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REPORT No. 57/19
CASE 12.380

REPORT ON MERITS

MEMBERS OF JOSÉ ALVEAR RESTREPO LAWYERS' COLLECTIVE (CCAJAR)
COLOMBIA

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I. SUMMARY

1. On April 19, 2001, the Inter-American Commission on Human Rights (hereinafter "the Commission," "the IACHR," or "the Inter-American Commission") received a petition lodged by José Alvéar Restrepo Lawyers' Collective (Corporación Colectivo de Abogados "José Alvéar Restrepo" – CCAJAR) and the Center for Justice and International Law (CEJIL) (hereinafter "the petitioners") alleging that the Republic of Colombia (hereinafter "the State," "the Colombian State", or "Colombia") bore international responsibility for alleged attacks, acts of intimidation and harassment, and threats against members of CCAJAR since the 1990s and for the failure to conduct an adequate investigation to identify and punish those responsible.

2. According to the petitioners, those acts were carried out by either State agents or private citizens acting with the support, acquiescence, or tolerance of public servants. They said that the State has failed to adopt the necessary measures to ensure the safety of the organization's members. They added that Colombia had failed to take effective steps to prevent those acts from remaining in a state of impunity.

3. The State, for its part, said that it has not been proved that State agents participated in the acts described by the petitioners. It argued that it has adopted various measures at the national level to allow human rights defenders to go about their work unimpeded. Colombia also said that its authorities have taken multiple steps to move forward the investigations into the facts and that in some cases the persons responsible were punished.

4. Having analyzed the positions of the parties, the Inter-American Commission concludes that the State of Colombia is responsible for violation of the right to life, the right to humane treatment, the right to a fair trial, the right to privacy, freedom of thought and expression, freedom of association, the rights of the child, freedom of movement and residence, and the right to judicial action recognized at Articles 4 (1), 5 (1), 8 (1), 11, 13, 16, 19, 22, and 25 (1) of the American Convention, taken in conjunction with the obligations established in Article 1 (1) thereof, to the detriment of the persons named in each section of this report.

II. PROCESSING BY THE COMMISSION AND PRECAUTIONARY MEASURES

5. The IACHR received the original petition on April 19, 2001. The processing of the petition, from the time it was lodged to the decision on admissibility, is detailed in Report on Admissibility 55/06.[1] In that report the IACHR found that the alleged facts could constitute violations of Articles 4, 5, 8, 11, 13, 16, 22, and 25 of the American Convention in connection with Articles 1.1 and 2 thereof.

6. The parties were notified of the report on admissibility on October 10, 2006. In the same communication, the Commission placed itself at the disposal of the parties with a view to reaching a friendly settlement. On November 5, 2009, the Commission held a hearing in the course of its 137th session. On December 20, 2013, the petitioners presented a brief containing their observations on merits. The Commission relayed that communication to the State on March 13, 2014, and gave it the regulation period of four months to present additional observations. The State submitted its observations on merits on January 23, 2015 and December 16, 2015. In addition, after the adoption of the report on admissibility, the Commission received various communications and documents from both parties, all of which were duly relayed to the other party.

[1] IACHR, Report No. 55/06, Petition 12.380, Admissibility, Members of José Alvear Restrepo Lawyers' Collective, Colombia, July 20, 2006. Available at http://cidh.org/annualrep/2006eng/COLOMBIA.12380eng.htm

7. On May 11, 2000, the IACHR requested the State of Colombia to adopt measures to protect the life and personal integrity of the human rights defender Alirio Uribe Muñoz, a member of CCAJAR. On March 19, 2002, the Commission decided to broaden the precautionary measures to include all the other members of the Lawyers' Collective. As of the date of adoption of this report, the measures remain in place.

III. POSITIONS OF THE PARTIES

A. The petitioners

8. The petitioners alleged that the State is responsible for the attacks, acts of intimidation and harassment, and threats against the members of CCAJAR, a human rights organization, since the 1990s. According to the petitioners, those acts were carried out by State agents or private citizens acting with the support, acquiescence, or tolerance of public servants. They said that the State has failed to adopt the necessary measures to ensure the safety of the organization's members. They added that Colombia had failed to take effective steps to prevent those acts from remaining in a state of impunity. The petitioners said that the situation alleged in their petition is framed by a context of generalized vulnerability of human rights defenders in Colombia, a fact attested by various national and international agencies.

9. The petitioners alleged that the State violated the **rights to life and humane treatment** of the members of CCAJAR. That is because its members have been victims of continual threats, attacks, surveillance, harassment, public defamation of their work, and public statements that heighten the level of risk in their activities. According to the petitioners, this systematic pattern of intimidation is the work of agents of the public security forces, members of state security agencies, and private individuals who have acted with the support, acquiescence, tolerance, and protection of public officials. The alleged acts identified by the petitioners included: (i) death threats by means of pamphlets, telephone calls, and packages with threatening notes; and (ii) surveillance and following by persons in automobiles or on motorcycles.

10. In addition, they allege that, in spite of the precautionary measures granted by the IACHR, the State has not adequately implemented protection measures to prevent the acts of harassment against the members of the Lawyers' Collective. They said that the only elements that remain in place are the vehicles and bodyguard drivers. They explained that since the CCAJAR moved offices in 2012, no protection measures had been implemented at the offices or at homes of the Collective's members, despite their having been agreed upon; and that the communication devices were no longer in place.

11. The petitioners held that the State had violated the **freedom of movement and circulation** of four of the members of CCAJAR,[2] because of threats and attacks on them They said that those individuals had previously reported harassment, surveillance, threatening phone calls, and intimidation that were not properly investigated. They said that no investigation had advanced beyond the preliminary stage. The petitioners alleged that that right had also been violated to the detriment of Diana Teresa Sierra, who was prevented from leaving the country to take part in a conference. Likewise, they alleged that that right was violated to the detriment of Soraya Gutiérrez, who was forced to change her domicile at least twice and had to leave the country owing to acts of aggression against her.

12. They also argued that the situation undermined their **freedom of association**. The foregoing is due to the fact that the threats and harassment against the members of CCAJAR have prevented them from doing their work properly in defense of human rights and representing victims in domestic and international proceedings.

13. The petitioners also allege that Colombia violated the **rights to privacy and access to information.** That is because the Army of Colombia prepared a military intelligence report in which they collected personal information on the members of CCAJAR. They said that the report accused more than 200 civic and grassroots leaders, local councilors, mayors, and human rights defenders, including a CCAJAR representative, of being sympathizers or members of guerrilla groups. They added that the members of

[2] Luis Guillermo Pérez, Rafael Barrios Mendivil, Maret Cecilia García, and Miguel Puerto Barrera.

CCAJAR were also adversely affected by various statements made by high-ranking government officials stigmatizing their work. They said that between 2003 in 2005, more than 40 CCAJAR members were victims of spying and offensive intelligence activities on the part of the Administrative Department of Security (*Departamento Administrativo de Seguridad* – DAS).

14. They said that in spite of requesting the information obtained by DAS, the State had denied it. They explained that those requests were made through (i) communications addressed to all the administrations between 1994 and 2015; (ii) participation by CCAJAR as a civil party in Cases UDH 912 and 590, which sought to determine who was responsible for the inclusion of the lawyer Alirio Uribe Muñoz in the military report titled "Miscelánea"; and (iii) an action for constitutional protection brought in 2014 against then-President Álvaro Uribe Vélez, which requested "the immediate declassification of all intelligence reports in the possession of the State security agencies."

15. In addition, the petitioners alleged that the Colombian State violated the **right to protection from interference with the home and telephone communications** of CCAJAR members. The petitioners said that on several occasions the Collective's lawyers detected the sound of radio frequencies on their telephones. They said that they sometimes heard the voices of police or military personnel while they were talking on the telephone.

16. The petitioners explained that the DAS ran a military intelligence campaign against various people, including CCAJAR members. They said that the abolition of the DAS did not prevent new intelligence actions to the detriment of the alleged victims. They said that the information unlawfully obtained by the DAS and its teams was passed to the Army and other agencies without any kind of regulation. The petitioners alleged that Law 1621 of 2013 permitted "communications eavesdropping with little oversight." They said that that law itself envisaged situations in which a court order was not required for operations.

17. With regard to the **rights to a fair trial and judicial protection**, the petitioners mentioned that the acts of harassment, attacks, and threats against members of the Lawyers' Collective had not been meaningfully investigated by the Colombian authorities. They said that, as a result, those acts remained in a state of impunity, encouraging their repetition and escalation over the years

18. The petitioners said that they filed complaints because of those acts and had tried to advance the proceedings that were underway. They said that, so far, there had been no progress with the multiple investigations opened into the acts. They also said that in this case, state agents who had overseen the proceedings in relation to the acts had not conducted a serious and objective investigation. They identified the following failings and omissions: (i) negligence in collecting key evidence; (ii) failure to pursue lines of inquiry; and (iii) lack of control over paramilitary forces.

19. In relation to the acts that occurred between 1990 and 2002, the petitioners said that none of the investigations had progressed beyond the preliminary stage. The petitioners also highlighted failings in relation to subsequent acts connected with illegal activities of the DAS. They also said that there had been no investigations of the crime of torture. They said that what convictions had resulted from several investigations were of middle-ranking DAS personnel. They said that the case of the two deputy directors who were convicted had to do with investigations in which CCAJAR was not recognized as a victim owing to the procedural fragmentation that characterized the process as a whole. They added that there had been no significant progress in cases brought against high-ranking DAS officials.

20. Finally, the petitioners alleged that the State violated the rights of the child, given that a group of children who were relatives of CCAJAR members were the subject of intelligence activities and victims of threats. They added that some children were forced into exile along with their families.

B. The State

21. The State argued that it bore no responsibility whatsoever in this case. It said that, in keeping with the principle of subsidiarity of the inter-American human rights system, it had taken the necessary steps to

remedy the facts alleged by the petitioners. It explained that that had translated into the imposition of criminal and administrative penalties on several public officials involved.

22. The State said that it had adopted a series of measures to recognize the legitimacy of the work of human rights defenders, including Presidential Directive No. 07 of 1999, the Interior Ministry's Program for Protection of Witnesses and Persons under Threat, and Constitutional Court Judgment T-1062/05. Colombia said that it "reiterates its recognition of the work done by human rights defenders, since both they and the organizations under which they are grouped are a key element for the consolidation of a democratic state." The State also said that the Office of the Vice President of the Republic had made arrangements to address the requests of the petitioners in this case, particularly in relation to the matters concerning intelligence archives.

23. In relation to the alleged violation of the rights to life and humane treatment, the State said that there was no evidence that the measures adopted to protect the lives of CCAJAR members lacked effectiveness. It argued that, on the contrary, they were fit for protecting the lives and physical integrity of those individuals. It explained that in precautionary measures process PM-128-00, it had taken all the necessary steps to ensure the life and well-being of the beneficiaries. The State noted that the beneficiaries had not permitted a risk assessment to be carried out since 2009. It said that, despite that, security measures had continued to be implemented.

24. In addition, Colombia said that at no time had it created a situation of risk for the alleged victims. It said that it was not true that there was a causal link between the statements of certain officials and the threats received by the organization.

25. With respect to the incidents that occurred between 1990 and 2002, the State held that the complaints had been investigated by the competent authorities. It said that the investigations had been conducted in a meaningful way even if "they have not advanced past the inquiry stage." It held that it could not be concluded that unreasonable time had been taken simply because time had passed without criminal convictions being imposed. It said that the investigations were dealing with complex facts.

26. As regards the incidents that occurred between 2002 and 2006, Colombia said that 7 criminal inquiries has been opened and 5 criminal judgments handed down on 11 former DAS officials. It mentioned that 2 others had entered guilty pleas and that another 17 former officials were still under investigation. It also reported that in disciplinary proceedings punishments had been meted out to 6 former officials who had been dismissed and barred from holding positions in the public sector.

27. Regarding the alleged unlawful intelligence activities on the part of DAS personnel, the State said that the necessary measures had been taken to address those allegations. The State said that as part of the corrective measures, the DAS had been abolished and its competencies redistributed among other institutions. With reference to the alleged loss of DAS archives, Colombia said that the Office of the Attorney General was investigating that situation.

28. With respect to Law 1621 of 2013, the State said that the law underwent a constitutional review by the Constitutional Court of Colombia. It said that the Constitutional Court concluded that "monitoring of the electromagnetic spectrum could not involved individual surveillance." It argued that the law strengthens the systems of control for ensuring transparency and better oversight of intelligence operations.

29. As to the alleged violation of the right of access to information based on the nondisclosure of the intelligence information requested, the State argued that the alleged victims had failed to exhaust the action for constitutional protection. It said that that remedy was appropriate for the claim made, as the Constitutional Court of Colombia had recognized.

30. Colombia also argued that it had not violated the right to privacy and freedom of association of CCAJAR members. It held that the acts described as violations had been examined in the criminal investigations carried out into illegal intercepts by DAS agents.

IV. PROVEN FACTS

A. Situation of lawyers as human rights defenders in Colombia

31. Several international agencies have spoken out about the situation of human rights defenders in Colombia.

32. In its 1998 report the Office of the United Nations High Commissioner for Human Rights in Colombia mentioned that in 1997 alone 20 members of human rights organizations had been murdered.[3] In its 1999 report on Colombia the IACHR noted that "human rights workers have also been subjected to other types of attacks on their rights, including threats and physical violence as well as arbitrary criminal prosecutions."[4]The Commission added:

> The recent increase in the violence and harassment directed against human rights defenders corresponds to the degradation of the conflict in the past years and even months. The legitimate work of human rights defenders, including the denunciation of the serious abuses committed by the parties to the armed conflict, has led certain actors to seek to silence them through a variety of methods. (…) with alarming frequency, members of the State security forces and paramilitary groups presume, based on human rights workers' legitimate human rights promotion and protection activities, that these individuals are involved in illegal activities or that they have become combatants and legitimate objects of attack.[5]

33. The Commission also alluded to attacks on the lives and physical integrity of human rights defenders.[6] In that regard, the IACHR said:

> Many human rights workers in Colombia receive constant threats against their lives in reprisal for their work. These threats sometimes come in the form of anonymous phone calls and notes. In other cases, unknown individuals approach human rights workers and inform them that they must discontinue their work or suffer the consequences. These threats themselves constitute an attack on the mental integrity of the victims. The threats have a particularly strong effect, because human rights defenders know that many such threats are eventually carried out.[7]

34. As regards the attribution of such acts, the Commission indicated:

> Armed dissident groups have been known to attack human rights workers believed by these organizations to support other actors in the armed conflict. However, responsibility for acts of violence against non-governmental human rights workers is most frequently attributed to paramilitary groups. Many different sources also suggest that the State's security forces may cooperate with paramilitary groups in planning and executing some of the killings.
> (…)
> The Commission reiterates that, where paramilitary groups act as State agents or with the approval, acquiescence or tolerance of State agents, the State becomes internationally

[3] Report of the United Nations High Commissioner for Human Rights, E/CN.4/1998/16, 9 March 1998, para. 113.
[4] IACHR, Third Report on the Situation of Human Rights in Colombia, February 26, 1999. Available at http://www.cidh.org/countryrep/Colom99en/table%20of%20contents.htm
[5] IACHR, Third Report on the Situation of Human Rights in Colombia, February 26, 1999. Available at http://www.cidh.org/countryrep/Colom99en/table%20of%20contents.htm
[6] IACHR, Third Report on the Situation of Human Rights in Colombia, February 26, 1999. Available at http://www.cidh.org/countryrep/Colom99en/table%20of%20contents.htm
[7] IACHR, Third Report on the Situation of Human Rights in Colombia, February 26, 1999. Available at http://www.cidh.org/countryrep/Colom99en/table%20of%20contents.htm

