombia*. Preliminary Objection, Merits, Reparations and Costs. Judgment of September 3, 2012. Series C, No. 248. Para. 209.

¹⁶⁵ I/A Court H.R. *Case of Ivcher Bronstein v. Peru*. Merits, Reparations and Costs. Judgment of February 6, 2001. Series C, No. 74. Para. 150; I/A Court H.R. *Case of Herrera Ulloa v. Costa Rica*. Preliminary Objections, Merits, Reparations and Costs. Judgment of July 2, 2004. Series C, No. 107. Para. 119.

¹⁶⁶ I/A Court H.R. *Case of Carvajal Carvajal et al. v. Colombia*. Merits, Reparations and Costs. Judgment of March 13, 2018. Para. 177.

¹⁶⁷ I/A Court H.R. *Case of Carvajal Carvajal et al. v. Colombia*. Merits, Reparations and Costs. Judgment of March 13, 2018. Para. 176.

¹⁶⁸ IACHR. *Annual Report 2013. Annual Report of the Office of the Special Rapporteur for Freedom of Expression*. Chapter III (Violence against journalists and media workers: Inter-American Standards and national practices on prevention, protection and prosecution of perpetrators). OEA/Ser.L/V/II.149. Doc. 50. December 31, 2013. Para. 31.

¹⁶⁹ I/A Court H.R. *Case of the Pueblo Bello Massacre v. Colombia*. Judgment of January 31, 2006. Series C, No. 140. Para. 124, citing the European Court of Human Rights, *Case of Kılıç v. Turkey*. Application no. 22492/93. Judgment of 28 March 2000. Para. 63.

of in the course of their work.¹⁷⁰ The Court emphasized that, “[it is incumbent upon] State authorities to get to know the situation of special risk in order to determine or assess whether the person who is the target of threats and harassment requires measures of protection or to refer the case to the competent authority to do this, and also to offer the person at risk timely information on the measures available.”¹⁷¹

77. States not only have an obligation to protect at-risk journalists, but must also ensure that the protection measures taken are effective and appropriate. In this regard, when measures are taken to protect a journalist from a credible threat of harm to his or her physical integrity, these measures should take into account the specific needs of the beneficiary’s profession, gender, and other individual circumstances.¹⁷²

2. Specific considerations on the special duties to protect women journalists

78. In recent years, the IACHR, through its Office of the Special Rapporteur for Freedom of Expression, and together with the international community, has made efforts to draw attention to the forms of gender-based violence against women that female journalists face in the practice of their profession, as well as the disproportionate impact of certain forms of discrimination against women in their work.¹⁷³

79. In addition to being subject to the wide range of human rights violations affecting journalists in general, “Women journalists [...] disproportionately and routinely face gender-based violence in the workplace and in the field.”¹⁷⁴ Indeed, women journalists are doubly attacked for exercising freedom of expression and for their gender. In challenging male chauvinist stereotypes that disapprove of their participation in public life, women encounter gender-based violence and discrimination, as well as differentiated forms of violence by state and non-state actors.¹⁷⁵ At the same time, they face a lack of protection and obstacles to access to justice that are also differentiated from the experiences of their male colleagues.

80. The gender-based discrimination and violence faced by women journalists constitute attacks on freedom of expression. Sexist abuse, inequality in the workplace, sexual harassment, and online violence against women journalists in the course of their work also pose risks to freedom of expression that must be condemned and properly addressed.

81. In this regard, the OAS General Assembly, in its *resolution on the Right to freedom of thought and expression and the safety of journalists and media workers* adopted in 2017,¹⁷⁶ recognized that, “the work

¹⁷⁰ I/A Court H.R. *Case of Vélez Restrepo and Family v. Colombia*. Preliminary Objection, Merits, Reparations and Costs. Judgment of September 3, 2012. Series C, No. 248. Para. 193-94.

¹⁷¹ I/A Court H.R. *Case of Vélez Restrepo and Family v. Colombia*. Preliminary Objection, Merits, Reparations and Costs. Judgment of September 3, 2012. Series C, No. 248. Para. 201.

¹⁷² IACHR. *Annual Report 2013. Annual Report of the Office of the Special Rapporteur for Freedom of Expression*. Chapter III (Violence against journalists and media workers: Inter-American Standards and national practices on prevention, protection and prosecution of perpetrators). OEA/Ser.L/V/II.149. Doc. 50. December 31, 2013. Para. 72; The United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression, and the African Commission on Human and Peoples’ Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. June 25, 2012. *Joint Declaration on Crimes against Freedom of Expression*.

¹⁷³ IACHR. *Annual Report 2013. Annual Report of the Office of the Special Rapporteur for Freedom of Expression*. Chapter III (Violence against journalists and media workers: Inter-American Standards and national practices on prevention, protection and prosecution of perpetrators). OEA/Ser.L/V/II.149. Doc. 50. December 31, 2013. Para. 251.

¹⁷⁴ UN General Assembly. *The safety of journalists and the issue of impunity. Report of the Secretary General*. A/72/290. August 4, 2017. Para. 8.

¹⁷⁵ IACHR. Press Release *192/17. IACHR Calls on States to recognize and protect the work of women human rights defenders*. Washington, D.C., November 29, 2017. See also: IACHR. *Second report on the situation of human rights defenders in the Americas*, OEA/Ser.L/V/II. Doc. 66, December 31, 2011. Para. 283; IACHR. *Toward a comprehensive policy to protect human right defenders*. OEA/Ser.L/V/II (available in Spanish). Doc. 207/17. December 29, 2017. Para. 43. IACHR. *Criminalization of human rights defenders*. OEA/Ser.L/V/II. Doc. 49/15. December 31, 2015, p. 37. The IACHR affirms that human rights defenders are persons who promote or seek by any means to realize the human rights and fundamental freedoms recognized at the national or international level. The key criterion for identifying a human rights defender is the very nature of the activities performed by a person, instead of other factors such as being paid for his or her work, or being a member of a civilian or professional association. See. IACHR. *Second report on the situation of human rights defenders in the Americas*, OEA/Ser.L/V/II, Doc. 66, December 31, 2011.

¹⁷⁶ OAS. General Assembly. “Right to freedom of thought and expression and the safety of journalists and media workers”. In: AG/RES. 2908 (XLVII-O/17). Promotion and protection of human rights. Adopted at the Third Plenary Session held on June 21, 2017.

done by journalists, especially those who investigate and report on human rights violations, organized crime, corruption, and other serious wrongdoings, exposes them to being victims of aggressions and other acts of violence detrimental to their integrity and whose existence dissuade them to pursue their work and in consequence deprive society of information of public interest” and expressed concern “at the particular risks faced by women who practice journalism, who, in addition, are victims of discrimination, harassment and sexual violence, including online.”

82. In a similar vein, in its resolution on *The safety of journalists and the issue of impunity* adopted in 2017,¹⁷⁷ the United Nations General Assembly “[acknowledged] the specific risks faced by women journalists in the exercise of their work, and underlining in this context the importance of taking a gender-sensitive approach when considering measures to address the safety of journalists, including in the online sphere, in particular to effectively tackle gender-based discrimination, including violence, inequality and gender-based stereotypes, and to enable women to enter and remain in journalism on equal terms with men while ensuring their greatest possible safety, to ensure that the experiences and concerns of women journalists are effectively addressed and gender stereotypes in the media are adequately tackled.”

83. In the specific case of gender-based violence against women that affects female journalists, the Office of the Special Rapporteur of the IACHR has stated that the general obligations of prevention, protection, and the pursuit of justice arising from the obligation to ensure the safety of all journalists in general “are complemented and enhanced” by the obligations derived from the Convention of Belém do Pará.¹⁷⁸ Under Article 7(a) of that Convention, the States must “refrain from engaging in any act or practice of violence against women and to ensure that their authorities, officials, personnel, agents, and institutions act in conformity with this obligation.” Clause (b) of the same article requires the States to apply due diligence to prevent, investigate and impose penalties for violence against women.

84. The Office of the Special Rapporteur has underscored that fulfilling all these obligations involves incorporating a gender perspective to ensure that women journalists are adequately protected and can exercise their right to freedom of expression without undue restrictions. Similarly, the United Nations Plan of Action on the Safety of Journalists and the Issue of Impunity reaffirms the importance of giving to these policies and strategies “a gender-sensitive approach.”¹⁷⁹ To this end, processes and protocols must explicitly recognize that sexual violence and other forms of gender-based violence are specific risk factors to which women journalists are exposed and which deserve specialized approaches.