> responsible for the human rights violations which they commit. The attacks described above would, in those circumstances, constitute flagrant violations of Articles 4 and 5 of the American Convention. In addition, to the extent that these attacks constitute reprisals against the victims for their work in human rights, they also result in violations of the right to freedom of thought and expression guaranteed in Article 13 of the Convention. In some cases, they may also constitute violations of the right to association and freedom of assembly, established in Articles 15 and 16 of the Convention.[8]

35. The Commission also noted its concern that criminal proceedings had been used as a means of harassment and intimidation of human rights workers.[9] In that connection, the IACHR added:

> State agents are responsible for conducting these proceedings. The State's prosecutors necessarily initiate such proceedings. As noted above, they often also act in coordination with members of the State's security forces. These proceedings appear to be arbitrary and inconsistent with the requirements of due process. As such, the State may well incur international responsibility for violation of Articles 8 and 25 of the American Convention.
> (…)
> In addition, these proceedings may rise to the level of an assault on the personal integrity of the victims, in violation of Article 5 of the Convention. Criminal proceedings are converted into a tool of harassment directed at human rights workers. As a result, the victims' right to mental and moral integrity is compromised, in violation of Article 5 of the Convention. The Commission also understands that the proceedings are sometimes used to publicly identify human rights workers considered by the State's security forces as "enemies of the State." Certain members of the State's security forces and/or members of paramilitary groups then treat these individuals as military targets. The criminal proceedings thus sometimes place in danger the physical integrity and the life of those accused, in violation of the rights set forth in Articles 4 and 5 of the Convention.[10]

36. The Commission also noted the intelligence activities conducted by the State's security forces into the activities human rights organizations and members.[11] In that regard, the IACHR said:

> (…) it is now unquestionable that [members of the State's security] forces have targeted human rights organizations and their members for intelligence-gathering activities. As noted above, military intelligence reports regarding members of human rights organizations have been introduced in various criminal proceedings.
> [...] [T]he Commission is again concerned that the State security forces direct intelligence activities against human rights organizations and their members based solely on their status as such. The State security forces appear to assume automatically that human rights organizations and their members present a danger to the public order.
> [...] [T]he Commission has received complaints regarding the manner in which intelligence information about human rights workers and their organizations is gathered. This information indicates that members of the State's security forces obtain financial and other private documents without proper authorization. The Commission has received information indicating that the State's security forces have also engaged in telephone line intervention, secretly taping conversations, without judicial orders

[8] IACHR, Third Report on the Situation of Human Rights in Colombia, February 26, 1999. Available at http://www.cidh.org/countryrep/Colom99en/table%20of%20contents.htm
[9] IACHR, Third Report on the Situation of Human Rights in Colombia, February 26, 1999. Available at http://www.cidh.org/countryrep/Colom99en/table%20of%20contents.htm
[10] IACHR, Third Report on the Situation of Human Rights in Colombia, February 26, 1999. Available at http://www.cidh.org/countryrep/Colom99en/table%20of%20contents.htm
[11] IACHR, Third Report on the Situation of Human Rights in Colombia, February 26, 1999. Available at http://www.cidh.org/countryrep/Colom99en/table%20of%20contents.htm

> (…) When State security forces carry out these types of secret and intrusive intelligence activities without proper authority, they violate Colombian domestic law as well as the right to privacy set forth in the American Convention.[12]

37. The Commission has also recorded complaints indicating that the State's public security forces sometimes undertake intelligence activities in a manner calculated to harass or intimidate the human rights workers subjected to intelligence-gathering operations.[13] In this regard, the IACHR noted:

> For example, agents of the public security forces sometimes request detailed personal information regarding individuals which, if revealed, might place these persons in danger. The Commission has received complaints indicating that agents of the State's security forces sometimes make requests for this information through repeated personal visits or telephone calls. When those requesting the information are asked to identify themselves or to make their requests in writing, they sometimes fail to do so. The State's public security forces sometimes also conduct surveillance operations in which human rights workers constantly observe unknown individuals, sometimes armed, following them during their daily activities
>
> (…)
>
> The intelligence-gathering techniques of the State's security forces thus often cause extreme consternation in human rights workers in the context of the violence in Colombia. Certain intelligence-gathering techniques may even lead to violations of the right to mental integrity, protected in Article 5 of the Convention.[14]

38. In relation to the consequences of the violence and intimidation for human rights defenders, the Commission said:

> The attacks are often intended to eliminate directly human rights workers who are seen by the armed actors as enemies in the internal armed conflict. They also often seek to silence the opinions of human rights defenders, including the criticisms and complaints which these persons may level against the State's security forces, the government or others. In order to achieve this objective, the attacks often aim to cause the complete disintegration of human rights organizations.
>
> (…)
>
> Those who are internally displaced suffer a violation of their right to freedom of movement and residence, guaranteed in Article 22 of the Convention.
>
> (…)
>
> When human rights organizations are forced to close their offices, the attacks interfere with the rights of members of human rights organizations to assembly and to freedom of association.
>
> (…)
>
> When individual members are forced to abandon their activities, they also suffer violations of their right to freedom of association.[15]

39. The Commission also mentioned that "some high level officials of the State have shown through their public statements a lack of commitment to the work of human rights organizations and the protection of human rights workers."[16] The IACHR elaborated:

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[12] IACHR, Third Report on the Situation of Human Rights in Colombia, February 26, 1999. Available at http://www.cidh.org/countryrep/Colom99en/table%20of%20contents.htm

[13] IACHR, Third Report on the Situation of Human Rights in Colombia, February 26, 1999. Available at http://www.cidh.org/countryrep/Colom99en/table%20of%20contents.htm

[14] IACHR, Third Report on the Situation of Human Rights in Colombia, February 26, 1999. Available at http://www.cidh.org/countryrep/Colom99en/table%20of%20contents.htm

[15] IACHR, Third Report on the Situation of Human Rights in Colombia, February 26, 1999. Available at http://www.cidh.org/countryrep/Colom99en/table%20of%20contents.htm

[16] IACHR, Third Report on the Situation of Human Rights in Colombia, February 26, 1999. Available at http://www.cidh.org/countryrep/Colom99en/table%20of%20contents.htm

> The statements sometimes suggest that non-governmental human rights organizations collaborate with armed dissident groups or plan campaigns against the State's security forces. In the context of the political violence in Colombia, some members of the State's security forces or members of paramilitary groups might understand these statements to constitute a license to attack members of non-governmental human rights organizations.[17]

40. In its 2001 annual report the IACHR expressed concern at the threats, naming in the media, harassment, assault, murder, and forced disappearance of human rights defenders in Colombia.[18] The Commission said that in 2002 human rights defenders continued to be the targets of multiple threats and harassment to disrupt their task of the promotion and protection of human rights in Colombia.[19]

41. In its 2003 annual report the IACHR said that human rights defenders in Colombia "find the value of their work questioned in the media by officials, including the President."[20] Specifically, the Commission said that human rights defenders "have been faced with official criticism, twice by President Uribe himself, questioning their legitimacy and indicating plans to investigate their background and activities."[21]

42. In its 2005 annual report, the Commission reiterated its recommendation that the State adopt urgent and effective measures to protect the lives and physical safety of the human rights defenders being threatened, and that these measures be arranged and decided upon in consultation with the defenders themselves.[22] The Commission also reiterated its recommendation that an effective and thorough prevention policy be adopted, intended to prevent attacks on human rights defenders.[23]

43. In its 2006 and 2007 annual reports the Commission registered complaints about the electronic distribution of threats made against a number of human rights organizations that operate in different parts of the country,[24]and of acts of intimidation and theft of information at their offices.[25]

44. In its 2008 annual report the Commission noted the use of intelligence machinery against human rights defenders.[26] It said that it took cognizance of memoranda issued by the DAS that requested that information be gathered on human rights organizations with "'clandestine movements,' terrorist groups, [or] outlawed groups."[27] It also mentioned:

> (…) [T]he State reported that the DAS officials responsible for the memorandum in question had been dismissed and the director of that institution had resigned. Quite apart from the importance of this information, which was also made public through the press, the IACHR is troubled by the existence of DAS policies on the collection of information connected with the activities of human rights defenders, community and political leaders, witnesses to human rights violations, and their protection, and it intends to follow up on this matter.[28]

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[17] IACHR, Third Report on the Situation of Human Rights in Colombia, February 26, 1999. Available at http://www.cidh.org/countryrep/Colom99en/table%20of%20contents.htm

[18] IACHR, 2001 Annual Report, April 16, 2002, par. 13. Available at: http://www.cidh.oas.org/annualrep/2001eng/chap.4.htm#COLOMBIA

[19] IACHR, 2002 Annual Report, March 7, 2003, par. 51. Available at: http://www.cidh.org/annualrep/2002eng/chap.4.htm#COLOMBIA

[20] IACHR, 2003 Annual Report, December 29, 2003, par. 11. Available at: http://www.cidh.org/annualrep/2003eng/chap.4.htm#COLOMBIA

[21] IACHR, 2003 Annual Report, December 29, 2003, par. 16. Available at: http://www.cidh.org/annualrep/2003eng/chap.4.htm#COLOMBIA

[22] IACHR, 2005 Annual Report, February 27, 2006, par. 38. Available at: http://www.cidh.org/annualrep/2005eng/chap.4.htm#COLOMBIA

[23] IACHR, 2005 Annual Report, February 27, 2006, par. 38. Available at: http://www.cidh.org/annualrep/2005eng/chap.4.htm#COLOMBIA

[24] IACHR, 2006 Annual Report, March 3, 2007, par. 44. Available at: http://www.cidh.org/annualrep/2006eng/Chap.4a.htm

[25] IACHR, 2007 Annual Report, December 29, 2007, par. 74. Available at: http://www.cidh.org/annualrep/2007eng/Chap.4a.htm

[26] IACHR, 2008 Annual Report, February 25, 2009, par. 110. Available at: http://www.cidh.org/annualrep/2008eng/Chap4.b.eng.htm

[27] IACHR, 2008 Annual Report, February 25, 2009, par. 118. Available at: http://www.cidh.org/annualrep/2008eng/Chap4.b.eng.htm

[28] IACHR, 2008 Annual Report, February 25, 2009, par. 119. Available at: http://www.cidh.org/annualrep/2008eng/Chap4.b.eng.htm

45. In its 2009 annual report the IACHR observed that the DAS had reputedly intercepted the telephone calls of a large number of public figures, including human rights defenders.[29] It said that it had received information about the creation of a group known as "G3":

> [T]he Commission received information on the creation under DAS of a Special Strategic Intelligence Group, known as "G3," that, inter alia, would conduct intelligence operations on activities linked to litigation of international cases and on international contacts of organizations engaged in the defense of human rights.
>
> […] [T]he IACHR received information to the effect that the intelligence activities of "G3" reputedly targeting human rights defenders ... were intended to collect strategic intelligence, identify risks and threats to the government and national security, carry out "offensive intelligence and psychological warfare" measures, and prosecute opponents of the government's policies. These measures were part of a pattern of intimidation and harassment designed to neutralize or restrict activities of individuals and organizations with opposition leanings.[30]

46. In its 2010 annual report the Commission received information on killings, acts of harassment, and violence against human rights defenders, both men and women, as well as criminalizing them in order to obstruct their activities as members of organizations dedicated to the defense of human rights.[31] The IACHR repeated its particular concern over the use of intelligence measures against human rights defenders.[32]

47. In its 2011 annual report the Commission observed the continued use of forms of discourse aimed at discrediting human rights defenders; attacks on their lives and integrity, without notable results in the investigations; as well as the filing of criminal actions, allegedly unfounded, with the aim of criminalizing their work.[33] In that regard, it said:

> The IACHR noted that although the State indicated that it had adopted a policy of "disarming the word," as part of a non-confrontational discourse with human rights defenders, in practice there has not been significant progress in the situations they face, which have persisted for several years. In this regard, it is especially worrisome that public officials continue making declarations aimed at discrediting human rights defenders, which could increase the risks they face as they pursue their activities and undermine the trust of Colombian society in human rights organizations.[34]

48. During 2011, the IACHR received information related to a series of shortcomings in the processes of requesting and implementing the special measures of protection that the Protection Program for Human Rights Defenders, Trade Unionists, Journalists and Social Leaders provides. In this respect, the Office of the High Commissioner for Human Rights in Colombia stated in its report on Colombia for 2011 its concern over the persistence of delays in conducting studies of risk, sluggishness in the implementation of measures, the lack of a differential approach, and the assignment of the protection schemes to private companies. In addition, in its recommendations the OHCHR has encouraged the government to undertake an exhaustive review of the policies and programs for protection, of both the government and other entities of the State.[35]

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[29] IACHR, 2009 Annual Report, December 30, 2009, par. 123. Available at: http://www.cidh.org/annualrep/2009eng/Chap.IV.a.eng.htm
[30] IACHR, 2009 Annual Report, December 30, 2009, par. 132. Available at: http://www.cidh.org/annualrep/2009eng/Chap.IV.a.eng.htm
[31] IACHR, 2010 Annual Report, March 7, 2011, par. 195. Available at: http://www.cidh.org/annualrep/2010eng/TOC.htm, Ch. IV Colombia.
[32] IACHR, 2010 Annual Report, March 7, 2011, par. 285. Available at: http://www.cidh.org/annualrep/2010eng/TOC.htm, Ch. IV Colombia.
[33] IACHR, 2010 Annual Report, December 30, 2011, par. 117. Available at: http://www.oas.org/en/iachr/docs/annual/2011/TOC.asp, Ch. IV Colombia.
[34] IACHR, 2010 Annual Report, December 30, 2011, par. 118. Available at: http://www.oas.org/en/iachr/docs/annual/2011/TOC.asp, Ch. IV Colombia.
[35] IACHR, 2010 Annual Report, December 30, 2011, par. 125. Available at: http://www.oas.org/en/iachr/docs/annual/2011/TOC.asp, Ch. IV Colombia.

49. As regards the DAS, the Commission indicated:

> One aspect of special concern to civil society is that in the process of liquidating the DAS, the security schemes of the Protection Program that were assigned to it were gradually assigned to private security companies. According to several organizations, this progressive privatization of the personnel poses several problems for their own security and for carrying out their activities, including: the historic ties that some private security companies are said to have with paramilitary groups; the possible participation of persons who demobilized in the protection schemes and the lack of experience by the security companies for performing an activity that originally corresponded to the State.[36]
>
> The IACHR has recommended that the activities of risk analysis and implementation of the measures should be assigned to personnel who belong to a state security agency separate from the one that performs intelligence and counterintelligence activities. In this vein, the IACHR values the efforts by the State to ensure that the personnel in charge of protection are no longer members of the DAS. The Commission considers that the State should ensure that the personnel who participate in the security schemes inspire trust in the beneficiaries of the protection. One fundamental element for achieving such trust is for the State to ensure that the assignment of personnel for protection include the participation of the beneficiaries.[37]

50. In its 2013 report on the situation of human rights defenders in Colombia the Commission continued receiving complaints about the groups that call themselves "Águilas Negras", "Rastrojos," "Urabeños," and the "Anti-Restitution Army" that perpetrate several forms of violence against human rights defenders considering that the human rights defenders are working with subversive groups, or are obstacles to the full realization of their own activities.[38] In addition, the Commission continued receiving information in the course of its visit on the failure to investigate and punish public officials who could be involved in the violations of the rights of defenders, along with the persistence of some discrediting discourse by state agents that aggravates the situation of risk.[39]

51. In relation to the investigations into the intelligence activities of the DAS, the Commission said that the Colombian judicial authorities determined:

> [T]he actions or activities carried out by ... G3 ... constituted a real criminal enterprise established to orchestrate the commission of unspecified crimes, which later resulted in the illegal interception of communications, the ongoing use of transmitting and receiving equipment, and the arbitrary and unjust abuse of authority for the end purpose of obtaining, processing, and analyzing private information obtained from NGOs, the attorneys of human rights defenders, lawyers' associations, journalists, and ultimately anyone with leanings or ideologies that clashed with or opposed those of the government in power (the Álvaro Uribe Vélez administration), through activities such as the tapping of land and mobile phones, the interception of electronic mail, and surveillance and monitoring without an order issued by the pertinent authorities.[40]

52. The IACHR has also found that for several years Colombia has refused to give human rights defenders access to their personal information that could be found in the intelligence files of the Administrative

[36] IACHR, 2010 Annual Report, December 30, 2011, par. 127. Available at: http://www.oas.org/en/iachr/docs/annual/2011/TOC.asp, Ch. IV Colombia.
[37] IACHR, 2010 Annual Report, December 30, 2011, par. 128. Available at: http://www.oas.org/en/iachr/docs/annual/2011/TOC.asp, Ch. IV Colombia.
[38] IACHR, Report on Colombia, December 31, 2013, par. 1134. Available at: http://www.oas.org/en/iachr/reports/pdfs/Colombia-Truth-Justice-Reparation.pdf
[39] IACHR, Report on Colombia, December 31, 2013, par. 1136. Available at: http://www.oas.org/en/iachr/reports/pdfs/Colombia-Truth-Justice-Reparation.pdf
[40] IACHR, Report on Colombia, December 31, 2013, par. 959. Available at: http://www.oas.org/en/iachr/reports/pdfs/Colombia-Truth-Justice-Reparation.pdf

Security Department (DAS).[41] The Commission noted that the State has not adopted a law that makes possible the effective exercise of the right to habeas data, such that persons subject to arbitrary intelligence activities can have access to their data and thereby ask that it be corrected, updated, or, as the case may be, removed from intelligence files.[42]

53. During its visit the Commission also received information that there have not been substantial gains in clarifying, investigating, or punishing the persons responsible for human rights violations directed against human rights defenders. In this regard, the IACHR received worrisome information according to which in cases of violations committed against defenders, such as assassinations, forced disappearances, robberies, assassination attempts, and threats, in some regions impunity is greater than 90%.[43]

54. In its 2014 annual report the Commission said that it had continued to receive information about a persistence of murders, intimidation, and harassment of human rights defenders in Colombia, who continue to be the target of attacks ostensibly designed to silence their accusations, particularly regarding violations of human rights in the context of the armed conflict.[44]

55. The Commission also recommended that the State ensure that its officials refrain from making statements that stigmatize human rights defenders or that suggest that human rights organizations act improperly or illegally because of their work to promote and protect human rights.[45]

56. In relation to protection arrangements for human rights defenders, the IACHR mentioned:

> The Commission has received information that several beneficiaries of protection arrangements have complained that they function poorly due to the National Protection Unit's budget crisis. Even though the State reported that "for budgetary reasons, no protection contingent has been assigned to at-risk persons," the Commission notes that the Office of the Procurator General expressed its concern and said that this situation resulted in the removal of the protection arrangements for government officials and placed at risk the security of leaders of land restitution claimants and victims. In particular, the Commission received information that several arrangements have been scaled back and that security personnel employed by the Unit have taken part in protests over nonpayment of their salaries. The Unit's director later announced that all salaries had been paid and that the situation had returned to normal.[46]

57. In its 2015 annual report, the Commission said that it had received information that the users of the mechanism continued to experience significant delays between the submission of a request for protection, the notification of the result, and the implementation of the measures granted. The IACHR also received information about the existence of serious challenges to ensure that the measures would be implemented properly (e.g., the lack of gasoline for vehicles, the absence of authorization to escorts for travel expenses, to be able carry out trips outside the danger zone, and lack of reimbursement of expenses to bodyguards to cover costs associated with protection, among others.).[47]

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[41] IACHR, Report on Colombia, December 31, 2013, par. 1188. Available at: http://www.oas.org/en/iachr/reports/pdfs/Colombia-Truth-Justice-Reparation.pdf

[42] IACHR, Report on Colombia, December 31, 2013, par. 1188. Available at: http://www.oas.org/en/iachr/reports/pdfs/Colombia-Truth-Justice-Reparation.pdf

[43] IACHR, Report on Colombia, December 31, 2013, par. 1196. Available at: http://www.oas.org/en/iachr/reports/pdfs/Colombia-Truth-Justice-Reparation.pdf

[44] IACHR, 2014 Annual Report, May 7, 2015, par. 345, available at: http://www.oas.org/en/iachr/docs/annual/2014/docs-en/Annual2014-chap5-Colombia.pdf.

[45] IACHR, 2014 Annual Report, May 7, 2015, par. 357. Available at: http://www.oas.org/en/iachr/docs/annual/2014/docs-en/Annual2014-chap5-Colombia.pdf

[46] IACHR, 2014 Annual Report, May 7, 2015, par. 361. Available at: http://www.oas.org/en/iachr/docs/annual/2014/docs-en/Annual2014-chap5-Colombia.pdf

[47] IACHR, 2015 Annual Report, March 17, 2016, par. 77. Available at: http://www.oas.org/en/iachr/docs/annual/2015/doc-en/InformeAnual2015-cap5-Colombia-EN.pdf

58. The IACHR mentioned that during 2015 it continued receiving information about grave risk situations that the beneficiaries of protection programs and of the IACHR's precautionary measures have faced, including human rights defenders.[48] The commission also noted that most attacks against defenders in Colombia continue to languish in impunity.[49]

59. The Colombian state, for its part, said that its policy in this regard is one of "support, communication, and collaboration with human rights defenders."[50] It said that among the steps taken to ensure the necessary legal guarantees to enable defenders to pursue their activities freely and safely were the following:

- Presidential Directive No. 07 of 1999, which highlights the importance of the work of human rights defenders in designing policies, plans, and programs for protection of human rights.[51]
- The adoption of multiple decrees creating protection programs for those at risk, including leaders and members of human rights organizations.[52] In that connection, the IACHR has emphasized the importance of the Protection Program for Human Rights Defenders, Trade Unionists, Journalists and Social Leaders.[53]
- Promotion of the National Guarantees Process to strengthen guarantees to enable defenders to do their work.[54]
- The formulation of the Public Policy to Guarantee the Defense of Human Rights.[55]
- The creation of the National Human Rights and International Humanitarian Law System as part of the 2010-2014 Development Plan.[56]
- The enactment of Law 1621 of 2013 to strengthen the legal framework that enables intelligence and counterintelligence agencies to carry out their constitutional and legally ordained mission.[57]

B. José Alvear Restrepo Lawyers' Collective

60. José Alvear Restrepo Lawyers' Collective (CCAJAR) is a nongovernmental organization founded in 1980. Its headquarters are in Bogota. According to information on its website, the organization has the following objective:

> To defend and advance human rights under a holistic approach, premised on the indivisibility and interdependence of all rights and freedoms, in order to help combat impunity and build a just and equitable society that strives for political, economic, social, and cultural inclusion and respect and full observance of the rights of peoples to sovereignty, self-determination, development, and peace with social justice.[58]

61. The Commission notes that CCAJAR has lodged several individual petitions with it and has frequently appeared at its hearings and those of the Inter-American Court.

62. In its 1999 report on Colombia the IACHR mentioned that CCAJAR lawyers had "frequently received threats." The Commission added:

[48] IACHR, 2015 Annual Report, March 17, 2016, par. 81. Available at: http://www.oas.org/en/iachr/docs/annual/2015/doc-en/InformeAnual2015-cap5-Colombia-EN.pdf
[49] IACHR, 2015 Annual Report, March 17, 2016, par. 359. Available at: http://www.oas.org/en/iachr/docs/annual/2015/doc-en/InformeAnual2015-cap5-Colombia-EN.pdf
[50] State's brief containing observations on merits, January 23, 2015.
[51] State's brief containing observations on merits, January 23, 2015.
[52] State's brief containing observations on merits, January 23, 2015.
[53] IACHR, 2008 Annual Report, February 25, 2009, par. 11. Available at: http://www.cidh.org/annualrep/2008eng/Chap4.b.eng.htm
[54] State's brief containing observations on merits, January 23, 2015.
[55] State's brief containing observations on merits, January 23, 2015.
[56] State's brief containing observations on merits, January 23, 2015.
[57] State's brief containing observations on merits, January 23, 2015.
[58] Available at: http://www.colectivodeabogados.org/?-Quienes-Somos259-

> Another military report has led to the initiation of a criminal investigation against Alirio Uribe of the "José Alvear Restrepo" Lawyers' Collective. That military report apparently links Mr. Uribe to criminal activity on the grounds that he provides legal assistance to criminal defendants. The report states that Mr. Uribe is "dedicated to having bandits held in various jails declared 'political prisoners.'"

63. In its 2002 annual report the Commission expressed its concern about the situation of several human rights organizations whose members are beneficiaries of precautionary measures and that, although the measures ordered remained in effect, they were still targets of threats and harassment.[59] The Commission identified CCAJAR among those organizations.[60]

64. In its 2004 annual report the Commission mentioned that high-level government officials continued to question the legitimacy of the work of human rights defenders.[61] In its 2004 annual report the IACHR said:

> The IACHR is also concerned by the repeated official accusations (*señalamientos*) directed against the well-known public interest human rights law office Colectivo de Abogados "José Alvear Restrepo," a petitioner in individual cases before the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights for more than a decade, and beneficiary of the measures of protection granted by reason of the constant threats against and attacks on the lawyers and other legal staff who work there. Among the incidents in 2004, special mention should be made of President Uribe's speech to the European Union on February 10, 2004, in which he stated that this organization "uses the issue of human rights as an excuse to provide cover for terrorists"; the insinuations by the departmental authorities of Cesar –in the context of follow-up meetings to the provisional measures issued on behalf of the Kankuamo indigenous people—to the effect that the organization was a "guerrilla supporter" ("alcahuete de la guerrilla"); and the characterization of the *Colectivo de Abogados* –a co-petitioner in a claim before the Administrative Tribunal of Cundinamarca against the program to eradicate illegal crops using the herbicide glyphosate — as "traditional defenders of the FARC" on the web site of the respondent before that court, the National Narcotics Control Bureau (*Dirección Nacional de Estupefacientes*).[62]
>
> Representatives of all branches of the State have repeatedly made generic accusations (*señalamientos*) directed at the Colectivo de Abogados "José Alvear Restrepo" as well as other human rights organizations. The IACHR must repeat once against that the words of the President of the Republic may be considered by illegal groups as an accusation that not only increases the risks human rights defenders face, but could also suggest that the acts of violence aimed at hushing them somehow enjoy the acquiescence of the Government. The Constitutional Court has expressed in this same sense in a recent decision and has emphasized the importance that the authorities and in special Head of State abstain to emit declarations that generate risks for the life of these people.[63]

65. The Commission was also made aware of alleged threats against CCAJAR. In that connection, on February 16, 2004, six days after the statements by then-President of Colombia, Álvaro Uribe Vélez before the Foreign Affairs Committee of the European Parliament, CCAJAR received an email that said the following:

> There are also very clear indications of excessive interest in the José Alvear Lawyers' Collective at top levels and in organizations of the kind mentioned, which have done their

[59] IACHR, 2002 Annual Report, March 7, 2003, par. 57. Available at: http://www.cidh.org/annualrep/2002eng/chap.4.htm#COLOMBIA
[60] IACHR, 2002 Annual Report, March 7, 2003, par. 57. Available at: http://www.cidh.org/annualrep/2002eng/chap.4.htm#COLOMBIA
[61] IACHR, 2004 Annual Report, February 23, 2005, par. 32. Available at: http://www.cidh.org/annualrep/2004eng/chap.4.htm#COLOMBIA
[62] IACHR, 2004 Annual Report, February 23, 2005, par. 37. Available at: http://www.cidh.org/annualrep/2004eng/chap.4.htm#COLOMBIA
[63] IACHR, 2004 Annual Report, February 23, 2005, par. 38. Available at: http://www.cidh.org/annualrep/2004eng/chap.4.htm#COLOMBIA

> utmost, fighting tooth and nail to defend these ne'er-do-wells. ... [S]oon we will be sending you a message which we hope you will all take into account and not underestimate for your own good."[64]

66. In addition, on March 5, 2004, CCAJAR received another email, at the end of which was a list of members of the collective who, according to the email, would have to pay for their wrongs. The email said the following:

> A group of guerrilla sponsors like you ... have taken it upon yourselves to continually challenge and defy the self-defense forces ... that operate in the coffee-growing region. As an armed militant group, the Alvear group has always been quick to spot people to add to its blacklist of scum.[65]

67. The petitioners said that in May 2005 several advertisements were posted in a national daily that were not ordered by the Collective, a leading to the possibility of several vacancies in CCAJAR.[66] The advertisement also invited applications for job interviews.[67] According to the petitioners, such messages where used in Colombia as a threat.[68] The invitations for interviews coincided with the date and time at which meetings were scheduled with victims of very important cases that CCAJAR was involved in at the Collective's offices.[69] The petitioners said that those incidents were part of the orders issued by the DAS as part of its military intelligence work.[70]

68. In its 2005 annual report the Commission also made the following reference to the situation of CCAJAR:

> The Colombian experience shows that irresponsible accusations made against human rights defenders and their organizations are followed by an increase in acts of harassment and threats. ... In 2005, the Commission received information indicating that the threats that members of the *Colectivo de Abogados* had received were on the rise. On May 13, as she was arriving at her home in Bogotá, the President of the Colectivo de Abogados "José Alvear Restrepo," Soraya Gutiérrez Arguello, received a strange package from the guard at the residential complex where she lived. The human rights defender immediately contacted the National Police to have its anti-explosives team examine the contents of the package. When they opened the package, the police found inside a beheaded and dismembered doll; there were burned marks on the doll and it had been stained with red nail polish –to simulate blood. A cross had been drawn on the doll's torso. With the doll was a handwritten note that read: "You have a very attractive family; take good care of it; don't sacrifice it."[71]
>
> CCAJAR reported that on that same day, persons not associated with the organization published classified ads in newspapers with nationwide circulation, intended to threaten the members of the Collective The first classified was seeking attorneys, psychologists, sociologists, other professionals and students as well, with or without experience. Five telephone numbers were provided. According to the human rights defenders, the idea was to give the impression that the organization's current members might be killed, thus creating vacancies that would have to be filled. The second classified was advertising for security guards and instructed interested parties to bring their curriculums to the offices of

[64] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006.
[65] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006.
[66] Petitioners' communication of June 23, 2005.
[67] Petitioners' communication of June 23, 2005.
[68] Petitioners' communication of June 23, 2005.
[69] Petitioners' communication of June 23, 2005.
[70] Petitioners' communication of June 23, 2005.
[71] IACHR, 2005 Annual Report, February 27, 2006, par. 36. Available at: http://www.cidh.org/annualrep/2005eng/chap.4.htm#COLOMBIA

> the organization on May 14, at the very same time that a meeting with relatives of victims of human rights violations was scheduled.[72]

69. With regard to the intelligence activities of the DAS against CCAJAR, which are detailed in a separate section below, the Colombian prosecution service determined that smear tactics were used through the media, pamphlets, flyers, posters, complaints, and hoaxes; "a strategy of sabotage by means of incendiary, explosive terrorism, the blocking of public and technology services, and pressure by means of threats and blackmail."[73] In turn, it said that the DAS devised a "plan to infiltrate the lawyers' collective using personnel such as bodyguards and drivers of those whose personal information is being recorded."[74]

70. From May 2006 to February 2007 CCAJAR received a large number of threatening emails presumed to have been sent by paramilitary groups.[75] One of those emails, dated May 8, 2006, said:

> Dear members of the Alvear Restrepo Collective, This is an invitation for you to join our crusade against terrorism lest each and every one of your members sufferers the full weight of our presence; we have the support of the same Armed Forces of the State that have always backed us in a great display of sovereignty."[76]

71. Another of the emails said, "as for those two-bit lawyers at the collective and other NGOs and ex-guerillas of the Polo party who say that they are going to sue the president, be warned that you will pay for such boldness in blood."[77]

72. In February 2015, CCAJAR members also noticed that their telephones were being tapped.[78] They said that there were communication problems, such as crossed calls or messages on their apps.[79]

73. On March 9, 2015, CCAJAR received a pamphlet signed by the Águilas Negras, Bloque Sur [South Bloc], which said: "[C]ommunist guerrillas, we know where you are, how you operate and where you operate; your days are numbered, your blood will fertilize the soil of the Fatherland. It is time you paid for deceiving the people with your lies and cheap philosophy, you murderers."[80] The message was also sent to the children and partners of those who appeared on the list. The Commission has no further information about the pamphlet's distribution.