3. Considerations on violence and rape in light of the American Convention, the IACPPT, and the Convention of Belém do Pará

85. Both the Inter-American Court and the Inter-American Commission have pointed out that in cases of violence against women, the duty to act with due diligence acquires a special and strict connotation “in response to the fact or the mere possibility of their vulnerability in the presence of acts that actually or potentially involve gender-based violence or could result in this type of violence.”¹⁸⁰

86. The Court has previously considered that sexual violence involves acts of a sexual nature, committed against a person without their consent, and that in addition to the physical invasion of the human body, they may include acts which do not involve penetration or even any physical contact.¹⁸¹ In particular,

¹⁷⁷ UN General Assembly. *The safety of journalists and the issue of impunity*. November 13, 2017. A/C.3/72/L.35/Rev.1, pg. 5.

¹⁷⁸ I/A Court H.R., *Case of Fernández Ortega et al. v. Mexico*. Preliminary Objection, Merits, Reparations and Costs. Judgment of August 30, 2010. Series C, No. 215. Para. 193.

¹⁷⁹ UNESCO. Plan of Action. Principles.

¹⁸⁰ I/A Court H.R. *Case of Veliz Franco et al. v. Guatemala*. Preliminary Objections, Merits, Reparations and Costs. Judgment of May 19, 2014. Series C, No. 277, para. 134. See also: IACHR, Report No. 53/13, Case 12.777, Claudina Isabel Velásquez Paiz et al. Merits. Guatemala, November 4, 2013, para. 88.

¹⁸¹ I/A Court H.R. *Case of Rosendo Cantú et al. v. Mexico*, Preliminary Objection, Merits, Reparation and Costs. Judgment of August 31, 2010. Series C, No. 216. Para. 109. Citing. Cfr. I/A Court H.R. *Case of the Miguel Castro Castro Prison v. Peru*. Merits, Reparations and Costs. Judgment of November 25, 2006. Series C, No. 160, para. 306. See also International Criminal Tribunal for Rwanda, *Case of Prosecutor v. Jean-Paul Akayesu*. Judgment of September 2, 1998. Case No. ICTR-96-4-T, para. 688.

rape constitutes a paradigmatic form of violence against women, and its consequences go far beyond the victim herself.¹⁸²

87. Similarly, following the case law and standards prevailing in both International Criminal Law and Comparative Criminal Law, the Inter-American Court has held that:

(...) rape does not necessarily entail non-consensual vaginal sex, as it was traditionally deemed. Rape should also be understood as acts of vaginal or anal penetration, without the consent of the victim, using other parts of the perpetrator's body or objects, as well as oral penetration by the male organ.¹⁸³ In this regard, the Court clarifies that, in order for an act to be considered rape, it is sufficient that penetration, however slight, occurs, as described above.¹⁸⁴ In addition, it must be understood that vaginal penetration refers to penetration by any part of the perpetrator's body or by objects of any genital opening, including the labia majora and labia minora, as well as the vaginal orifice. This interpretation is in keeping with the concept that any type of penetration, however slight, is sufficient for an act to be considered rape. The Court understands that rape is a form of sexual violence.¹⁸⁵

88. The United Nations Special Rapporteur on Torture has pointed out that rape is a method of physical torture, used in some cases to punish, intimidate, and humiliate.¹⁸⁶ Both the Inter-American Commission and the Court have described various acts of violence and rape committed by State agents as forms of torture.¹⁸⁷ In this regard, the Inter-American Commission and Court have held that sexual violence against women has devastating physical, emotional, and psychological consequences for them.¹⁸⁸ In addition, they have maintained that it is an extremely traumatic experience that can have severe consequences¹⁸⁹ and

¹⁸² I/A Court H.R. *Case of Rosendo Cantú et al. v. Mexico*, Preliminary Objection, Merits, Reparation and Costs. Judgment of August 31, 2010. Series C, No. 216. Para. 109.

¹⁸³ I/A Court H.R. *Case of J. v. Peru*. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 27, 2013. Series C, No. 275, Para. 359. Citing *Cfr. I/A Court H.R. Case of the Miguel Castro Castro Prison v. Peru*. Merits, Reparation and Costs, *supra*, para. 310.

¹⁸⁴ I/A Court H.R. *Case of J. v. Peru*. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 27, 2013. Series C, No. 275, Para. 359, citing. *Cfr. International Criminal Tribunal for the Former Yugoslavia. Prosecutor v. Anto Furundzija*. Judgment of December 10, 1998, Case No. IT-95-17/1-T, para. 185; International Criminal Tribunal for the Former Yugoslavia. *Prosecutor v. Kunarac et al.* Judgment of February 2, 2001, Case No. IT-96-23-T and IT-96-23/1-T, para. 437 and 438; International Criminal Tribunal for the Former Yugoslavia. *Prosecutor v. Kunarac et al.* Appeal Judgment of June 12, 2002, Case No. IT-96-23-T and IT-96-23/1-T, para. 127. The Assembly of States Parties to the Rome Statute of the International Criminal Court also highlighted, for the purpose of typifying crimes against humanity and sexual violence as a war crime, that a sexual violation has taken place whenever "[t]he perpetrator invaded the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body". *Cfr. Elements of Crimes*, September 9, 2002, ICC-ASP/1/3 (part-II-B), article 7 1) g)-1 and article 8 2) e) vi)-1. Available at http://legal.un.org/icc/asp/1stsession/report/english/part_ii_b_e.pdf; Special Court for Sierra Leone, *Prosecutor v. Issa Hassan Sesay et al.* Judgment of March 2, 2009, Case No. SCSL-04-15-T, para. 145 and 146.

¹⁸⁵ I/A Court H.R. *Case of J. v. Peru*. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 27, 2013. Series C, No. 275, Para. 359.

¹⁸⁶ United Nations, E./CN.4/1986/15, para. 119 and 431.

¹⁸⁷ IACHR. Report 5/96. Case 10.970. Peru. Raquel Martín de Mejía. March 1, 1996; IACHR. Violence and discrimination against women in the armed conflict in Colombia. OEA/Ser.L/V/II. Doc. 67. October 18, 2006. Para. 54; I/A Court H.R. *Case of Rosendo Cantú et al. v. Mexico*, Preliminary Objection, Merits, Reparation and Costs. Judgment of August 31, 2010. Series C, No. 216; I/A Court H.R. *Case of Fernández Ortega et al. v. Mexico*. Merits, Reparations and Costs. Judgment of August 30, 2010, Series C, No. 215; I/A Court H.R. *Case of Espinoza González v. Peru*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 20, 2014. Series C, No. 289.

¹⁸⁸ IACHR. Report No 53/01. Case 11.565. Ana, Beatriz and Celia González Pérez. Mexico. April 4, 2001. Para. 45; I/A Court H.R. *Case of the Miguel Castro Castro Prison v. Peru*. Merits, Reparations and Costs. Judgment of November 25, 2006. Series C, No. 160, para. 313, citing *Cfr. United Nations Commission on Human Rights, Fifty-fourth session. Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, submitted in accordance with Commission resolution 1997/44. Doc. E/CN.4/1998/54, of 26 January 1998, para. 14.*

¹⁸⁹ I/A Court H.R. *Case of the Miguel Castro Castro Prison v. Peru*. Merits, Reparations and Costs. Judgment of November 25, 2006. Series C, No. 160, para. 311, citing United Nations Commission on Human Rights, Fiftieth session. Question of the human rights of all persons subjected to any form of detention or imprisonment, in particular: torture or other cruel, inhuman or degrading treatment or punishment. Report of the Special Rapporteur, Mr. Nigel S. Rodley, submitted pursuant to Commission on Human Rights resolution 1992/32. Doc. E/CN.4/1995/34 of 12 January 1995, para. 19.

causes great physical and psychological harm that leaves the victim “physically and emotionally humiliated,” a situation that is difficult to overcome with the passage of time.¹⁹⁰

89. The Inter-American Commission¹⁹¹ and the Inter-American Court have also stated that sexual violence entails the violation of essential aspects of privacy and the denial of the “right to decide freely with whom to have intimate relations, [...] and over basic bodily functions.”¹⁹² Along the same lines, on the relationship between violence against women and discrimination, the IACHR has observed that violence against women is a form of discrimination that severely impairs the enjoyment of rights and freedoms on an equal footing with men.

4. Application of the above considerations to the facts of the case

The duty to protect against the death threats, kidnapping, torture and sexual violence committed against Jineth Bedoya

90. It is clear from the evidence in the case file that Jineth Bedoya was the victim of ongoing threats and attacks against her right to life and humane treatment in connection with the practice of journalism prior to her abduction on May 25, 2000, and that these facts were known to the State authorities. The State was aware, through senior officials of the police, military and protection agencies, of the risk that the journalist faced because of her work covering the situation of the National Model Prison. It is an uncontested fact that the journalist reported on alleged human rights violations and arms trafficking in the prison involving actors in the internal armed conflict, common criminals, and State authorities.

91. In particular, the IACHR notes that on August 25, 1999, the Director of Protection of the DAS sent a written notification to journalist Jineth Bedoya, informing her that the DAS technical committee had carried out a risk assessment, concluding that she faced a substantial risk that could result in harm to her physical integrity, and therefore decided to offer her a security detail. Although Jineth Bedoya agreed to the protection offered by the September 20 communication “because of the resumption of threats against her life,” she never received protection from the State, and the threats continued. In fact, it is an undisputed fact that Jineth Bedoya was forced to leave the country as a protective measure. On her return in October 1999, she again received threats, which she reported to the DAS. In November, she was followed, which she also reported to the DAS. However, as it has been established, on November 24, 1999, the Coordinator of the Protection Department of the Ministry of the Interior notified the journalist that “in response to the request for protection made to this Office [...] it is concluded that your case does not fall within the target population covered by the Protection Program of this Ministry, in accordance with the provisions of Decree 0372 of 1996, Article 32,” and recommended that she go directly to the State security agencies. The IACHR also notes that the origin of these initial threats was not seriously investigated. There is no record in the case file of any criminal investigations opened before May 25, 2000 into these threats and attacks.

92. The Commission also observes that the State knew that journalist Jineth Bedoya could be the victim of an attack against her right to her life and humane treatment as a result of her coverage of the massacre at the National Model Prison and its alleged connection to paramilitary groups. On May 23, 2000, *El Espectador* journalists Jineth Bedoya, Ignacio Gómez, Jorge Cardona, and Julián Ríos found manila envelopes in their mailboxes that contained threats related to their reporting on the National Model Prison massacre. These facts were brought to the attention of both the police and the Minister of Defense. In addition, on May 24, 2000, journalist Ignacio Gómez was the victim of an attempted kidnapping, which was also reported to the

¹⁹⁰ I/A Court H.R. *Case of the Miguel Castro Castro Prison v. Peru*. Merits, Reparations and Costs. Judgment of November 25, 2006. Series C, No. 160, para. 311, citing European Court of Human Rights, *Case of Aydın v. Turkey (GC)*. Judgment of 25 September 1997, Application No. 57/1996/676/866, para. 83.

¹⁹¹ IACHR. Report 5/96. Case 10.970. Peru. Raquel Martín de Mejía. March 1, 1996.

¹⁹² I/A Court H.R. *Case of Rosendo Cantú et al. v. Mexico*, Preliminary Objection, Merits, Reparation and Costs. Judgment of August 31, 2010. Series C, No. 216, para. 119; I/A Court H.R. *Case of Fernández Ortega et al. v. Mexico*. Merits, Reparations and Costs. Judgment of August 30, 2010, Series C, No. 215, para. 129, citing European Court of Human Rights, *Case of M.C. v. Bulgaria*. Judgment of 4 December 2003, App. No. 39272/98, para. 150, and International Criminal Tribunal for the Former Yugoslavia, *Case of Mucic et al. “Celebici Camp”*. Judgment of November 16, 1998. Case No. IT-96-21-T, para. 492.

police. As established by the facts and recognized by the State in the instant case, on May 25, 2000 journalist Jineth Bedoya was kidnapped outside a government prison and held for several hours that day. During the kidnapping, the journalist was beaten, threatened, insulted, and subjected to sexual violence by at least three individuals unknown to her.

93. The IACHR considers that, in view of the circumstances of the case and the national context, the risk faced by Jineth Bedoya was real and imminent. Not only had Ms. Bedoya been the victim of numerous threats and attacks, but by the time of the events, dozens of journalists had been attacked and murdered in Colombia for their reporting on matters related to the internal armed conflict. It is appropriate to examine whether the authorities did everything reasonably within their power to prevent that risk from becoming a reality.

94. The Inter-American Commission notes that neither the DAS, nor the National Police, nor the Protection Unit of the Ministry of the Interior, either in coordination or individually, took timely and appropriate measures to prevent acts of violence and intimidation against Jineth Bedoya, in particular to prevent the events of May 25, 2000. On the contrary, in 1999, the Interior Ministry's Protection Unit denied the victim's request for protection, and days prior to the kidnapping, the police limited themselves to agreeing with the journalist on negotiation measures with the members of the paramilitary forces. Given the context of lethal violence faced by journalists covering issues of armed conflict in Colombia, the IACHR considers that it was the duty of the national authorities—informed on multiple occasions of the threats against the journalist just before the events of May 25—to act effectively to protect her rights to life, humane treatment, and personal liberty.

95. The Commission concludes that, in the particular circumstances of this case, the authorities failed to take the steps they could reasonably have taken to prevent the occurrence of a certain and imminent risk to Jineth Bedoya's rights to life, humane treatment, and personal liberty, in violation of Articles 4, 5, and 7 of the American Convention.

96. This lack of protection had an obvious impact on the exercise of other fundamental rights. First, it is an uncontested fact that these acts of violence were carried out in retaliation for Jineth Bedoya's journalistic work and that she was doing precisely that work when she was deprived of her liberty, beaten, and raped. In fact, during the entire time she was deprived of her liberty and while the beatings and sexual violence occurred, the perpetrators made it clear that they wanted to punish her for her reporting and intimidate her so that she would not continue her work. Colombia had the obligation to protect journalist Jineth Bedoya from the special risk derived from the practice of journalism that was reported to the authorities on several occasions. As the Inter-American Court has recognized in its decisions in the cases of *Vélez Restrepo and Family v. Colombia*¹⁹³ and *Carvajal Carvajal et al. v. Colombia*,¹⁹⁴ compliance with protection obligations is particularly relevant when the violations against the victim were related to the exercise of his or her right to freedom of expression. The failure to comply with this protection obligation prevented the victim from exercising her right to freedom of expression in an environment free from threats, harassment, and violence, and constituted a violation of Article 13 of the American Convention, in relation to Article 1.1. thereof, to the detriment of Jineth Bedoya.

97. Second, the State was under a special obligation to act with due diligence to protect Jineth Bedoya from attacks on her personal safety and acts of sexual violence. The Commission¹⁹⁵ and the Inter-American Court have held that rape entails the violation of essential aspects of privacy and the denial of the "right to decide freely with whom to have intimate relations, [...] and over basic bodily functions."¹⁹⁶ Along

¹⁹³ I/A Court H.R. *Case of Vélez Restrepo and Family v. Colombia*. Preliminary Objection, Merits, Reparations and Costs. Judgment of September 3, 2012. Series C, No. 248.

¹⁹⁴ I/A Court H.R. *Case of Carvajal Carvajal et al. v. Colombia*. Merits, Reparations and Costs. Judgment of March 13, 2018.

¹⁹⁵ IACHR. Report 5/96. Case 10.970. Peru. Raquel Martín de Mejía. March 1, 1996.

¹⁹⁶ I/A Court H.R. *Case of Rosendo Cantú et al. v. Mexico*, Preliminary Objection, Merits, Reparation and Costs. Judgment of August 31, 2010. Series C, No. 216, para. 119; I/A Court H.R. *Case of Fernández Ortega et al. v. Mexico*. Merits, Reparations and Costs. Judgment of August 30, 2010, Series C, No. 215, para. 129, citing European Court of Human Rights, *Case of M.C. v. Bulgaria*. Judgment of 4 December [continúa...]

the same lines, on the relationship between violence against women and discrimination, the IACHR has observed that violence against women is a form of discrimination that severely impairs the enjoyment of rights and freedoms on an equal footing with men.