C. Threats and harassment against CCAJAR members

74. In the course of the proceeding, the petitioners have provided information about several incidents relating to threats and harassment against 17 CCAJAR members. Below, the Commission summarizes those allegations in relation to each individual.

1. Rafael Barrios Mendivil

[72] IACHR, 2005 Annual Report, February 27, 2006, par. 37. Available at: http://www.cidh.org/annualrep/2005eng/chap.4.htm#COLOMBIA

[73] Prosecution Unit Delegated to the Supreme Court of Justice, Case 12490-7, Indictment against Jorge Noguera Cotes, July 11, 2012. Annex 97 to the petitioners' brief containing observations on merits, December 20, 2013.

[74] Prosecution Unit Delegated to the Supreme Court of Justice, Case 12490-7, Indictment against Jorge Noguera Cotes, July 11, 2012. Annex 97 to the petitioners' brief containing observations on merits, December 20, 2013.

[75] Threatening emails received by CCAJAR and some of its members. Annex 56 to the petitioners' brief containing observations on merits, December 20, 2013.

[76] Communiqué "*Colombia libre por siempre de la izquierda"* [Colombia, forever free of the left], May 8, 2006. Annex 57 to the petitioners' brief containing observations on merits, December 20, 2013.

[77] Threatening emails received by CCAJAR and some of its members. Annex 56 to the petitioners' brief containing observations on merits, December 20, 2013.

[78] Letter to Juan Manuel Santos, February 23, 2015. Annex 1 to the petitioners' communication of March 18, 2015.

[79] Letter to Juan Manuel Santos, February 23, 2015. Annex 1 to the petitioners' communication of March 18, 2015.

[80] Pamphlet of March 2015. Annex 3 to the petitioners' communication of March 18, 2015.

75. Rafael Barrios Mendivil was one of the founding members of CCAJAR.[81] In December 2013 he was a member of the assembly of partners of the Collective.[82]

76. In August 1993 he was followed by vehicles that apparently belonged to the Army.[83] The petitioners said that that year he received repeated death threats because of his work in the cases of the massacres of Caloto and Los Uvos.[84] The threats consisted of telephone calls by unknown persons who threatened to kill him if he continued to work on the investigation into the killing.[85] The petitioners said that in the case of the massacre of Los Uvos, Juan Carlos Córdoba, one of the soldiers who took part in the massacre and testified against his fellow soldiers, retracted himself four months after providing his account, accusing the lawyer Barrios of having offered him money and trips abroad in return for testifying against his superiors.[86] According to the petitioners, as a result of the above and the matter in 1992 of the lawyer Óscar Elías López, who had also worked on Caloto massacre case, in October 1993 Mr. Barrios was forced to leave the country and take refuge in Brussels for six months (see *infra,* par. 154).[87]

77. The petitioners said that on one occasion an unknown man on a black motorcycle appeared at his home to deliver a food order that Mr. Barrios had not requested, owing to the fact that he was in Washington at the time.[88] Subsequently, they said that he received suspicious calls at his home from supposed clients.[89] The Commission does not have any other information about those calls.

78. The petitioners added that on one occasion, Captain Torralvo of the Colombian Navy told Mr. Barrios at the end of a meeting between the military high command and a number of NGOs that "a mutual woman friend of ours asked me to tell you to stop defending so many 'fags.'"[90] They said that around the same time an unknown person on a motorcycle without license plates accosted his 22-year-old son, Juan Pablo Barrios.[91] The Commission does not have any other information about that fact. The petitioners said that those incidents, coming in addition to the murders of other defenders, prompted Mr. Barrios and his son to leave the country again on August 5, 1999 (see *infra*, par. 154)[92]. The petitioners said that the lawyer remained in exile until October 2005.[93]

79. Finally, on May 8, 2006, unknown persons entered the home of Rafael Barrios and stole information relating to his work.[94]

1.2. Luis Guillermo Pérez Casas

80. In December 2013 Luis Guillermo Pérez Casas was a member of the assembly of partners of CCAJAR.[95] The Commission does not have any information about his current position.

[81] Petitioners' brief containing observations on merits, December 20, 2013.
[82] Petitioners' brief containing observations on merits, December 20, 2013.
[83] Amnesty International, "Fear for Safety, COLOMBIA: Dr. Rafael Barrios Mendivil, human rights lawyer," August 1993. Annex 24 to the petitioners' brief containing observations on merits, December 20, 2013.
[84] Amnesty International, "Fear for Safety, COLOMBIA: Dr. Rafael Barrios Mendivil, human rights lawyer," 31 August 1993. Annex 24 to the petitioners' brief containing observations on merits, December 20, 2013.
[85] Amnesty International, "Fear for Safety, COLOMBIA: Dr. Rafael Barrios Mendivil, human rights lawyer," 31 August 1993. Annex 24 to the petitioners' brief containing observations on merits, December 20, 2013; Amnesty International, "Fear for Safety, COLOMBIA: Dr. Rafael Barrios Mendivil, human rights lawyer," 17 March 1994. Annex 25 to the petitioners' brief containing observations on merits, December 20, 2013.
[86] Petitioners' brief containing observations on merits, December 20, 2013.
[87] Urgent action by the International Working Group for CCAJAR, April 1994. Annex 23 to the petitioners' brief containing observations on merits, December 20, 2013.
[88] Petitioners' communication of June 23, 2005.
[89] Petitioners' communication of June 23, 2005.
[90] Petitioners' communication of June 23, 2005.
[91] Petitioners' brief containing observations on merits, December 20, 2013.
[92] Petitioners' brief containing observations on merits, December 20, 2013.
[93] Petitioners' brief containing observations on merits, December 20, 2013.
[94] Office of the public defender to evaluate risk to the civilian population, Risk Report No. 036-06, August 31, 2006. Annex 5 to the petitioners' communication of December 23, 2013.
[95] Petitioners' brief containing observations on merits, December 20, 2013.

81. On October 26, 1994, two unknown men on a motorcycle without license plates followed the lawyer to his office in Bogota and later, his family, to the gate of his son's school.[96] The two men simply vanished when the police were called for assistance.[97] In addition, the lawyer reported that in the week from December 12 to 16, 1994, he and his wife were followed by unknown men in a car and on a red motorcycle, whose license plates were reported to the DAS.[98]

82. The petitioners said that prior to those events, in 1994 the lawyer and his partner Katia Karina Niño, where the targets of death threats, harassment, and intimidation.[99] The Commission does not have any other information about those incidents. According to the petitioners, as a result of that situation, they both had to move to the city of Ibagué with their son, Camilo.[100] (See *infra*, par. 152). In that city, there appeared on the outer wall of the building where they lived a graffito that said: "Look out for the little monkey" (*cuiden al monito*), an allusion to Camilo, whom they called that for his light brown hair.[101] The petitioners said that as a result of that message, the Pérez family decided to leave the country in the first few months of 1995.[102] The petitioners said that the couple's daughter, Katia Karina de la Libertad, was only two weeks old at the time.[103] The lawyer returned to Colombia in January 1999.[104] The lawyer said in a statement that on the very day of his return to the country an invitation to his funeral was found at the door of his mother's apartment.[105]

83. The petitioner said that in April 1998 the lawyer Pérez received a telephone call in which the life of his son, Camilo, was threatened.[106] They said that in April 2001 the lawyer noticed unknown men driving in a vehicle with fake license plates in the vicinity of his home.[107] They added that in June of that year, Pérez Casas, went to the headquarters of the 13th Military Battalion in Bogota for an interview with Lieutenant Colonel Hernán Oroz Castro, who had informed his superior about the occurrence of the Mapiripán massacre.[108] The petitioners said that on that occasion, the tires of the lawyer's car were punctured.[109] They also said that Army Major López, the prison warden, ordered Pérez Casas to leave the premises, after which several members of the security forces detained there protested for the lawyer's return.[110]

84. The petitioners said that owing to the above events, which occurred in 2001, the lawyer Pérez Casas, had to go into exile for a second time (see *infra*, par. 153).[111] The Commission does not have information on date that the lawyer returned to Colombia.

85. On February 12, 2015, at which time he was president of CCAJAR, he was followed by unknown persons in the city of Villavicencio.[112] While in that city, Mr. Perez met in a public place with relatives of victims of the Mapiripán massacre.[113]

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[96] Amnesty International, *Fear for Safety*, October 27, 1994. Annex 26 to the petitioners' brief containing observations on merits, December 20, 2013.
[97] Amnesty International, *Fear for Safety*, October 27, 1994. Annex 26 to the petitioners' brief containing observations on merits, December 20, 2013.
[98] Amnesty International, *Fear for Safety*, December 20, 1994. Annex 27 to the petitioners' brief containing observations on merits, December 20, 2013.
[99] Petitioners' brief containing observations on merits, December 20, 2013.
[100] Petitioners' brief containing observations on merits, December 20, 2013.
[101] Amnesty International, Fear for Safety, 14 February 1995. Annex 30 to the petitioners' brief containing observations on merits, December 20, 2013.
[102] Amnesty International, Fear for Safety, 3 March 1995. Annex 31 to the petitioners' brief containing observations on merits, December 20, 2013.
[103] Petitioners' brief containing observations on merits, December 20, 2013.
[104] Curricula vitae, biographical profiles, and personal data of CCAJAR members. Annex 69 to the petitioners' brief containing observations on merits, December 20, 2013.
[105] Office of the Attorney General, Case UNDH 912, Statement of the lawyer Luis Guillermo Pérez Casas, June 26, 2001. Annex 44 to the petitioners' brief containing observations on merits, December 20, 2013.
[106] Petitioners' brief containing observations on merits, December 20, 2013.
[107] Petitioners' brief containing observations on merits, December 20, 2013.
[108] Petitioners' brief containing observations on merits, December 20, 2013.
[109] Petitioners' brief containing observations on merits, December 20, 2013.
[110] Petitioners' brief containing observations on merits, December 20, 2013.
[111] Petitioners' brief containing observations on merits, December 20, 2013.
[112] Letter to Juan Manuel Santos, February 23, 2015. Annex 1 to the petitioners' communication of March 18, 2015.
[113] Letter to Juan Manuel Santos, February 23, 2015. Annex 1 to the petitioners' communication of March 18, 2015.

1.3. Alirio Uribe Muñoz

86. Alirio Uribe Muñoz was a CCAJAR lawyer.[114] Subsequently he was elected as a representative for Bogotá to the Congress of the Republic of Colombia for the Polo Democrático Alternativo party.[115] On several occasions he (i) was followed by unknown men on motorcycles without license plates and (ii) received anonymous threatening telephone calls to his home.[116] The petitioners also said that anonymous calls were made to the old office where he had worked as a lawyer several years earlier asking for information about his house.[117] They said that in December 1999 he received a telephone call from someone saying that they were looking for him to "give him a present."[118] The petitioners also said that when he picked up the telephone at his house he would hear sounds of a radio switchboard and that sometimes he was even answered by the police.[119] They added that on another occasion, he sent a fax to the university where he lectured and shortly afterwards he received a call from an office in the Ministry of Defense asking whom the fax had been addressed to.[120]

87. On August 17, 1999, a pamphlet signed by the "Colombian Rebel Army" [*Ejército Rebelde Colombiano*] was publicly distributed at different points in the cities of Bogotá and Cúcuta, mentioning 21 people as so-called enemies of the peace in Colombia and saying that they would pay for the destruction of the peace process.[121] Alirio Uribe's name was on that list.[122] The pamphlet was also published in regional newspapers, including the daily Vanguardia Liberal.[123] The petitioners also said that at the University where Alirio Uribe lectured, pamphlets appeared that made threats against CCAJAR members.[124] The Commission does not have any other information about the latter pamphlets.

88. In a search of the home of former army serviceman Evangelista Basto Bernal as part of the investigation into the attack on the trade unionist Wilson Borja, the authorities discovered a scanned color photograph of Uribe Muñoz with information about his house and office.[125] The Commission does not have any other information about that search.

89. Toward the end of 1999 the United Workers Union (*Central Unitaria de Trabajadores* – CUT) denounced a plan to assassinate several trade union leaders, members of Congress, and human rights defenders.[126] Mr. Uribe's name was on the list.[127]

90. On May 5, 2000, another pamphlet appeared, announcing a paramilitary offensive in the city of Bogotá and that a number of people would be executed, showing the same list as the one that appeared on the

[114] Petitioners' brief containing observations on merits, December 20, 2013.
[115] Petitioners' communication of March 20, 2015.
[116] Office of the Attorney General, Case UNDH 912, Abstention decision September 12, 2006. Annex 36 to the petitioners' brief containing observations on merits, December 20, 2013.
[117] Petitioners' communication of June 23, 2005.
[118] Petitioners' communication of June 23, 2005.
[119] Petitioners' communication of June 23, 2005.
[120] Petitioners' communication of June 23, 2005.
[121] Copy of the pamphlet signed by the "Colombian Rebel Army" (*Ejército Rebelde Colombiano*). Annex 37 to the petitioners' brief containing observations on merits, December 20, 2013.
[122] Copy of the pamphlet signed by the "Colombian Rebel Army" (*Ejército Rebelde Colombiano*). Annex 37 to the petitioners' brief containing observations on merits, December 20, 2013.
[123] Office of the Attorney General, Case UNDH 590, Abstention decision of October 4, 2002. Annex 91 to the petitioners' brief containing observations on merits, December 20, 2013.
[124] Petitioners' communication of June 23, 2005.
[125] Office of the Attorney General, Case UNDH 912, Abstention decision of September 12, 2006. Annex 36 to the petitioners' brief containing observations on merits, December 20, 2013; Urgent action, CCAJAR and others, April 5, 2001. Annex 43 36 [Tr: *sic*] to the petitioners' brief containing observations on merits, December 20, 2013.
[126] Copy of the document sent to the headquarters of the CUT. Annex 38 to the petitioners' brief containing observations on merits, December 20, 2013.
[127] Copy of the document sent to the headquarters of the CUT. Annex 38 to the petitioners' brief containing observations on merits, December 20, 2013.

document previously received by the CUT.[128] On September 6 that year, a pamphlet entitled "Warning, the Coup Is Coming" [*Alerta, el golpe se viene*] was distributed, signed by the "Revolutionary Intelligence Union" [*Central de Inteligencia Revolucionaria*], which included Alirio Uribe on a list of individuals who were to be murdered over the ensuing months.[129] The Commission has no further information about the pamphlet's distribution.