98. The Commission finds that the sexual violence suffered by Jineth Bedoya is part of the widespread context of sexual violence against women that characterized the Colombian armed conflict and exemplifies the special risks of sexual violence and discrimination to which women journalists are exposed in the practice of their profession because of their gender. The IACHR considers that the State failed in its duty, insofar as the national authorities failed to act to protect the journalist from this type of violence, which constitutes a violation of Articles 5.1, 5.2, 11, and 24 of the American Convention, in relation to the obligations contained in Article 1.1 thereof, Article 7b of the Convention of Belém do Pará, and Articles 1 and 6 of the IACPTT.

99. Third, it is clear from the established facts that as a consequence of the risk faced by Jineth Bedoya and the lack of effective protective measures taken by the State, she was forced to leave the country temporarily in 1999, as a security measure taken by the media outlet where she worked. The threats against her led to significant insecurity and a well-founded fear in the journalist that her rights to life and humane treatment were at risk of being violated if she remained in Colombia. The bodies of the inter-American system have established in several matters that the right of movement and residence, protected under Article 22.1 of the American Convention, is an indispensable condition for the free development of the person, and includes, *inter alia*, the right of those who are legally within a State to move freely within it as well as to choose their place of residence. This right can be violated by de facto restrictions when the State has failed to create the conditions for exercising it. Such de facto restrictions may occur when a person is the victim of threats or harassment and the State does not provide the necessary guarantees to enable him or her to move and reside freely in the territory in question.¹⁹⁷ Furthermore, the Inter-American Court has held that the lack of an effective investigation into violent acts may lead to or prolong forced exile or displacement.¹⁹⁸

100. In this case, the IACHR considers that the journalist's temporary exile is one of the foreseeable consequences of the threats against her and the lack of protection attributable to the State. The IACHR therefore considers that, in the present case, there were de facto restrictions on journalist Jineth Bedoya's right to freedom of movement and residence.

101. In conclusion, the IACHR finds the Colombian State responsible for the violation of Articles 4.1, 5.1, 5.2, 7, 11, 13, and 24 of the American Convention, in relation to Article 1.1 thereof, Article 7b of the Convention of Belém do Pará, and Articles 1 and 6 of the IACPTT, to the detriment of Jineth Bedoya Lima.

The duty to protect through an effective investigation of the threats and risks facing Jineth Bedoya

102. In its decisions in the cases of *Vélez Restrepo and Family v. Colombia* and *Carvajal Carvajal et al. v. Colombia*, the Inter-American Court found that the failure to comply with the obligation to investigate acts of violence against a journalist amounts to a breach of the obligations to respect and guarantee the right to freedom of thought and expression as well as the rights to life and/or humane treatment, depending on the consequences of the act of violence.¹⁹⁹ In this regard, the Inter-American Court has emphasized that in order to determine whether the obligation to protect the rights to life, to humane treatment, and personal liberty by

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2003, App. No. 39272/98, para. 150, and International Criminal Tribunal for the Former Yugoslavia, *Case of Mucic et. al. "Celebici Camp"*. Judgment of November 16, 1998. Case No. IT-96-21-T, para. 492.

¹⁹⁷ I/A Court H.R. *Case of Vélez Restrepo and Family v. Colombia*. Merits, Reparations and Costs. Judgment of September 3, 2012. Series C, No. 248. para. 220; I/A Court H.R. *Case of Valle Jaramillo et al. v. Colombia*. Merits, Reparations and Costs. Judgment of November 27, 2008. Series C, No. 192. Para. 140-144; I/A Court H.R. *Case of Manuel Cepeda Vargas v. Colombia*. Preliminary Objections, Merits, Reparations and Costs. Judgment of May 26, 2010. Series C, No. 213.

¹⁹⁸ I/A Court H.R. *Case of Vélez Restrepo and Family v. Colombia*. Merits, Reparations and Costs. Judgment of September 3, 2012. Series C, No. 248. para. 220; and I/A Court H.R. *Case of Carvajal Carvajal et al. v. Colombia*. Merits, Reparations and Costs. Judgment of March 13, 2018.

¹⁹⁹ I/A Court H.R. *Case of Vélez Restrepo and Family v. Colombia*. Preliminary Objection, Merits, Reparations and Costs. Judgment of September 3, 2012. Series C, No. 248. Para. 215.

means of a serious investigation of the events has been fully met, it is necessary to examine the domestic proceedings initiated to establish the facts of those events.

103. As has been established, Jineth Bedoya was the victim of continuous threats before her abduction on May 25, 2000, and State authorities were aware of these threats. However, the IACHR has no information on the opening of criminal investigations aimed at identifying the source of the threats or that may have linked them to each other. In fact, the Commission notes that there is no evidence in the case file that any investigation was carried out to establish the origin of the threats reported prior to the events of May 25, 2000 and to punish those responsible, and that this contributed to the failure to protect the victim. Moreover, as discussed in the following section, the IACHR is of the opinion that the measures taken to advance the investigation into the kidnapping, torture, and sexual violence against Jineth Bedoya were inadequate and insufficient to satisfy its obligation to conduct a thorough and diligent investigation, given the seriousness of the crime under investigation and the enhanced obligations in this area.

104. The Commission finds that the lack of effective investigations into these events constitutes a breach of the duty to guarantee the rights of Jineth Bedoya protected in Articles 4.1, 5.1, 5.2, 7, 11, and 13 of the American Convention, in relation to Article 1(1) thereof, Article 7(b) of the Convention of Belém do Pará, and Articles 1 and 6 of the IACPPT.

B. Analysis of the rights to a fair trial, judicial protection, and the duty to investigate (Articles 8.1²⁰⁰, 5, 11, 13, and 25.1²⁰¹ of the American Convention, Articles 1, 6, and 8²⁰² of the IACPPT, and Article 7 of the Convention of Belém do Pará)

1. General considerations on the obligation to investigate, prosecute and, where appropriate, punish the perpetrators

105. As the Inter-American Court has pointed out consistently in its case law, the State's obligation to investigate cases of human rights violations stems from the general obligation to guarantee the rights established in Articles 1(1), 8, and 25 of the American Convention, in addition to the substantive right that must be protected or ensured.²⁰³ In keeping with this obligation, the authorities must investigate any conduct that affects the enjoyment of the rights enshrined in the Convention. In particular, the Court has held that in cases of violent death, "the performance of an *ex officio*, prompt, serious, impartial and effective

²⁰⁰ Article 8.1 of the American Convention establishes that: "Every person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law, in the substantiation of any accusation of a criminal nature made against him or for the determination of his rights and obligations of a civil, labor, fiscal, or any other nature".

²⁰¹ Article 25.1 of the American Convention establishes that: "Everyone has the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognized by the constitution or laws of the state concerned or by this Convention, even though such violation may have been committed by persons acting in the course of their official duties".

²⁰² Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture establish that: "Article 1. The State Parties undertake to prevent and punish torture in accordance with the terms of this Convention". "Article 6. [...] The States Parties shall ensure that all acts of torture and attempts to commit torture are offenses under their criminal law and shall make such acts punishable by severe penalties that take into account their serious nature. The States Parties likewise shall take effective measures to prevent and punish other cruel, inhuman, or degrading treatment or punishment within their jurisdiction". "Article 8. The States Parties shall guarantee that any person making an accusation of having been subjected to torture within their jurisdiction shall have the right to an impartial examination of his case. Likewise, if there is an accusation or well-grounded reason to believe that an act of torture has been committed within their jurisdiction, the States Parties shall guarantee that their respective authorities will proceed properly and immediately to conduct an investigation into the case and to initiate, whenever appropriate, the corresponding criminal process. After all the domestic legal procedures of the respective State and the corresponding appeals have been exhausted, the case may be submitted to the international fora whose competence has been recognized by that State".