91. On May 4, 2001, Henry Cubillos (a witness to the murder of the trade unionist César Chaparro) appeared at the CCAJAR offices to say that he had information about a plan of the self-defense forces of Cundinamarca.[130] The petitioners said that Mr. Cubillos the objective of the plan was to assassinate Alirio Uribe Muñoz, Maret Cecilia García, and Luis Guillermo Pérez Casas.[131] The reason was that those individuals were involved in the case of the murder of the aforementioned trade unionist.[132]

1.4. Miguel Puerto Barrera

92. Miguel Puerto Barrera was a member of the assembly of partners of CCAJAR until February 15, 2001.[133] The petitioners said that on July 12, 2000, two unidentified men approached the housing complex where he lived and asked for him with the security, referring to the precise apartment where Mr. Puerto Barrera lived.[134] They said that the unknown men asked the security guard what time the lawyer usually arrived.[135] They said that the unknown men waited for him for two hours, then left.[136]

93. On August 4, 2000, the Colombian Government reported that the Ministry of the Interior agreed with the decision of Mr. Puerto Barrera to leave the country because of what has happened (see *infra*, par. 155).[137] The Commission does not have additional information as to the exact date that the lawyer left the country or when he may have returned.

1.5. Soraya Gutiérrez Argüello

94. In December 2013 Soraya Gutiérrez was a member of the CCAJAR assembly of partners.[138]

95. On February 14, 2001, Mrs. Gutiérrez was intercepted by a car carrying four unknown persons.[139] Three of them got out of the car holding submachine guns and approached Mrs. Gutiérrez' car, who pressed her car's accelerator and managed to escape.[140] The petitioners said that at the time of the incident Mrs. Gutiérrez was working in the proceeding known as the "Sarna Massacre."[141]

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[128] Office of the Attorney General, Case UNDH 912, Abstention decision September 12, 2006. Annex 36 to the petitioners' brief containing observations on merits, December 20, 2013.
[129] Copy of the pamphlet signed "*Central de Inteligencia Revolucionaria.*" Annex 39 to the petitioners' brief containing observations on merits, December 20, 2013.
[130] Office of the Attorney General, Case UNDH 912, Statement of Henry Cubillos Garzón, July 30, 2001. Annex 40 to the petitioners' brief containing observations on merits, December 20, 2013.
[131] Office of the Attorney General, Case UNDH 912, Statement of Henry Cubillos Garzón, July 30, 2001. Annex 40 to the petitioners' brief containing observations on merits, December 20, 2013; Office of the Attorney General, Case UNDH 912, Statement of the lawyer Maret Cecilia García, May 21, 2001. Annex 41 to the petitioners' brief containing observations on merits, December 20, 2013; Report of the Special Rapporteur on the independence of judges and lawyers, February 11, 2002. Annex 42 to the petitioners' brief containing observations on merits, December 20, 2013.
[132] Petitioners' communication of June 23, 2005.
[133] Petitioners' brief containing observations on merits, December 20, 2013.
[134] Petitioners' communication of June 23, 2005.
[135] Petitioners' communication of June 23, 2005.
[136] Petitioners' communication of June 23, 2005.
[137] Petitioners' communication of June 23, 2005.
[138] Petitioners' brief containing observations on merits, December 20, 2013.
[139] Curricula vitae, biographical profiles, and personal data of CCAJAR members. Annex 69 to the petitioners' brief containing observations on merits, December 20, 2013.
[140] Curricula vitae, biographical profiles, and personal data of CCAJAR members. Annex 69 to the petitioners' brief containing observations on merits, December 20, 2013.
[141] Petitioners' communication of June 23, 2005.

96. Soraya Gutiérrez was also the victim of several acts of harassment. In particular, those acts included (i) multiple telephone calls from unknown persons asking about her location;[142] (ii) her domestic servant being followed by an unknown taxi when she went to collect her daughter from school;[143] (iii) the arrival of an unknown man at her house asking for information about her address, saying that he worked for a company whose services Mrs. Gutiérrez had never hired.[144]

97. On May 13, 2005, while she was president of CCAJAR, a package was delivered to her residence containing a headless, dismembered doll painted red, with a crucifix drawn on the torso.[145] The doll had a message that said: "You have a very attractive family; take good care of it; don't sacrifice it."[146]

98. As a result of those incidents, the lawyer and her daughter, Paula Romero Gutiérrez, twice had to leave their house and live somewhere else for a time.[147] The first time that she was forced to leave her house, she did so for a period of eight months (see *infra*, par. 151).[148] The Commission has no information regarding the exact date of the incident. The petitioners said that when the lawyer went back to her house to collect some personal effects she was followed and photographed.[149] The Commission notes that the DAS carried out those surveillance activities, which continued even while she was staying with relatives in the municipality of Sogamoso, the place of her birth.[150] The petitioners said that in light of the foregoing, the lawyer decided to travel temporarily to Europe with her family (see *infra*, par. 151).[151] The Commission does not have additional information regarding the dates connected with that event or about the members of her family who accompanied her.

99. On February 6, 2015, in the context of a hearing in the trial of the Army intelligence agent Fredy Espitia Espinosa for the murder of the trade union leader Jorge Darío Hoyos Franco, Mr. Espitia verbally attacked Mrs. Gutiérrez.[152] Mrs. Gutiérrez was representing the victims as their lawyer.[153]

1.6. Reinaldo Villalba Vargas

100. In December 2013 Reinaldo Villalba Vagas was a member of the CCAJAR assembly of partners.[154]

101. On February 28, 1996, he received a *sufragio* (message of condolence) from the COLSINGUE Group (an acronym that stands for *Colombia sin Guerrilla* [Colombia without Guerrillas]).[155] It express condolences for the soul of Mrs. Margarita Arregocés.[156] The petitioners explained that such messages of condolences for the death of a loved one are often used in Colombia as a way of issuing a death threat to the recipient.[157]

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[142] Statements of CCAJAR lawyers in an investigation conducted by the Prosecution Unit Delegated to the Supreme Court of Justice. Annex 77 to the petitioners' brief containing observations on merits, December 20, 2013.
[143] Statements of CCAJAR lawyers in an investigation conducted by the Prosecution Unit Delegated to the Supreme Court of Justice. Annex 77 to the petitioners' brief containing observations on merits, December 20, 2013.
[144] Statements of CCAJAR lawyers in an investigation conducted by the Prosecution Unit Delegated to the Supreme Court of Justice. Annex 77 to the petitioners' brief containing observations on merits, December 20, 2013.
[145] Actions taken against CCAJAR and its members. Annex 76 to the petitioners' brief containing observations on merits, December 20, 2013.
[146] Actions taken against CCAJAR and its members. Annex 76 to the petitioners' brief containing observations on merits, December 20, 2013.
[147] Petitioners' brief containing observations on merits, December 20, 2013.
[148] Statements of CCAJAR lawyers in an investigation conducted by the Prosecution Unit Delegated to the Supreme Court of Justice. Annex 77 to the petitioners' brief containing observations on merits, December 20, 2013.
[149] Petitioners' brief containing observations on merits, December 20, 2013.
[150] Surveillance of CCAJAR members and their families. Annex 73 to the petitioners' brief containing observations on merits, December 20, 2013; Actions against CCAJAR and its members. Annex 76 to the petitioners' brief containing observations on merits, December 20, 2013.

[152] Letter to Juan Manuel Santos, February 23, 2015. Annex 1 to the petitioners' communication of March 18, 2015.
[153] Letter to Juan Manuel Santos, February 23, 2015. Annex 1 to the petitioners' communication of March 18, 2015.
[154] Petitioners' brief containing observations on merits, December 20, 2013.
[155] Urgent Action for CCAJAR, Bogotá, February 28, 1996. Annex 32 to the petitioners' brief containing observations on merits, December 20, 2013.
[156] Margarita Arregocés is a teacher accused of being a guerrilla collaborator whom the lawyer was defending in a criminal proceeding.
[157] Petitioners' brief containing observations on merits, December 20, 2013.

102. The petitioners said that on March 13, 1997, he was arbitrarily detained by the police (allegedly while in the act of committing a crime) because of his efforts to provide legal assistance to a group of students who had been detained after taking part in a rally to stop the closure of night schools in Bogota.[158] Villalba was taken to the cells of the XVIIth Precinct in Candelaria, Bogotá, and turned over to the 85th Municipal Criminal Court where he was charged with causing damage to another person's property.[159] He was given a preliminary hearing and then released after the court found that pretrial detention was not warranted.[160] The court eventually decided that the evidence was insufficient to support the charge of flagrancy and ordered the investigation dismissed.[161] The Unit for Human Rights and International Humanitarian Law of the Office of the Attorney General referred to that incident in a resolution dated September 12, 2006, as an "arbitrary detention."[162]

103. On March 3, 2001, the trade union leader Jorge Darío Hoyos was murdered. A week before he was killed he had said that he and other persons, including Mr. Villalba, were "on a list of people to be executed by military groups on behalf of the State."[163]

104. The petitioners said that between March and July 2004 Mr. Villalba and his wife were victims of surveillance, received suspicious calls at their home, and were photographed by unidentified persons.[164]

105. On February 17, 2015, while working in the city of Neiva, Mr. Villalba was followed to a restaurant and photographed.[165] One of the people who followed him was identified as Ronald Cedeño, an assistant superintendent in the Judicial and Criminal Investigation Police (SIJIN).[166] The assistant superintendent said that he had been there because the establishment's management had called to say that there were suspicious persons on the premises.[167] The petitioners said that when they contacted the establishment's head of security, he denied having called the SIJIN.[168]

106. On February 18, Mr. Villalba was photographed by a young man unknown to him as he was walking from the CCAJAR offices.[169]

1.7. Diana Milena Murcia Riaño

107. Diana Murcia Riaño was a member of the assembly of partners of CCAJAR until June 26, 2008.[170]

108. The petitioners said that on one occasion the lawyer sent a personal message from her email account to friends,[171] attaching a page from El Tiempo newspaper in which there appeared a parody of the coat of arms of Colombia during the administration of President Álvaro Uribe Vélez.[172]

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158 Petitioners' brief containing observations on merits, December 20, 2013.
159 Eighty-fifth Municipal Criminal Court in and for Bogotá. Decision to dismiss the investigation in favor of Reinaldo Villalba et al. for the crime of damage to property, September 17, 1997. Annex 33 to the petitioners' brief containing observations on merits, December 20, 2013.
160 Eighty-fifth Municipal Criminal Court in and for Bogotá. Decision to dismiss the investigation in favor of Reinaldo Villalba et al. for the crime of damage to property, September 17, 1997. Annex 33 to the petitioners' brief containing observations on merits, December 20, 2013.
161 Eighty-fifth Municipal Criminal Court in and for Bogotá. Decision to dismiss the investigation in favor of Reinaldo Villalba et al. for the crime of damage to property, September 17, 1997. Annex 33 to the petitioners' brief containing observations on merits, December 20, 2013.
162 Office of the Attorney General, Case UNDH 912, Abstention decision September 12, 2006. Annex 36 to the petitioners' brief containing observations on merits, December 20, 2013.
163 Urgent Action, CCAJAR and others, April 5, 2001. Annex 43 to the petitioners' brief containing observations on merits, December 20, 2013.
164 Petitioners' brief containing observations on merits, December 20, 2013.
165 Letter to Juan Manuel Santos, February 23, 2015. Annex 1 to the petitioners' communication of March 18, 2015.
166 Letter to Juan Manuel Santos, February 23, 2015. Annex 1 to the petitioners' communication of March 18, 2015.
167 Letter to Juan Manuel Santos, February 23, 2015. Annex 1 to the petitioners' communication of March 18, 2015.
168 Letter to Juan Manuel Santos, February 23, 2015. Annex 1 to the petitioners' communication of March 18, 2015.
169 Letter to Juan Manuel Santos, February 23, 2015. Annex 1 to the petitioners' communication of March 18, 2015.
170 Petitioners' brief containing observations on merits, December 20, 2013.
171 Petitioners' brief containing observations on merits, December 20, 2013.

109. In response, on November 14, 2002, Ms. Murcia received an anonymous email in which she was warned "to watch [her] words."[173] The email also said that as "a measure of redress" she should distribute a document from the website of the United Self-Defense Forces of Colombia.[174] At that time Ms. Murcia was in charge of follow-up on implementation of the so-called "Plan Colombia."[175]

1.8. Diana Teresa Sierra Gómez

110. Diana Teresa Sierra Gómez was a CCAJAR lawyer.[176]

111. On October 24, 2003, Ms. Gomez was photographed and filmed in the vicinity of the CCAJAR offices by an unknown man and an unknown woman.[177] The Commission does not have any other information about that fact.

112. On June 28, 2004, while she was working in the city of Armenia, she was photographed at the entrance to the departure lounge in the city's airport by an unidentified man.[178]

113. The petitioners also alleged that on September 2, 2004, Ms. Sierra was prevented from participating in the Assembly of States Parties to the ICC.[179] That was because CCAJAR learned that the DAS was organizing an operation against her.[180] They said that her emails were hacked and that her work with the ICC in coordination with the International Federation for Human Rights (FIDH) was being monitored.[181]

114. The Commission was also informed about the existence of an operation code-named "Filtración,"[182] in which DAS agents called an airline with which Ms. Sierra was intending to travel in order to inquire about the lawyer's itinerary, and they subsequently followed up on the complaint made by CCAJAR in that regard.[183] The disciplinary complaint lodged in relation to those events was set aside with the argument that the lawyer failed to provide information about the source of the information received regarding the operation against her.[184]

1.9. Efraín Cruz Gutiérrez

115. In December 2013, Efraín Cruz Gutiérrez was working as a legal assistant in CCAJAR's international area.[185]

116. The petitioners said that on October 1, 2004, he was followed by suspicious persons in a pickup truck from the local prosecutors' offices to the Collective's offices.[186] The petitioners said that inquiries were made

[172] Office of the Attorney General, Case UNDH 1577, Abstention decision of July 28, 2006. Annex 92 to the petitioners' brief containing observations on merits, December 20, 2013.
[173] E-mail received by Diana Milena Murcia dated November 14, 2002. Annex 47 to the petitioners' brief containing observations on merits, December 20, 2013; Office of the Attorney General, Case UNDH 1577, Abstention decision of July 28, 2006. Annex 92 to the petitioners' brief containing observations on merits, December 20, 2013.
[174] E-mail received by Diana Milena Murcia dated November 14, 2002. Annex 47 to the petitioners' brief containing observations on merits, December 20, 2013; Office of the Attorney General, Case UNDH 1577, Abstention decision of July 28, 2006. Annex 92 to the petitioners' brief containing observations on merits, December 20, 2013.
[175] Petitioners' brief containing observations on merits, December 20, 2013.
[176] Petitioners' brief containing observations on merits, December 20, 2013.
[177] Annex 6 to the petitioners' communication of March 18, 2015.
[178] Annex 6 to the petitioners' communication of March 18, 2015.
[179] Annex 6 to the petitioners' communication of March 18, 2015.
[180] Annex 6 to the petitioners' communication of March 18, 2015.
[181] Petitioners' communication of March 18, 2015.
[182] Monitoring activities on domestic and international travel by CCAJAR members. Annex 79 to the petitioners' brief containing observations on merits, December 20, 2013.
[183] Annex 6 to the petitioners' communication of March 18, 2015.
[184] Petitioners' communication of March 18, 2015.
[185] Petitioners' brief containing observations on merits, December 20, 2013.
[186] Petitioners' brief containing observations on merits, December 20, 2013.

and it was found that the vehicle's license plate corresponded to an official entity attached to the municipality of Ubaté.[187] Mr. Cruz also had a computer stolen that contained work-related information.[188]

1.10. Javier Alejandro Acevedo

117. Javier Alejandro Acevedo was a CCAJAR lawyer.[189]

118. On November 19, 2002, Mr. Acevedo was followed by unidentified individuals.[190] They were traveling on a motorcycle without a license plate and in a blue pickup truck with the license plate OTC 844.[191] The incident occurred while the lawyer was on his way to the National University in Bogotá.[192] A man and woman were traveling in the pickup truck, which followed him all the way to the University.[193] The man driving the vehicle got out and stayed at a newspaper kiosk until Azevedo left the University.[194]

1.11. Adriana Cuéllar Ramírez

119. In December 2013 Adriana Cuéllar was working as a CCAJAR journalist.[195] The Commission does not have any information about his current position.

120. On November 24, 2003, the journalist received three messages containing death threats on her telephone.[196] The next day, November 25, 2003, unknown persons entered her home and stole documents that belonged to her.[197]

1.12. María del Pilar Silva Garay

121. In December 2013 María del Pilar Silva Garay was a member of the assembly of partners of CCAJAR.[198] The Commission does not have any information about her current position.

122. In late December 2014, Ms. Silva received several telephone calls from an unknown man asking about an alleged case that CCAJAR was pursuing.[199] After she agreed to assist him, the man insulted her and said that he was going to kill her.[200]

1.13. Jomary Ortegón

123. In December 2013 Jomary Ortegón was a member of the CCAJAR assembly of partners.[201] The Commission does not have any information about his current position.

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[187] Petitioners' brief containing observations on merits, December 20, 2013.
[188] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006.
[189] Petitioners' brief containing observations on merits, December 20, 2013.
[190] Office of the Attorney General, Case UNDH 1577, Abstention decision of July 28, 2006. Annex 92 to the petitioners' brief containing observations on merits, December 20, 2013.
[191] Office of the Attorney General, Case UNDH 1577, Abstention decision of July 28, 2006. Annex 92 to the petitioners' brief containing observations on merits, December 20, 2013.
[192] Office of the Attorney General, Case UNDH 1577, Abstention decision of July 28, 2006. Annex 92 to the petitioners' brief containing observations on merits, December 20, 2013.
[193] Office of the Attorney General, Case UNDH 1577, Abstention decision of July 28, 2006. Annex 92 to the petitioners' brief containing observations on merits, December 20, 2013.
[194] Office of the Attorney General, Case UNDH 1577, Abstention decision of July 28, 2006. Annex 92 to the petitioners' brief containing observations on merits, December 20, 2013.
[195] Petitioners' brief containing observations on merits, December 20, 2013.
[196] Pages relating to the journalist Adriana Cuéllar. Annex 75 to the petitioners' brief containing observations on merits, December 20, 2013.
[197] Pages relating to the journalist Adriana Cuéllar. Annex 75 to the petitioners' brief containing observations on merits, December 20, 2013.
[198] Petitioners' brief containing observations on merits, December 20, 2013.
[199] Letter to Juan Manuel Santos, February 23, 2015. Annex 1 to the petitioners' communication of March 18, 2015.
[200] Letter to Juan Manuel Santos, February 23, 2015. Annex 1 to the petitioners' communication of March 18, 2015.
[201] Petitioners' brief containing observations on merits, December 20, 2013.

124. The petitioners said that in 2006 and 2007 Jomary Ortegón reported that she had received intimidating telephone calls and been followed in the city of Valledupar while she had been working on different proceedings against members of the State's security forces.[202]

125. In 2004, there was a burglary at the lawyer's home in which the only thing taken was her computer's CPU.[203]

1.14. Dora Lucy Arias Giraldo

126. The Commission notes that through the military intelligence activities of Operation Transmilenio (see above, par. 124), biographical records were drawn up on CCAJAR members and employees.[204] In the case of the lawyer Dora Arias, the DAS constructed an entire curriculum vitae complete with personal and financial information.[205] The DAS also obtained a copy of the passport and civil records of Ms. Arias' minor son.[206]

127. In addition, the petitioners alleged that in October 2002 Ms. Arias was standing at the entrance to the military base in Tolemaida, waiting to go into the military tribunal to check the records for a case on which she was working.[207] They said that a soldier started filming her without her permission and told her that "the filming is a routine thing and also we have information that people like you are seeking to gain access to the base for terrorist purposes."[208]

1.15. Eduardo Carreño Wilches

128. The Commission notes that as part of the military intelligence activities under Operation Transmilenio (see *supra*, par. 124), biographical records were drawn up for CCAJAR members and employees.[209] In the case of the lawyer Eduardo Carreño, the DAS constructed an entire curriculum vitae complete with personal and financial information.[210] In addition, undated pamphlets prepared by the DAS identified Mr. Carreño as a member of CCAJAR and mentioned the work that he did, as well as his trips abroad.[211] They said that Mr. Carreño was an "accomplice ... of the terrorists of the FARC and ELN. He uses judicial trickery to get ... cold-blooded murderers out of jail so they can continue their grim work.[212]

1.16. Olga Hernández Villalba

129. The Commission notes that through the military intelligence activities of Operation Transmilenio (see above, par. 124), biographical records were drawn up for CCAJAR members and employees.[213] In the case of

[202] Statements of CCAJAR lawyers in an investigation conducted by the Prosecution Unit Delegated to the Supreme Court of Justice. Annex 77 to the petitioners' brief containing observations on merits, December 20, 2013.
[203] Statements of CCAJAR lawyers in an investigation conducted by the Prosecution Unit Delegated to the Supreme Court of Justice. Annex 77 to the petitioners' brief containing observations on merits, December 20, 2013.
[204] Curricula vitae, biographical profiles, and personal data of CCAJAR members. Annex 69 to the petitioners' brief containing observations on merits, December 20, 2013.
[205] Curricula vitae, biographical profiles, and personal data of CCAJAR members. Annex 69 to the petitioners' brief containing observations on merits, December 20, 2013. Financial information gathered by G-3 on the members of CCAJAR and their families. Annex 71 to the petitioners' brief containing observations on merits, December 20, 2013.
[206] Surveillance of members of CCAJAR and their families, section on minors. Annex 73 to the petitioners' brief containing observations on merits, December 20, 2013.
[207] Petitioners' communication of November 25, 2002. Record on precautionary measures.
[208] Petitioners' communication of November 25, 2002. Record on precautionary measures.
[209] Curricula vitae, biographical profiles, and personal data of CCAJAR members. Annex 69 to the petitioners' brief containing observations on merits, December 20, 2013.
[210] Curricula vitae, biographical profiles, and personal data of CCAJAR members. Annex 69 to the petitioners' brief containing observations on merits, December 20, 2013. Financial information gathered by G-3 on the members of CCAJAR and their families. Annex 71 to the petitioners' brief containing observations on merits, December 20, 2013.
[211] DAS pamphlet. Annex 4 to the petitioners' communication of March 18, 2015.
[212] DAS pamphlet. Annex 4 to the petitioners' communication of March 18, 2015.
[213] Curricula vitae, biographical profiles, and personal data of CCAJAR members. Annex 69 to the petitioners' brief containing observations on merits, December 20, 2013.

Olga Hernández, those records were prepared with the aim of obtaining basic personal information to pave the way for other types of intelligence activities.[214]

1.17. Martha Eugenia Rodríguez

130. According to intelligence reports prepared by DAS personnel (see *supra*, par. 126), the source and management of financial income, credit operations, and other financial information were verified for several CCAJAR members.[215] The Commission notes that a record was constructed of the financial information of Martha Eugenia Rodríguez, the CCAJAR auditor.[216]

2. Military intelligence activities to the detriment of CCAJAR members in addition to some of those mentioned in the previous section

2.1. Creation of the DAS, operations in 2004 and 2005, and surveillance of CCAJAR members

131. The Administrative Department of Security (DAS) was created by Decree 1717 of July 18, 1960, as a body that reported to the Office of the President of the Republic. Its forerunner was the Administrative Department of the Colombian Intelligence Service (SIC).[217] Regulations governing its internal organization and functions were issued in Decrees 625 of 1974, 512 of 1989, 2110 of 1992, 218 of 2000, 1272 of 2000, and 693 of 2004.[218]

132. Article 1 of Decree 693 of 2004 defined the objective of the DAS as follows: "The primary purpose of the Administrative Department of Security is to formulate and adopt policies, general plans, programs, and projects for the Administrative Sector. In pursuit of its purpose the Administrative Department of Security shall produce the intelligence required by the State, as a government instrument for decision making and policy formulation in relation to the internal and external security of the State, in accordance with the law and the Political Constitution of Colombia."[219]

133. In this case the Commission finds that the petitioners alleged that the Colombian State, through the DAS and other agencies, conducted a military intelligence operation against members of CCAJAR.[220] That was done in order to monitor their activities, obstruct the legal work of the Collective, and threaten and instill fear in its members.[221] The Commission notes that information in relation to this point is contained in the following documents: (i) resolutions of the Office of the Attorney General; (ii) statements by former DAS personnel in the context of investigations carried out in relation to the facts; (iii) minutes of meetings and work reports prepared by the G-3 group of the DAS; (iv) reports on investigations carried out by media organizations; and (v) statements by members of CCAJAR.

134. In 2004 the Director of the DAS was Jorge Noguera Cotes and its Deputy Director was José Miguel Narváez.[222] That year the first group was set up to engage in intelligence activities against human rights defenders' organizations, critical and investigative journalists, and leaders of opposition political parties

[214] Curricula vitae, biographical profiles, and personal data of CCAJAR members. Annex 69 to the petitioners' brief containing observations on merits, December 20, 2013.
[215] Financial information gathered by G-3 on CCAJAR members and their families. Annex 71 to the petitioners' brief containing observations on merits, December 20, 2013.
[216] Financial information gathered by G-3 on CCAJAR members and their families. Annex 71 to the petitioners' brief containing observations on merits, December 20, 2013.
[217] Petitioners' brief containing observations on merits, December 20, 2013.
[218] Petitioners' brief containing observations on merits, December 20, 2013.
[219] Petitioners' brief containing observations on merits, December 20, 2013.
[220] *FIDH Colombia: Actividades ilegales del DAS, Desprestigiar, Aniquilar, Sabotear* (FIDH Colombia: DAS Illegal Activities, Discredit, Annihilate, Sabotage), No. 549, May 10, 2010. Annex 59 to the petitioners' brief containing observations on merits, December 20, 2013.
[221] *FIDH Colombia: Actividades ilegales del DAS, Desprestigiar, Aniquilar, Sabotear*, No. 549, May 10, 2010. Annex 59 to the petitioners' brief containing observations on merits, December 20, 2013.
[222] Available at: http://www.semana.com/nacion/articulo/el-espionaje-peor/102429-3. Enclosed with the petitioners' communication of September 8, 2009; Office of the Attorney General, Case 12490-02. Statement of José Miguel Narváez of June 5, 2009. Annex 62 to the petitioners' brief containing observations on merits, December 20, 2013.

considered threats to the government.[223] The group was christened the G-3 Special Strategic Intelligence Group and its coordinator was Fernando Ovalle Olaz.[224]

135. According to DAS documents dated October 26, 2005, one of the activities that G-3 was supposed to carry out was monitoring organizations and people opposed to government policies.[225] The purpose of that was to "restrict or neutralize their activities."[226]

136. The petitioners said that the group had the following objectives: (i) engaging in strategic intelligence activities and identification of risks and threats to the government and national security; (ii) neutralization or restriction of activities by persons and/or organizations with opposition leanings; (iii) engaging in offensive intelligence measures and psychological warfare; (iv) prosecution of select persons.[227] The Office of the Attorney General said the following with regard to the purpose of G-3:

> In that group ... objectives or targets were continually selected whose common denominator was that they were opposed to the national government, and all manner of criminal acts were carried out against them, including illegal surveillance and eavesdropping on telephones, mobile telephones, and e-mails, with the specific aim of knowing their movements and alerting the national government to them, as well as designing strategies to weaken and intimidate anyone who adhered to a different ideology or convictions.[228]

137. The Commission notes that CCAJAR was selected as an action "target" by G-3.[229] The G-3 coordinator, Jaime Fernando Ovalle Olaz, indicated as much, when he made the following statement:

> QUESTION: Who chose human rights organizations as a target of G3? ANSWER: They were originally selected by Dr. Narváez, whose priority was the José Alvear Restrepo Lawyers' Collective and the Colombian Commission of Jurists, among others. Later he passed on various books and leaflets on NGOs on which we were together intelligence.[230]

138. The Commission also has information that G-3 used confidential information supplied to it by the Interior Ministry's Protection Program for Human Rights Defenders.[231] That was done in order to carry out so-called *Operación Transmilenio* against CCAJAR.[232] According to reports by the Technical Investigation Corps (CTI) of the Office of the Attorney General, the overarching aim of the operation was to "neutralize the destabilizing activities of NGOs in Colombia and the world; the specific objective, to investigate links to narco-terrorist organizations with a view to their prosecution."[233]

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[223] Office of the Attorney General, Case 12490-2. Statement of Carlos Alberto Arzayuz Guerrero, June 8, 2009. Annex 11 to the petitioners' brief containing observations on merits, December 20, 2013.
[224] Available at: http://www.semana.com/nacion/articulo/el-espionaje-peor/102429-3. Enclosed with the petitioners' communication of September 8, 2009; Office of the Attorney General, Special assignment 12495, Indictment against José Miguel Narváez et al. Annex 60 to the petitioners' brief containing observations on merits, December 20, 2013.
[225] Actions taken against CCAJAR and its members. Annex 76 to the petitioners' brief containing observations on merits, December 20, 2013.
[226] Actions taken against CCAJAR and its members. Annex 76 to the petitioners' brief containing observations on merits, December 20, 2013.
[227] Information presented at a public hearing on November 5, 2009, held in the framework of the 137th regular session of the IACHR.
[228] Office of the Attorney General, Special assignment 12495, Indictment against José Miguel Narváez Martínez et al. Annex 60 to the petitioners' brief containing observations on merits, December 20, 2013.
[229] Office of the Attorney General, Special assignment 12495, Indictment against José Miguel Narváez Martínez et al. Annex 60 to the petitioners' brief containing observations on merits, December 20, 2013.
[230] Office of the Attorney General, Special assignment 12495, Indictment against José Miguel Narváez Martínez et al. Annex 60 to the petitioners' brief containing observations on merits, December 20, 2013.
[231] Office of the Attorney General, Case 12490-02, Preliminary questioning of Andrés Mauricio Peñate, July 1, 2009. Annex 72 to the petitioners' brief containing observations on merits, December 20, 2013. Information presented at a public hearing on November 5, 2009, held in the framework of the 137th regular session of the IACHR.
[232] Information presented at a public hearing on November 5, 2009, held in the framework of the 137th regular session of the IACHR.
[233] Office of the Attorney General, CTI Report No. 498742 of November 10, 2009. Annex 58 to the petitioners' brief containing observations on merits, December 20, 2013.