²⁰³ I/A Court H.R. *Case of the "Mapiripán Massacre" v. Colombia*. Merits, Reparations and Costs. Judgment of September 15, 2005. Series C, No. 134. Para. 219; I/A Court H.R. *Case of the Moiwana Community v. Suriname*. Preliminary Objections, Merits, Reparations and Costs. Judgment of June 15, 2005. Series C, No. 124. Para. 147; I/A Court H.R. *Case of the Serrano Cruz Sisters v. El Salvador*. Merits, Reparations and Costs. Judgment of March 1, 2005. Series C, No. 120. Para. 63.

investigation constitutes a fundamental element essential for the protection of the rights affected in these situations.”²⁰⁴

106. The Court has established that, under Articles 8(1) and 25(1) of the American Convention, States are obligated to provide effective judicial remedies to victims of human rights violations.²⁰⁵ Such remedies must be adjudicated in accordance with the rules of due process.²⁰⁶ The Court has also stated that the right of access to justice must ensure, within a reasonable time, that the alleged victims or their next of kin are entitled to have all necessary steps taken to ascertain the truth about what happened and to investigate, prosecute, and, if appropriate, punish the perpetrators.²⁰⁷

107. Both the Commission and the Court have affirmed in their jurisprudence that the duty to investigate is an obligation of means rather than results, which must be assumed by the State as an inherent legal obligation and not as a mere formality preordained to be ineffective, or as a measure taken by private interests that depends on the procedural initiative of the victims or their families or on the private production of evidence.²⁰⁸ The investigation must be serious, impartial, and effective, and must be aimed at determining the truth and at pursuing, capturing, prosecuting, and eventually punishing the perpetrators.²⁰⁹

108. Both the Commission and the Court have referred to the chilling effect that crimes against journalists have on other media professionals as well as on citizens seeking to expose abuses of power or unlawful acts of any kind.²¹⁰ This chilling effect can only be avoided “by swift action on the part of the State to punish all perpetrators, as is its duty under international and domestic law.”²¹¹

109. The Court has pointed out that impunity - understood as the absence of investigation, pursuit, capture, prosecution, and conviction on the whole - fosters the chronic repetition of human rights violations and the total defenselessness of victims and their families.²¹² For its part, the IACHR has repeatedly urged the States to “carry out serious, impartial, and effective investigations of the murders, attacks, threats, and acts of intimidation committed against journalists and media workers.”²¹³

²⁰⁴ I/A Court H.R. *Case of Kawas Fernández v. Honduras*. Merits, Reparations and Costs. Judgment of April 3, 2009. Series C, No. 134. Para. 75.

²⁰⁵ I/A Court H.R. *Case of Human Rights Defender et al. v. Guatemala*. Preliminary Objections, Merits, Reparations and Costs. Judgment of August 28, 2014. Series C, No. 283, para. 199.

²⁰⁶ I/A Court H.R. *Case of Espinoza Gonzáles v. Peru*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 20, 2014. Series C, No. 289, para. 237.

²⁰⁷ I/A Court H.R. *Case of Human Rights Defender et al. v. Guatemala*. Preliminary Objections, Merits, Reparations and Costs. Judgment of August 28, 2014. Series C, No. 283, para. 199.

²⁰⁸ I/A Court H.R. *Case of Chitay Nech et al. v. Guatemala*. Preliminary Objections, Merits, Reparations and Costs. Judgment of May 25, 2010. Series C, No. 212, para. 192.

²⁰⁹ I/A Court H.R. *Case of Juan Humberto Sánchez v. Honduras*. Preliminary Objection, Merits, Reparations and Costs. Judgment of June 7, 2003. Series C, No. 99, para. 127.

²¹⁰ I/A Court H.R. *Case of Vélez Restrepo and Family v. Colombia*. Preliminary Objection, Merits, Reparations and Costs. Judgment of September 3, 2012. Series C, No. 248. Para. 148; IACHR. Report No. 136/10. Case 12.658. Luis Gonzalo “Richard” Vélez Restrepo and Family (Colombia). October 23, 2010. Para. 136; IACHR. Report No. 50/99. Case 11.739. Héctor Félix Miranda (Mexico). April 13, 1999. Para. 52; IACHR. Report No. 130/99. Case No. 11.740. Víctor Manuel Oropeza (Mexico). November 19, 1999. Para. 58. See also, IACHR. Annual Report 2010. Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter II: Mexico: 2010 Special Report on Freedom of Expression in Mexico. OEA/Ser.L/V/II. Doc. 5. March 4, 2011. Para. 716.

²¹¹ IACHR. Report No. 136/10. Case 12.658. Luis Gonzalo “Richard” Vélez Restrepo and Family (Colombia). October 23, 2010. Para. 136; IACHR. Report No. 50/99. Case 11.739. Héctor Félix Miranda (Mexico). April 13, 1999. Para. 52; IACHR. Report No. 130/99. Case No. 11.740. Víctor Manuel Oropeza (Mexico). November 19, 1999. Para. 58. See also: IACHR. Annual Report 2010. Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter II: Mexico: 2010 Special Report on Freedom of Expression in Mexico. OEA/Ser.L/V/II. Doc. 5. March 4, 2011. Para. 716. See also: I/A Court H.R. *Case of Vélez Restrepo and Family v. Colombia*. Preliminary Objection, Merits, Reparations and Costs. Judgment of September 3, 2012. Series C, No. 248. Para. 211.

²¹² I/A Court H.R. *Case of Ivcher Bronstein v. Peru*. Merits, Reparations and Costs. Judgment of February 6, 2001. Series C, No. 74. Para. 186; I/A Court H.R. *Case of the Constitutional Court v. Peru*. Merits, Reparations and Costs. Judgment of January 31, 2001. Series C, No. 71. Para. 123; I/A Court H.R. *Case of Bámaca Velásquez v. Guatemala*. Merits. Judgment of November 25, 2000. Series C, No. 70. Para. 211.

²¹³ IACHR. Annual Report 2012. Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter V (Conclusions and Recommendations). OEA/Ser.L/V/II.147. Doc. 1. March 5, 2013. Para. 4(c). See also: IACHR. Annual Report 2009. Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter VII (Conclusions and Recommendations). OEA/Ser.L/V/II. Doc. 51. December 30, 2009. Para. 4(a); IACHR. Annual Report 2010. Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter VI (Conclusions and Recommendations). OEA/Ser.L/V/II. Doc. 5. March 4, 2011. Para. 4(a); IACHR. Annual Report 2011. Report of the Office

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110. In this regard, States have the duty to investigate, identify, prosecute, and punish all perpetrators of these crimes, including direct perpetrators, masterminds, participants, collaborators, and possible accessories to human rights violations. They must also investigate the organizations involved in the execution of the crimes or the criminal organizations to which the perpetrators belong.²¹⁴

2. Specific obligations regarding the duty to investigate acts of sexual violence

111. Once they become aware of acts of gender-based sexual violence against women journalists, States must investigate these acts, identify, prosecute, and punish the perpetrators, and provide comprehensive reparation to the victims. This obligation arises from Articles 5, 13, 8, and 25 of the ACHR, within the framework of the general obligation to guarantee rights established in Article 1.1 thereof. This obligation to investigate complaints of sexual violence is provided for in Articles 1, 6, and 8 of the Inter-American Convention against Torture, which require the State “to take effective measures to prevent and punish torture within their jurisdiction,” and also “to prevent and punish other cruel, inhuman, or degrading treatment or punishment.”²¹⁵ It is further reinforced by Article 7 of the Convention of Belém do Pará, which obligates the State to exercise due diligence and enact the necessary regulatory framework to investigate and punish violence against women.²¹⁶ Article 7(b) of the Convention specifically requires States parties to act with due diligence to prevent, punish, and eradicate violence against women. This duty is activated from the moment the State becomes aware of the existence of an alleged act, such as rape.²¹⁷

112. Thus, it is particularly important that the investigating authorities conduct the investigation with determination and effectiveness, bearing in mind society’s duty to reject violence against women and the State’s obligations to eradicate it and to provide victims with the confidence that State institutions will protect them.²¹⁸ In addition, the United Nations Special Rapporteur on violence against women has maintained that States have an obligation to respond with due diligence to acts of sexual violence against women.²¹⁹

113. In this context, the Commission has pointed out that States must have an adequate legal framework of protection, effective means for its implementation, and prevention policies and practices that allow them to respond effectively to complaints of sexual violence.²²⁰ The Inter-American Court emphasized that, in cases of sexual violence, the investigation should try, whenever possible, to avoid re-victimization or the reliving of the profound traumatic experience each time the victim remembers or testifies about what happened.²²¹

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of the Special Rapporteur for Freedom of Expression. Chapter V (Conclusions and Recommendations). OEA/Ser.L/V/II. Doc. 69. December 30, 2011. Para. 4(c).

²¹⁴ IACHR. Annual Report 2013. Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter III (Violence against journalists and media workers: Inter-American standards and national practices on prevention, protection and prosecution of perpetrators). OEA/Ser.L/V/II.149. Doc. 50. December 31, 2013. Para. 166; IACHR. Office of the Special Rapporteur for Freedom of Expression. Special study on the status of investigations into the murder of journalists during the 1995-2005 period for reasons that may be related to their work in journalism. OEA/Ser.L/V/II.131. Doc. 35. March 8, 2008. Para. 40.

²¹⁵ I/A Court H.R. *Case of J. v. Peru*. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 27, 2013. Series C, No. 275, Para. 341.

²¹⁶ I/A Court H.R., *Case of González et al. (“Cotton Field”) v. Mexico*. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 16, 2009. Series C, No. 205. Para. 287. I/A Court H.R., *Case of Gutiérrez Hernández et al. v. Guatemala*. Preliminary Objections, Merits, Reparation and Costs. Judgment of August 24, 2017. Series C, No. 339. Para. 147.

²¹⁷ I/A Court H.R. *Case of Rosendo Cantú et al. v. Mexico*. Preliminary Objection, Merits, Reparations and Costs. Judgment of August 31, 2010, Series C, No. 216, para. 103.

²¹⁸ I/A Court H.R. *Case of Rosendo Cantú et al. v. Mexico*. Preliminary Objection, Merits, Reparations and Costs. Judgment of August 31, 2010, Series C, No. 216, para. 177.

²¹⁹ United Nations Commission on Human Rights. Sixty-second session. Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk. Integration of the human rights of women and the gender perspective: violence against women. The due diligence standard as a tool for the elimination of violence against women. E/CN.4/2006/61, 20 January 2006. Para. 29.

²²⁰ IACHR, Report 170/11, Case 12.578. María Isabel Véliz Franco et al. Merits. Guatemala, November 3, 2011, para. 84.

²²¹ I/A Court H.R. *Case of Rosendo Cantú et al. v. Mexico*. Preliminary Objection, Merits, Reparations and Costs. Judgment of August 31, 2010, Series C, No. 216, para. 180.

114. The Court has also specified that a criminal investigation into sexual violence: i) the victim's statement should be taken in a safe and comfortable environment, providing privacy and trust; ii) the victim's statement should be recorded to avoid or limit the need for repetition; iii) the victim should be provided with medical, health care and psychological treatment, both on an emergency basis, and continuously if required, through an assistance protocol designed to lessen the consequences of rape; iv) a complete and detailed medical and psychological examination should be conducted immediately by suitable trained personnel, of the sex preferred by the victim insofar as this is possible, and the victim should be informed that she may be accompanied by a trusted person if she so wishes; v) the investigative tasks should be coordinated and documented and the evidence handled with care, taking sufficient samples and performing all possible tests to determine the perpetrator of the act, and obtaining other evidence such as the victim's clothing, immediate examination of the crime scene and guaranteeing the proper chain of custody of the evidence, and vi) access to free legal assistance at all stages of the proceedings should be provided for the victim.²²²

115. According to the World Health Organization, in cases of alleged rape, gynecological examination should be performed as soon as possible.²²³ The Court has indicated that this expert examination must be conducted, if it is considered appropriate, and with the prior and informed consent of the alleged victim, during the first 72 hours following the alleged act, based on a specific protocol for the care of victims of sexual violence.²²⁴ Without prejudice to the above, the Court added that the appropriateness of a gynecological examination must be considered on a case by case basis, taking into account the time that has elapsed since the sexual violence is alleged to have occurred.²²⁵

116. In addition, criminal investigations must include a gender perspective and be conducted by officials trained in similar cases and in the care of victims of discrimination and gender-based violence.²²⁶ Such an investigation should be conducted in accordance with protocols aimed specifically at documenting evidence in cases of gender-based violence.²²⁷

117. Impunity for such crimes sends the message that violence against women is tolerated, which encourages its perpetuation and social acceptance, fosters a sense and feeling of insecurity in women, and contributes to their continued distrust of the justice system.²²⁸

3. Application of the foregoing obligations to the facts of the case

118. The Commission will examine whether, through the investigations initiated at the domestic level, the State has complied with its obligation to investigate the facts of this case in compliance with the standards described above. This analysis will be conducted, first, with respect to due diligence in the investigation and, second, with respect to compliance with the reasonable time guarantee.

– The duty to investigate with due diligence

²²² I/A Court H.R. *Case of Espinoza Gonzáles v. Peru*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 20, 2014. Series C, No. 289, para. 242; and I/A Court H.R. *Case of Rosendo Cantú et al. v. Mexico*. Preliminary Objection, Merits, Reparations and Costs. Judgment of August 31, 2010 Series C, No. 216, para. 178.

²²³ World Health Organization, Guidelines for medico-legal care for victims of sexual violence. Geneva, 2003, pp. 18, 43; 58.

²²⁴ I/A Court H.R. *Case of Espinoza Gonzáles v. Peru*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 20, 2014. Series C, No. 289, para. 256.

²²⁵ I/A Court H.R. *Case of Espinoza Gonzáles v. Peru*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 20, 2014. Series C, No. 289, para. 256.

²²⁶ I/A Court H.R. *Case of Veliz Franco et al. v. Guatemala*. Preliminary Objections, Merits, Reparations and Costs. Judgment of May 19, 2014. Series C, No. 277, para. 188; and I/A Court H.R. *Case of González et al. ("Cotton Field") v. Mexico*. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 16, 2009. Series C, No. 205, para. 455.

²²⁷ I/A Court H.R. *Case of Espinoza Gonzáles v. Peru*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 20, 2014. Series C, No. 289, para. 252.

²²⁸ IACHR. "The state of women's rights in Ciudad Juárez, Mexico. The right not to be an object of violence and discrimination" [available in Spanish at <http://www.cidh.org/annualrep/2002sp/cap.vi.juarez.htm>]. Para. 165; I/A Court H.R. *Case of González et al. ("Cotton Field") v. Mexico*. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 16, 2009. Series C No.205, para. 400.

119. The case file indicates that on May 26, 2000, the Office of the Prosecutor General ordered the opening of the criminal investigation into the facts of this case. This investigation was initiated at the preliminary stage for the crimes of simple kidnapping and violent sexual act, and was in under the responsibility of Special Prosecutor 103 assigned to the Bogotá Specialized Anti-kidnapping Unit [*Grupo de Acción Unificada por la Libertad Personal - GAULA*] of the Office of the Prosecutor General. On June 6, 2000, the Prosecutor's Office assigned the investigation of the case to the National Human Rights Unit, which referred the case to the 6th Special Prosecutor for Human Rights and IHL. This Prosecutor headed the preliminary phase of the investigation for 11 years, without making any progress beyond the taking of evidence.²²⁹ In January 2011 Jineth Bedoya became a civil party to the case. In February 2011, the Office of the Inspector General of Colombia ordered the disciplinary investigation of the 6th Special Prosecutor for investigative and evidentiary deficiencies in the criminal proceedings under his charge. Consequently, on August 23, 2011, the investigation was reassigned to Office of the 49th Special Prosecutor of the NHRU. On February 23, 2013, the Prosecutor's Office ordered the suspension of the investigation against three alleged perpetrators, due to their status as former paramilitary members with applications pending before the National Unit for Justice and Peace. However, on 7 October the suspension was lifted. On June 12, 2015, the case was reassigned to the Office of the 50th Special Prosecutor for Human Rights and IHL. According to the information presented by the State, the investigation carried out by the various prosecutors of the Human Rights Unit of the Office of the Prosecutor General finally led to the identification of three individuals as the perpetrators of the kidnapping, torture, and rape of journalist Jineth Bedoya, who were brought to trial and convicted for the events of May 25, 2000: Armando Lugo, who entered into a plea agreement on February 27, 2015; Mario Jaimes Mejía, convicted on March 18, 2016, and Alejandro Cárdenas Orozco, convicted on February 24, 2016.

120. It also follows from the facts that the authorities opened at least four investigations into the threats against the journalist, according to complaints filed in November 2010, May 2011, June 2011, and September 2011. These investigations were all closed. The State informed the IACHR that it is considering the possibility of ordering the reopening of those investigations, "in order to continue gathering evidence to shed light on the facts alleged by the journalist."