139. Within the framework of *Operación Transmilenio*, the CTI detected other operations, including those code-named "Arauca," "Imprenta," "Intercambio," "Europa," "Internet," and "Encuentro."[234] The objective of the first of those operations was "to establish links between CCAJAR and the ELN; sabotage and action strategies; exchange of messages with ELN leaders that will be found in searches."[235]

140. In particular, the following operations were carried out in the framework of *Operación Transmilenio*: (i) Construction of an organizational chart with the names of 30 members of CCAJAR, along with their respective photographs, the position of each person, fingerprint records, and curricula vitae;[236] (ii) constant surveillance as an effective method for gathering information in relation to their homes, the composition of their families, routines, and other predetermined objectives regarding the Collective's members;[237] (iii) photographing, filming, and constant surveillance of members of the collective and their relatives;[238] and (iv) intercept of communications of CCAJAR members on their work telephones, personal land lines and mobile telephones, and private e-mail accounts,[239] mainly with the aim of gathering information about matters relating to the Collective's work, as well as generating pressure and instilling fear in its members.[240]

141. That monitoring of the work of CCAJAR members also involved a specific study of cases being litigated by the Collective's lawyers and the identification of flaws in the State's defense strategy in cases previously decided by the Inter-American Court of Human Rights.[241] In the statement he provided in a preliminary inquiry, the Deputy Director of the DAS, José Miguel Narváez, said the following:

> [I]t was necessary to do an evaluation of the Colombian State's needs in response to international complaints filed by a number of organizations with the Inter-American Court of Human Rights .... My mission was to try to propose alternative forms of defense against the Inter-American Court of Human Rights.[242]

142. As part of the intelligence operations, there was also detailed tracking of the domestic and international travel of the members of the organization, including a record of their departures from and arrivals in the country, as well as their exact destinations.[243] The DAS succeeded in obtaining access to travel itineraries, as well as work and meeting agendas.[244]

143. The Commission also notes that in multiple meetings held by DAS officials reference was made to intelligence operations that had been conducted against CCAJAR members as well as future steps that should be taken to neutralize their work.[245] In the minutes of the August 30, 2005 meeting of the Special Intelligence Coordination Group, a series of tasks and instructions were mentioned in relation to "targets," including "launching an offensive against CCAJAR by publishing a newspaper advertisement," as well as

[234] Office of the Attorney General, CTI Report No. 498742 of November 10, 2009. Annex 58 to the petitioners' brief containing observations on merits, December 20, 2013.
[235] Office of the Attorney General, CTI Report No. 498742 of November 10, 2009. Annex 58 to the petitioners' brief containing observations on merits, December 20, 2013.
[236] Information presented at a public hearing on November 5, 2009, held in the framework of the 137th regular session of the IACHR.
[237] Office of the Attorney General, Statement of José Miguel Narváez of June 2, 2009. Annex 17 to the petitioners' brief containing observations on merits, December 20, 2013.
[238] Surveillance of CCAJAR members and their families. Annex 73 to the petitioners' brief containing observations on merits, December 20, 2013.
[239] Intercepts of communications of CCAJAR members. Annex 74 to the petitioners' brief containing observations on merits, December 20, 2013.
[240] Actions taken against CCAJAR and its members. Annex 76 to the petitioners' brief containing observations on merits, December 20, 2013.
[241] Monitoring of the international work of CCAJAR. Annex 78 to the petitioners' brief containing observations on merits, December 20, 2013.
[242] Office of the Attorney General, Statement of José Miguel Narváez, Case 12490-02 of June 5, 2009. Annex 62 to the petitioners' brief containing observations on merits, December 20, 2013.
[243] Monitoring activities on domestic and international travel by CCAJAR members. Annex 79 to the petitioners' brief containing observations on merits, December 20, 2013.
[244] Monitoring activities on domestic and international travel by CCAJAR members. Annex 79 to the petitioners' brief containing observations on merits, December 20, 2013.
[245] Actions taken against CCAJAR and its members. Annex 76 to the petitioners' brief containing observations on merits, December 20, 2013.

undertaking further investigations into the Collective's finances.[246] According to information obtained by the CTI, "there was also a plan to infiltrate people into the security detail of CCAJAR members" who were being provided with that service.[247]

144. The undated pamphlets produced by the DAS identify the Collective as the "legal assistance and political-psychological warfare arm of the FARC."[248] Reference is also made to five CCAJAR members by their initials,[249] the work they do, and their foreign travel.[250] The pamphlets say that "they are accomplices of the terrorists of the FARC and ELN. They use judicial trickery to get cold-blooded murderers out of jail so they can continue their grim work."[251]

145. The Commission notes that as part of the military intelligence activities under *Operación Transmilenio* biographical records were drawn up for CCAJAR members and employees.[252] In the cases of Diana Milena Murcia, Jomary Ortegón Osorio, Javier Alejandro Acevedo, Andrés Rivera Acevedo, Olga Hernández Villalba, and Fernando Lemus, those records were prepared with the aim of obtaining basic personal information to pave the way for other types of intelligence activities.[253] In relation to other lawyers, such as Alejandro Acevedo, Dora Lucy Arias, Reinaldo Villalba Vargas, Eduardo Carreño and Luis Guillermo Pérez, the DAS constructed entire curricula vitae.[254] Finally, in the cases of Alirio Uribe Muñoz and Soraya Gutiérrez, the G-3 prepared detailed curricula vitae that also contained an analysis of their routine behavior and relations with family members and work colleagues,[255] with an "emphasis on their vices," "weaknesses, strengths, habits, and places frequented."[256]

146. The Commission takes note of specific intelligence efforts with regard to activities pursued against individual CCAJAR members. One activity was against the lawyer Alirio Uribe Muñoz, for whom the plan was "to prevent his travel by stealing his documents and discrediting him as a drug user."[257]

147. According to intelligence reports prepared by DAS officials, the G-3 also verified the source and management of financial income, credit operations, and other financial information of several members of CCAJAR, its administrative staff, and their families.[258] The Commission notes that a record was constructed of the financial information of Soraya Gutiérrez Argüello, Eduardo Carreño Wilches, Reinal Villalba Vargas, Luis Guillermo Pérez, Jomary Liz Ortegón, Rafael Barrios Mendivil, Dora Lucy Arias, and Martha Eugenia Rodríguez, the auditor.[259]

148. Upon learning of the DAS files, the CCAJAR members, including management, administrative staff, litigators, and support areas had to seek the services of organizations with experience in psychosocial

[246] Actions taken against CCAJAR and its members. Annex 76 to the petitioners' brief containing observations on merits, December 20, 2013.
[247] Office of the Attorney General, CTI Report No. 498742 of November 10, 2009. Annex 58 to the petitioners' brief containing observations on merits, December 20, 2013.
[248] DAS pamphlet. Annex 4 to the petitioners' communication of March 18, 2015.
[249] Alirio Uribe Muñoz (President), Soraya Gutiérrez (President), Eduardo Carreño (Vice President), Reinaldo Villalba (Secretary General), Pedro Mahecha (Vice President), and Claudia Duque (lawyer).
[250] DAS pamphlet. Annex 4 to the petitioners' communication of March 18, 2015.
[251] DAS pamphlet. Annex 4 to the petitioners' communication of March 18, 2015.
[252] Curricula vitae, biographical profiles, and personal data of CCAJAR members. Annex 69 to the petitioners' brief containing observations on merits, December 20, 2013.
[253] Curricula vitae, biographical profiles, and personal data of CCAJAR members. Annex 69 to the petitioners' brief containing observations on merits, December 20, 2013.
[254] Curricula vitae, biographical profiles, and personal data of CCAJAR members. Annex 69 to the petitioners' brief containing observations on merits, December 20, 2013.
[255] Curricula vitae, biographical profiles, and personal data of CCAJAR members. Annex 69 to the petitioners' brief containing observations on merits, December 20, 2013.
[256] Information compiled on the lawyer Alirio Uribe Muñoz. Annex 70 to the petitioners' brief containing observations on merits, December 20, 2013.
[257] Office of the Attorney General, CTI Report No. 498742 of November 10, 2009. Annex 58 to the petitioners' brief containing observations on merits, December 20, 2013.
[258] Financial information gathered by G-3 on CCAJAR members and their families. Annex 71 to the petitioners' brief containing observations on merits, December 20, 2013.
[259] Financial information gathered by G-3 on CCAJAR members and their families. Annex 71 to the petitioners' brief containing observations on merits, December 20, 2013.

counseling, whose professional support they began receiving in June 2008.[260] The purpose of those psychosocial activities was to establish spaces for individual and group therapy sessions, as well as meetings aimed at dealing with the impact of those events.[261] As of 2013 they were still receiving that support.[262] The Commission does not have information as to whether they are still receiving that support at present.

2.2. Destruction of information and subsequent closure of the DAS

149. On January 16, 2009, Felipe Muñoz was appointed as the new director of the DAS.[263] According to an article in the periodical Revista Semana, between January 19 and 21, 2009, most of the documents on the activities of G-3 was destroyed at the DAS headquarters.[264] In that article, a DAS detective who was involved in the intelligence gathering activities gave a statement.[265] The detective said:

> We received an order to gather up everything we had from various offices in the building and external offices and take it to the Counterintelligence office. Over the course of two days, external hard drives were collected, hard drives changed in computers, and CDs, voice files and secret documents collected. ... Of all the boxes that were taken to Counterintelligence containing documents, recordings, and other things, only one was left; it was removed from the 11th floor on the evening of Wednesday 21st. I do not know what was put in that box or where it was taken. I just know that everything else was destroyed.[266]

150. According to information provided by the petitioners at a hearing, video footage from DAS security cameras shows how in the week from January 19 to 23, 2009, personnel attached to the DAS intelligence and counterintelligence directorates, including the head of the latter division, Captain Jorge Lagos, removed documents, computer hard drives, and external memories, among other elements from the offices.[267]

151. As a result of the revelation of the activities of the DAS, in April 2009, CCAJAR requested the then-president of the DAS, Felipe Muñoz, to release the declassified intelligence reports.[268] On May 13, 2009, the DAS responded, denying the existence of any such operation.[269]

152. On October 31, 2011, the then-President of the Republic issued Decree No. 4057, ordering the abolition of the DAS and reassigning its various functions to a number of different entities.[270] Article 24 of that decree provided:

> The custody and conservation of the archives containing the intelligence information of the Administrative Department of Security (DAS) shall remain the responsibility of the DAS now abolished. The Internal Affairs Office, in keeping with its preventive function, shall

[260] Certification of the organizations Avre and Pbi on psychosocial support for CCAJAR members, November 2013. Annex 61 to the petitioners' brief containing observations on merits, December 20, 2013.
[261] Certification of the organizations Avre and Pbi on psychosocial support for CCAJAR members, November 2013. Annex 61 to the petitioners' brief containing observations on merits, December 20, 2013.
[262] Certification of the organizations Avre and Pbi on psychosocial support for CCAJAR members, November 2013. Annex 61 to the petitioners' brief containing observations on merits, December 20, 2013.
[263] Available at: http://www.semana.com/nacion/articulo/el-das-sigue-grabando/100370-3. Enclosed with the petitioners' communication of September 8, 2009.
[264] Available at: http://www.semana.com/nacion/articulo/el-das-sigue-grabando/100370-3. Enclosed with the petitioners' communication of September 8, 2009.
[265] Available at: http://www.semana.com/nacion/articulo/el-das-sigue-grabando/100370-3. Enclosed with the petitioners' communication of September 8, 2009.
[266] Available at: http://www.semana.com/nacion/articulo/el-das-sigue-grabando/100370-3. Enclosed with the petitioners' communication of September 8, 2009.
[267] Slides presented at a public hearing on November 5, 2009, held in the framework of the 137th regular session of the IACHR.
[268] Information presented by the petitioners at a hearing on November 5, 2009, held in the framework of the 137th regular session of the IACHR.
[269] Information presented by the petitioners at a hearing on November 5, 2009, held in the framework of the 137th regular session of the IACHR.
[270] State's brief containing observations on merits, January 23, 2015.

oversee the process of custody, consultation, and screening of the intelligence data and archives of the Administrative Department of Security (DAS) now abolished..

153. The Colombian State said that the Internal Affairs Office, in keeping with its preventive function, would continue overseeing the process of custody, consultation, and screening of the intelligence data and archives of the DAS.[271]

2.3. Other military intelligence activities

154. Aside from the intelligence activities of the DAS, the petitioners also mentioned other similar acts to the detriment of CCAJAR members.

155. There is a May 1999 report prepared by the Internal Affairs Office concerning information obtained from a review of the intelligence archives of a number of state agencies, including the DAS, the National Police, and the Army.[272] That information contained data on several human rights defenders, including the following members of CCAJAR: Soraya Gutiérrez, Rafael Barrios, Eduardo Carreño, Reinaldo Villalba, and Alirio Uribe.[273]

156. There is also a military intelligence report entitled "Miscellaneous" (*Miscelánea*). The report was signed by the XIII Army Brigade headquartered in Bogotá and was obtained in the course of a judicial inspection conducted on November 6, 1996, at the facilities of the Army Artillery School in Bogotá.[274]

157. The report contains a list of suspected sympathizers or members of guerrilla groups, including civic leaders, mayors, and human rights defenders. Among them, the lawyer Alirio Uribe was said to belong to the ELN support network and to be leading a campaign to have the bandits declared political prisoners.[275]

158. The petitioners also referred to the existence of telephone intercepts targeting CCAJAR members.[276] They said that 24,000 illegal intercepts carried out by the Police Anti-Kidnapping and Anti-Extortion Group (*Grupo Antisecuestro y Antiextorsión de la Policía* – GAULA) in Medellin had been recognized.[277] They said that the sounds of a police station radio could be heard from Alirio Uribe's house.[278]

159. In addition, the petitioners alleged acts of espionage and surveillance against CCAJAR lawyers, including (i) the recording of a private conversation between the lawyer Rafael Barrios Mendivil and his wife, Kimberly Stanton, in 2011;[279] (ii) photographing of CCAJAR staff from a taxi with the license plate VEA 012, belonging to SIJIN, in 2012;[280] (iii) the leak and misrepresentation of the participation of CCAJAR in the peace negotiations between the Colombian Government and the FARC in Havana, in 2014;[281] and (iv) SIJIN intelligence activities in relation to the legal work of the lawyer Reinaldo Villalba in February 2015.[282]

3. Stigmatizing and/or threatening statements by public officials against CCAJAR members

[271] State's brief containing observations on merits, January 23, 2015.
[272] Internal Affairs Office (*Procuraduría General de la Nación*), Archive review report of May 7, 1999. Annex 20 to the petitioners' brief containing observations on merits, December 20, 2013.
[273] Internal Affairs Office, Archive review report of May 7, 1999. Annex 20 to the petitioners' brief containing observations on merits, December 20, 2013.
[274] Office of the Attorney General, Case UNDH 912, Abstention decision September 12, 2006. Annex 36 to the petitioners' brief containing observations on merits, December 20, 2013.
[275] Office of the Attorney General, Case UNDH 912, Abstention decision September 12, 2006. Annex 36 to the petitioners' brief containing observations on merits, December 20, 2013.
[276] Petitioners' communication of June 23, 2005.
[277] Petitioners' communication of June 23, 2005.
[278] Petitioners' communication of June 23, 2005.
[279] PM-128-00. Petitioners' communications of April 11 and 12, May 9, and June 5, 2012. Also in: CCAJAR, "Nuevas evidencias de seguimientos al CCAJAR" [New evidence of surveillance of CCAJAR], May 23, 2011. Available at: http://www.colectivodeabogados.org/nuestro-trabajo/noticias-CCAJAR/Nuevas-evidencias-de-seguimientos
[280] See: PM-128-00, Petitioners' communication of February 7, 2012.
[281] See: PM-128-00, Petitioners' communication of November 21, 2013.
[282] Annex 1 to the petitioners' communication of March 18, 2015.