121. The IACHR observes that the 6th Special Prosecutor's Office of the Human Rights and IHL Unit conducted the preliminary investigation for 11 years, without being able to establish the facts or identify those responsible for the crimes. It is clear from the case file that this absence of tangible results may have arisen, in part, from the failure to timely conduct and assess the investigative proceedings needed to clarify the facts and identify the direct perpetrators and masterminds, including the possible active or passive participation of State agents in the crimes. For instance, the collection of key evidence—such as cell phone records, security camera footage from the National Model Prison in Bogotá, and copies of the videos from the tolls on the Bogotá-Villavicencio road—was ordered many years later, by which time it was impossible to obtain. The Commission also notes that the Prosecutor's Office failed to promptly identify the individuals working as prison guards on May 25, 2000, and it was not until 2010 that the authorities were able to take statements from some prison guards and the inspector of the National Penitentiary and Prison Institute. The aforementioned failures and omissions in obtaining critical evidence demonstrate the State's lack of due diligence in recovering evidentiary material.

122. It is noted that the investigation also failed to include effective measures aimed at determining the relationship between the threats received by Jineth Bedoya before and after her abduction and the perpetrators of the crime. As has been demonstrated, Ms. Bedoya began receiving threats related to her work on the National Model Prison and the internal armed conflict in Colombia long before the events in question. These threats, which have continued to this day, were neither investigated nor clearly introduced a contextual elements of the investigation.

²²⁹ In 2008, the 226th Special Prosecutor's Office for Crimes against Sexual Freedom, Integrity, and Self-Determination opened a new investigation on the sexual violence crimes perpetrated against Jineth Bedoya, pursuant to Ruling 092 of the Constitutional Court of Colombia. After carrying out only a few activities, the 226th Special Prosecutor's Office transferred its jurisdiction and proceedings to the 6th Prosecutor's Office of the Human Rights Unit.

123. In addition, a reading of the case file shows that during the first 11 years of the investigation, the information relevant to the establishment of the facts was provided by the victim, on the basis of what she investigated from journalistic sources. In fact, in some years, the Prosecutor's Office carried out very few evidentiary proceedings, which were ordered on the basis of the information that Jineth Bedoya contributed to the case through at least seven supplemental statements. In addition to the fact that this places an inadmissible procedural burden on the victim, the IACHR believes that the repetition of these supplemental statements—in which the victim had to refer on numerous occasions to the events of May 25, 2000—had a revictimizing effect on her. The IACHR has emphasized that in cases of sexual violence, insofar as possible, the investigation must try to avoid revictimization or the re-experiencing of the profoundly traumatic experience each time the victim remembers or testifies about what happened.²³⁰

124. The IACHR notes that the authorities in charge of the investigation in this case did not follow procedures that were in line with international standards for the investigation of crimes of sexual violence. In cases of violence against women, certain international instruments are useful for clarifying and giving substance to the heightened state obligation to investigate with due diligence.²³¹ In a criminal investigation of sexual violence, both the IACHR and the Inter-American Court have emphasized that it is necessary for the authorities to immediately conduct a full and detailed medical and psychological examination by qualified and trained personnel and to diligently handle the evidence, taking sufficient samples, conducting studies to determine the likely perpetrator of the act, securing other evidence such as the victim's clothing, immediately investigating the scene of the crime, and ensuring the proper chain of custody.²³²

125. The IACHR observes that the results of the medical examinations performed on the victim were added to the case file several months after the fact, despite repeated requests by the authorities. According to the information from petitioner that was not disputed by the State, the medical examinations were not completely incorporated into the case file, "as several of the results were either lost or had disappeared." The petitioner contended that "There is no information to establish whether the appropriate steps were taken to determine and extract possible traces of semen, nor is it known what happened to the clothing that Jineth was wearing at the time of the rape, or whether any steps were taken to identify evidence that could facilitate the identification of the perpetrators." The Commission finds that there is indeed no indication in the court file that the investigating authorities had gathered such evidence or taken steps to obtain it.

126. The IACHR acknowledges that from the beginning of the investigation, the State took steps to investigate the relationship between the crime and Jineth Bedoya's journalistic work. However, it also notes that at the beginning of the investigation, the 6th Special Prosecutor for Human Rights and IHL looked into an alleged love affair between Jineth Bedoya and a member of the guerrilla as a way of discrediting or calling into question the origin of the risk, revealing sexist prejudices and discriminatory gender stereotypes against women. The case file shows that after alias "Popeye" claimed that the journalist was the lover of a guerrilla in the National Model Prison, the Prosecutor's Office ordered an interview "to determine the connection between [the guerrilla] and the journalist," as well as to inspect the visitor log to find out who had visited him. Although this theory was not supported by evidence and was ultimately disproved, it is clear that the authorities were influenced by gender stereotypes that discriminate against women in the course of this investigation, which could affect their ability to investigate the connection between the crimes committed against women and the practice of their profession.

127. The IACHR stresses that discriminatory sociocultural patterns also have an impact on the investigation, prosecution, and punishment of cases of violence against women. In particular, the IACHR has

²³⁰ I/A Court H.R. *Case of Fernández Ortega et al. v. Mexico*. Preliminary Objection, Merits, Reparations and Costs. Judgment of August 30, 2010. Series C, No. 215. Para. 196.

²³¹ Cfr. Office of the United Nations High Commissioner for Human Rights. Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. HR/P/PT/8/Rev.1. Geneva, 9 August 1999, supra note 36, *inter alia*, para. 67, 77, 89, 99, 101-103, 155, 162, 163, 170, 171, 224, 225, 260, 269; 290; and World Health Organization, Guidelines for medico-legal care for victims of sexual violence, supra note 36, *inter alia*, pp. 17, 30, 31, 34, 39-44; 57-74.

²³² I/A Court H.R. *Case of Fernández Ortega et al. v. Mexico*. Preliminary Objection, Merits, Reparations and Costs. Judgment of August 30, 2010. Series C, No. 215. Para. 194.

explained that, because of prevailing gender stereotypes, justice authorities tend not to treat cases of violence as a priority and fail to examine evidence that is crucial to the investigation and punishment of the perpetrators. In addition, they give little credibility to the victim's assertions; they discredit her; they blame her for what happened "because of her manner of dress, her occupation, her sexual conduct, relationship or kinship to the assailant,"²³³ and provide the victim with inadequate services when she attempts to cooperate in the investigation of the facts.²³⁴ In this regard, the Inter-American Court has made clear that "the opening of lines of investigation into the prior social or sexual behavior of victims in cases of gender violence is nothing more than the manifestation of policies or attitudes that are based on gender stereotypes"²³⁵ about the socially acceptable roles and behaviors of women in their interpersonal relationships. This is particularly relevant in the case of women journalists, where there is a persistent perception that journalism is not an appropriate profession for women and the threats and risks they experience are trivialized.

128. In addition, the court file shows that there was evidence, from the beginning of the investigation, of the possible participation of State agents as perpetrators or accessories to the events of May 25, 2000. However, according to the information available to the IACHR up to the date of issue of this report, this was not seriously investigated by the Prosecutor's Office, which failed to take effective investigative action to exhaust this theory. In this regard, it should be reiterated that the State has a special obligation to investigate with due diligence those crimes in which its agents may be involved, whether by direct action, tolerance, or sponsorship, or when members of the government, or persons with ties to the government, have attempted to obstruct the investigation.

129. This investigation necessarily involves taking account of the patterns of action of these power structures. As can be seen from the case file, the crimes against Jineth Bedoya were executed with a high level of planning, reflected in the acts leading up to the execution of the crime, the threats made to the victim, and the place where the events occurred. The IACHR reiterates that crimes against journalists on account of their profession are selective crimes, and therefore cannot be investigated as ordinary or traditional crimes. These crimes reflect a plan or strategy designed by a criminal organization, network, or power structure, the execution of which aims to cause the death of an individual because of the practice of journalism, to silence him or her, to provoke fear, and ultimately to curtail the right to freedom of expression. Consequently, the obligation to investigate and prosecute these types of crimes with due diligence has specific characteristics. It is an obligation of strict due diligence, which in this case is also heightened if the violence against journalists is part of a context of conflict or massive violations of rights.

130. In view of the foregoing, the IACHR considers that the measures taken to move the investigation forward have not been adequate and sufficient to satisfy the State's obligation to conduct an exhaustive and diligent investigation, given the seriousness of the crime under investigation and the heightened obligations in this area. This could have had a strong chilling effect on the exercise of freedom of expression not only by the journalist, but also by her team and by Colombian society as a whole, with obvious consequences for democratic discourse in the country.

Reasonable time period

131. In complying with their duty to pursue justice for acts of violence against journalists, States have an obligation to ensure that criminal investigations and prosecutions are carried out within a reasonable period of time. In this regard, the Inter-American Court has established that excessive delay in the investigation of acts of violence can constitute a *per se* violation of the right to a fair trial.²³⁶ The authorities

²³³ IACHR, Access to justice for women victims of violence in the Americas, OEA/Ser.L/V/II. Doc. 68. January 20, 2007, para. 155.

²³⁴ IACHR, Access to justice for women victims of violence in the Americas, OEA/Ser.L/V/II. Doc. 68. January 20, 2007, para. 8.

²³⁵ I/A Court H.R., *Case of Gutiérrez Hernández et al. v. Guatemala*. Preliminary Objections, Merits, Reparation and Costs. Judgment of August 24, 2017. Series C, No. 339. Para. 147. I/A Court H.R. *Case of Veliz Franco et al. v. Guatemala*. Preliminary Objections, Merits, Reparations and Costs. Judgment of May 19, 2014. Para. 209.

²³⁶ I/A Court H.R. *Case of Gómez Palomino v. Peru*. Merits, Reparations and Costs. Judgment of November 22, 2005. Series C, No. 136. Para. 85; I/A Court H.R. *Case of the Moiwana Community v. Suriname*. Preliminary Objections, Merits, Reparations and Costs. Judgment of June 15, 2005. Series C, No. 124. Para. 160.

responsible for the investigation should conduct the proceedings expeditiously, avoiding unwarranted delays or hindrances that lead to impunity and violate the due judicial protection of rights.²³⁷

132. From its initiation in 2000, the investigation has spanned more than 18 years. The State argued that this delay is not attributable to the conduct of the authorities, but to the complexity of the case.

133. The IACHR observes that during the first 11 years the investigation showed long periods of inactivity and no results. As the petitioner asserts, there were extensive stretches of time during those years, sometimes up to 19 consecutive months, in which the authorities leading the investigation did not undertake or order any investigative proceedings. The investigation was spurred on after journalist Jineth Bedoya became a civil party to the case in 2011, which coincides with the filing of this petition to the Commission for its consideration and with the launch of the “*No Es Hora De Callar*” [“It’s No Time to Be Quiet”] campaign. Nevertheless, even after that, the Prosecutor’s Office took at least five years to name three individuals as suspects in the case and obtain their conviction as the direct perpetrators. The investigation remains open with respect to other direct perpetrators and masterminds, including an investigation into the possible active or passive participation of State agents in the events of May 25, 2000. Therefore, the IACHR concludes that the investigation of the crime against journalist Jineth Bedoya Lima has not been carried out within a reasonable period of time.

134. In light of all of the above considerations, the IACHR concludes that the State has violated the rights to a fair trial and to judicial protection established in Articles 8.1 and 25.1 of the American Convention, in relation to Articles 1.1, 5.1, 5.2, 11, and 13 thereof, Article 7.b of the Convention of Belém do Pará, and Articles 1, 6, and 8 of the IACPPT, to the detriment of Jineth Bedoya.

C. Analysis of the violation of the right to humane treatment (Article 5.1) and in relation to the general obligation to respect rights (Article 1.1) of the American Convention

135. The Inter-American Court has repeatedly held that the relatives of the victims of certain human rights violations can, in turn, be victims.²³⁸ Specifically, the Court has said that the mental and emotional integrity of victims’ relatives can be affected as a consequence of the particular situations experienced by their loved ones, and of the subsequent acts or omissions of national authorities vis-à-vis such events.²³⁹ The Inter-American Court has also established that “the obligation to investigate human rights violations is among the positive measures that the State must adopt to guarantee the rights established in the Convention. Additionally, the State must, if possible, try to reestablish a right that has been violated and, if applicable, repair the damage produced by human rights violations.”²⁴⁰ Accordingly, the Inter-American Court has held that the absence of effective remedies is a source of additional suffering and distress for victims’ relatives.

136. The IACHR observes that, although it did not address the alleged violations of Article 5.1 in its admissibility report, the facts that support those violations are an integral and essential part of the case and, moreover, arise from the information and documents provided by the parties over the course of the proceedings before the IACHR.

²³⁷ I/A Court H.R. *Case of Gómez Palomino v. Peru*. Merits, Reparations and Costs. Judgment of November 22, 2005. Series C, No. 136. Para. 85.

²³⁸ I/A Court H.R. *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. 112; I/A Court H.R. *Case of Bueno Alves v. Argentina*. Judgment of May 11, 2007. Series C. No. 164. Para. 102.

²³⁹ I/A Court H.R. *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. 112; I/A Court H.R. *Case of Vargas Areco v. Paraguay*. Judgment of September 26, 2006. Series C, No. 155. Para. 96.

²⁴⁰ I/A Court H.R. *Case of Valle Jaramillo et al. v. Colombia*. Merits, Reparations and Costs. Judgment of November 27, 2008. Series C, No. 192. Para. 98; I/A Court H.R. *Case of Velásquez-Rodríguez v. Honduras*. Judgment of July 29, 1988, Series C, No. 4. Para. 166; I/A Court H.R. *Case of Heliodoro Portugal v. Panama*. Judgment of August 12, 2008. Series C, No. 186. Para. 142; I/A Court H.R. *Case of García Prieto et al. v. El Salvador*. Judgment of November 20, 2007, Series C, No. 168. Para. 99.

137. With respect to the violation of Jineth Bedoya's mother's right to humane treatment, the Commission observes that, as has been set forth, the State is responsible for failing to investigate the threats, kidnapping, torture, and sexual violence with due diligence, to the detriment of the journalist. It finds that the absence of a diligent investigation has affected the mental and emotional integrity of the journalist's mother, in addition to the suffering and distress caused by the more than 18-year delay in obtaining justice. The IACHR concludes that the State violated the rights enshrined in Article 5.1 of the Convention, in relation to Article 1.1 thereof, to the detriment of Luz Nelly Lima.

V. CONCLUSIONS

138. Based on the foregoing legal and factual considerations, the Inter-American Commission concludes that the Colombian State is responsible for:

- The violation of the rights to life, humane treatment, personal liberty, privacy, freedom of expression, and equal protection, enshrined in Articles 4.1, 5.1, 5.2, 7, 11, 13, and 24 of the American Convention, in connection with Article 1.1 thereof, Article 7.b of the Convention of Belém do Pará, and Articles 1, 6, and 8 of the IACPPT, to the detriment of Jineth Bedoya.
- The violation of the rights to a fair trial and judicial protection, enshrined in Articles 8.1 and 25.1 of the American Convention, in connection with Articles 1.1, 5.1, 5.2, 11, and 13 thereof, Article 7.b of the Convention of Belém do Pará, and Articles 1, 6, and 8 of the IACPPT, to the detriment of Jineth Bedoya.
- The violation of the right to humane treatment enshrined in Article 5.1 of the American Convention, in connection with Article 1.1. thereof, to the detriment of Luz Nelly Lima.

VI. RECOMMENDATIONS

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS RECOMMENDS THAT THE STATE OF COLOMBIA:

1. Conduct a complete, impartial, and effective investigation, within a reasonable period of time, that establishes all of the circumstances surrounding all of the crimes committed against journalist Jineth Bedoya Lima, including the threats and sexual violence, and determine all of the respective responsibilities (direct perpetrators, masterminds, accomplices, and accessories), including the possible participation of State agents.
2. Take the necessary measures to guarantee the safety of Jineth Bedoya and her family over the course of these investigations and proceedings.
3. Adopt effective protection measures to guarantee the safety of women journalists who are exposed to special risks on account of the practice of their profession, from a gender perspective.
4. Implement training programs for public servants, security forces, and justice authorities in order to ensure that they have the necessary knowledge to identify gender-based acts and manifestations of violence against women that affect female journalists, protect them in dangerous situations, and investigate and prosecute the perpetrators, including through the provision of tools and training on technical and legal aspects of these types of crimes.
5. Implement measures to raise public awareness about gender-based acts of violence against women journalists as attacks on freedom of expression, and provide clear information about the legal services and mechanisms available to support the victims of these types of acts.
6. Provide appropriate pecuniary and non-pecuniary reparations for the human rights violations that this report finds to have been committed against journalist Jineth Bedoya.