160. In this section, the Commission provides a chronological summary of information presented by the petitioners in communications and documents regarding statements made by public officials against the work of CCAJAR.

161. On April 28, 1999, General Bravo Silva, Commander of the Fifth Brigade, addressed a letter to human rights organizations, including CCAJAR.[283] The letter called CCAJAR a "sounding board for the policy of crime and violence of armed subversive groups."[284]

162. In 2001 the website of the National Narcotics Control Bureau (*Dirección Nacional de Estupefacientes* – DNE), a body attached to the Ministry of the Interior and Justice, published a text in which CCAJAR was referred to as "traditional defenders of the FARC."[285]

163. On May 21, 2002, a poster signed by the Association of Retired Servicemen (*Asociación de Militares en Retiro*) was distributed at a number of universities and the Office of the Attorney General.[286] The poster said that "the collective of straw dog lawyers of the ELN has been camouflaging itself for a long time as a human rights organization with consultative status at the OAS, deceiving the whole world, with offices in Brussels, Switzerland, and other countries, from where they manage finances and an international political war."[287]

164. On September 8, 2003, then-president Álvaro Uribe Vélez, said at a ceremony marking the transfer of command of the Air Force that "collectives and lawyers appeared; they appeared under a variety of names, spokespersons for terrorism."[288] Uribe accused several human rights organizations of being "writers and demagogues at the service of terrorism, hiding cravenly behind the banner of human rights."[289]

165. As a result of those statements, the Bolivar Central Bloc of the United Self-defense Forces of Colombia issued a communiqué on September 29, 2003, supporting the statements of the president "against certain humanitarian agencies that seem to have taken sides in the conflict ... [and] are entities of Colombia's terrorist guerrillas ."[290] It said that "the words of the president are an open secret, which makes it an urgent imperative for the government to intervene against organizations of this type."[291] The communiqué also said that "in Colombia there are collectives of defense lawyers of 'political prisoners' at work, with names as emblematic and suggestive as José Albear (sic) Restrepo, the legendary guerrilla fighter who presided over the infamous people's assemblies."[292]

166. On February 10, 2004, then-president Uribe Vélez criticized the work of CCAJAR at a meeting with the Foreign Affairs Committee of the European Parliament, saying that "they use the issue of human rights as a pretext to cover for terrorists."[293] He said, "If the Lawyers' Collective wants to defend terrorists, let them do so in accordance to law, but they should not hide behind human rights organizations."[294] President Uribe said that the lawyer Reinaldo Villalba "is a specter who wanders through the corridors of the European

[283] Petitioners' communication of June 23, 2005.
[284] Petitioners' communication of June 23, 2005.
[285] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006.
[286] Petitioners' brief containing observations on merits, December 20, 2013.
[287] Copia reducida del afiche "Solidaridad con un héroe nacional" de mayo de 2002. Annex 46 to the petitioners' brief containing observations on merits, December 20, 2013.
[288] Remarks by president Uribe at the inauguration of the new Commandant of the Armed Forces of Colombia (FAC) September 8, 2003. Annex 51 to the petitioners' brief containing observations on merits, December 20, 2013.
[289] Remarks by president Uribe at the inauguration of the new Commandant of the Armed Forces of Colombia (FAC) September 8, 2003. Annex 51 to the petitioners' brief containing observations on merits, December 20, 2013.
[290] Public communiqué, "Porque ladran los perros?" September 29, 2003. Annex 53 to the petitioners' brief containing observations on merits, December 20, 2013.
[291] Public communiqué, "Porque ladran los perros?" September 29, 2003. Annex 53 to the petitioners' brief containing observations on merits, December 20, 2013.
[292] Public communiqué, "Porque ladran los perros?" September 29, 2003. Annex 53 to the petitioners' brief containing observations on merits, December 20, 2013.
[293] IACHR, 2004 Annual Report, Ch. IV. Annex 52 to the petitioners' brief containing observations on merits, December 20, 2013; Judgment T-1062/05 of the Constitutional Court, October 20, 2005 Enclosed with the State's communication of November 1, 2006.
[294] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006.

Parliament and belongs to an NGO/Lawyers' Collective. It hides behind its status as a human rights organization to defend the guerrillas."[295]

167. In light of those events, the president of the Lawyers' Collective wrote an open letter to the president of the Republic in which he rejected his statements as incompatible with a protective attitude to organizations that defend human rights.[296] In the letter, the Lawyers' Collective asked the president to rectify his comments and offer guarantees for them to carry out their activities freely in a framework of human rights.[297] The Commission has no information about any response to the letter.

168. The petitioners said that on April 7 and 24, 2004, and January 19, 2005, CCAJAR sent letters to the Director for Human Rights and International Humanitarian Law of the Ministry of Foreign Affairs.[298] They said that CCAJAR reiterated the requests for public rectification from the president of the Republic, as well as guarantees of optimal conditions for their work and recognition of its legitimacy.[299] The Commission has no information about any response to those requests.

169. The petitioners said that on July 22, 2004, then-Senator Enrique Gómez Hurtado referred to CCAJAR in an interview.[300] They said that Senator Gómez stated that CCAJAR was an association working against the interests of Colombia and that they were involved in the "black money moved by the guerrillas."[301]

170. The petitioners alleged that on October 11, 2004, there was a meeting in the city of Valledupar that was attended by the then-Governor of the Department of Cesar, Hernando Molina Araújo.[302] The petitioners said that Mr. Molina told Jomary Ortegón, a CCAJAR lawyer, that CCAJAR was a "pimp for the guerrillas"[303] and that its staff pass themselves off as citizens for good but that their criticisms of the government were not contributing to peace, in allusion to the president's visit to Europe.[304]

171. In February 2015, former president Álvaro Uribe Vélez posted the following messages on his Twitter account:

- "El Espectador and the Lawyers' Collective are partners in the promotion of criminals seeking to benefit by bearing false witness."
- "Iván Cepeda, Alirio Uribe from the Collective, professional defamers and FARC supporters in Havana on a date with terrorists."
- "This Tuesday I will testify before the Supreme Court about the pain I'm suffering. We will compete on the international stage/ with Lawyers' Collective Farc."[305]

4. CCAJAR members who have fled the country because of threats

172. With respect to Soraya Gutiérrez Argüello, she and her family, including her daughter, Paula Camila Romero Gutiérrez, were forced to move house, initially for eight months.[306] The Commission has no information on the names of the other relatives of Mrs. Gutierrez who had to move from where they were living. Upon returning home to pick up some personal effects, the lawyer noticed that DAS agents

[295] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006; Judgment T-1191/04 of the Constitutional Court, November 25 2004. Annex 55 to the petitioners' brief containing observations on merits, December 20, 2013.
[296] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006.
[297] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006.
[298] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006.
[299] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006.
[300] Petitioners' communication of June 23, 2005.
[301] Petitioners' communication of June 23, 2005.
[302] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006.
[303] IACHR, 2004 Annual Report, Ch. IV. Annex 52 to the petitioners' brief containing observations on merits, December 20, 2013.
[304] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006.
[305] Tweets by former president Álvaro Uribe Vélez. Annex 2 to the petitioners' communication of March 18, 2015.
[306] Statements of CCAJAR lawyers in an investigation conducted by the Prosecution Unit Delegated to the Supreme Court of Justice. Annex 77 to the petitioners' brief containing observations on merits, December 20, 2013.

photographed her.[307] Because of those incidents, coupled with previous acts of harassment (see *supra*, par.) Mrs. Gutiérrez and her family had to leave the country for a time.[308] The petitioners said that no culprits had been linked to the investigations of those events.[309]

173. In relation to Luis Guillermo Pérez Casas and his partner, Katia Karina Niño, in 1994 they were the targets of surveillance, death threats, harassment, and intimidation.[310] That prompted them to move to the city of Ibagué with their small son, Camilo.[311] Owing to the threats that they received in that city (see *supra*, par. 65), they were forced to leave the country in the first quarter of 1995.[312] They returned in 1999.[313]

174. The petitioners reported that in 2001, Mr. Pérez, who had returned to Colombia, was again subjected to threats and surveillance (see *supra*, par. 66).[314] 66). They said that those new incidents occurred because of his work representing the victims of the Mapiripán massacre.[315] The petitioners said that the situation prompted Mr. Perez to go into exile for a second time.[316] The Commission does not have information on the date when he again returned to the country.

175. With respect to Rafael Barrios Mendivil, the petitioners said that he was subjected to several threats and acts of harassment for his work in the cases of the Caloto and Los Uvos massacres (see *supra*, par. 59).[317] They said that as a result of those incidents, in October 1993 Mr. Barrios was forced to flee the country and take refuge in Brussels for six months.[318] Subsequently, the petitioners said that in August 1999 he was again forced to leave the country with his son Juan Pablo, who had to interrupt his university studies.[319]The petitioners said that the lawyer remained in exile until October 2005.[320]

176. Finally, with regard to Miguel Puerto Barrera, the petitioners informed the Commission that on August 4, 2000, he had to abandon the country because of the acts of harassment against him (see *supra*, par. 76).[321] The Commission does not have information about the exact date that the lawyer left the country.

5. The situation of the children of CCAJAR members

177. The Commission notes that the intelligence operations carried out against CCAJAR also targeted child relatives of the organization's members. That is attested in the intelligence reports that include video and photographic records of the minors, as well as personal document searches.[322] The above events occurred in connection with the following minors:

- Juan David Villalba, son of the lawyer Reinaldo Villalba, and Jeisson Arias, son of the life partner of the lawyer's sister Clara Villalba, who were victims of surveillance and photographed.[323]

[307] Actions taken against CCAJAR and its members. Annex 76 to the petitioners' brief containing observations on merits, December 20, 2013.
[308] Petitioners' brief containing observations on merits, December 20, 2013.
[309] Petitioners' communication of March 18, 2015.
[310] Petitioners' brief containing observations on merits, December 20, 2013.
[311] Petitioners' brief containing observations on merits, December 20, 2013.
[312] Petitioners' brief containing observations on merits, December 20, 2013.
[313] Curricula vitae, biographical profiles, and personal data of CCAJAR members. Annex 69 to the petitioners' brief containing observations on merits, December 20, 2013.
[314] Petitioners' brief containing observations on merits, December 20, 2013.
[315] Petitioners' brief containing observations on merits, December 20, 2013.
[316] Petitioners' brief containing observations on merits, December 20, 2013.
[317] Petitioners' brief containing observations on merits, December 20, 2013.
[318] Petitioners' communication of June 23, 2005.
[319] Petitioners' brief containing observations on merits, December 20, 2013.
[320] Petitioners' brief containing observations on merits, December 20, 2013.
[321] Petitioners' communication of June 23, 2005.
[322] Surveillance of CCAJAR members and their families. Annex 73 to the petitioners' brief containing observations on merits, December 20, 2013.
[323] Surveillance of CCAJAR members and their families. Annex 73 to the petitioners' brief containing observations on merits, December 20, 2013; Statements of CCAJAR lawyers in an investigation conducted by the Prosecution Unit Delegated to the Supreme Court of Justice. Annex 77 to the petitioners' brief containing observations on merits, December 20, 2013.

- The minor son of Dora Lucy Arias, a copy of whose passport and birth certificate were obtained.[324]

- Paula Camila Romero Gutiérrez, the minor daughter of Soraya Gutiérrez, who was photographed, followed, and a copy of whose birth certificate was obtained.[325]

- David, Miguel, and Luisa Uribe, the children of Alirio Uribe Muñoz, who were followed and photographed.[326] Letters and a private diary belonging to David Uribe were "recovered" by DAS agents from the trash at his residence.[327]

178. In addition, the petitioners alleged that the following children were victims of threats and acts of harassment and were forced to go into exile with their families:

- Camilo Ernesto Pérez Niño and Katia Karina Pérez Niño, the children of Luis Guillermo Pérez Casas (see *supra*, pars. 64-66).

- Paula Camila Romero Gutiérrez, the daughter of Soraya Gutiérrez Argüello (see *supra*, pars. 79-81).

179. The petitioners said that none of these facts was properly investigated. The IACHR has no information about investigations of those allegations.

6. SECURITY measures adopted by the State in response to the situation of CCAJAR members

180. The Colombian State said that the police have continually conducted inspections and sweeps for CCAJAR members since 2000, as beneficiaries of precautionary measures granted by the IACHR.[328] The State said that since 2001, in total, the following collective and individual measures have been implemented: (i) five "hard" arrangements with armor-plated vehicles, (ii) five bodyguards, (iii) three residences armor plated, (iv) one office armor plated, and (v) 18 Avantel communication devices.[329]

181. Colombia said that in addition to collective measures, it adopted a series of individual measures for the following CCAJAR members: Alirio Uribe Muñoz, Reinaldo Villalba Vargas, Eduardo Carreño Wilches, Soraya Gutiérrez Arguello, Rafael Barrios Mendivil, Dora Lucy Arias, Adriana Cuéllar Ramírez, Yessika Hoyos, and Jomary Ortegón Osorio.[330] The State said that in the case of the lawyers Villalba and Carreño, they were provided with a "hard" arrangement that included an armor-plated vehicle, a bodyguard, and a communication device.[331] The lawyers Uribe, Barrios, and Gutiérrez also had their residences armor plated.[332] Finally, the State said that Ms. Cuéllar, Ms. Arias and Ms. Ortegón were each provided with a communication device.[333]

182. The State noted that in spite of the foregoing, the beneficiaries had not permitted a risk assessment to be carried out for them since 2009.[334] For their part, the petitioners said that there are several pages

[324] Surveillance of members of CCAJAR and their families, section on minors. Annex 73 to the petitioners' brief containing observations on merits, December 20, 2013.
[325] Surveillance of members of CCAJAR and their families, section on minors. Annex 73 to the petitioners' brief containing observations on merits, December 20, 2013.
[326] Surveillance of members of CCAJAR and their families, section on minors. Annex 73 to the petitioners' brief containing observations on merits, December 20, 2013.
[327] Surveillance of members of CCAJAR and their families, section on minors. Annex 73 to the petitioners' brief containing observations on merits, December 20, 2013.
[328] State's brief containing observations on merits, January 23, 2015.
[329] State's brief containing observations on merits, January 23, 2015.
[330] State's brief containing observations on merits, January 23, 2015.
[331] State's brief containing observations on merits, January 23, 2015.
[332] State's brief containing observations on merits, January 23, 2015.
[333] State's brief containing observations on merits, January 23, 2015.
[334] State's brief containing observations on merits, January 23, 2015.

concerning DAS wiretapping of the Avantel communications equipment provided by the Interior Ministry's protection program to CCAJAR, as well as orders to collect information on precautionary measures ordered by the IACHR for CCAJAR.[335]

183. The State said that on April 7, 2011, the beneficiaries decided unilaterally to return four of the six vehicles assigned for their security as well as the bodyguard units that were part of the protection arrangements.[336] The petitioners said that they did so because they realized that there were orders from military entities to infiltrate the drivers who were on their protection details.[337] The purpose of that was to obtain information about their activities.[338] The petitioners said that was the main reason why they decided to hand back the protection arrangements received.[339]

184. The petitioners added that in 2012, when CCAJAR moved to new offices the State failed to implement protection measures at those premises or at the beneficiaries' homes. That was in spite of the fact that those measures had been agreed upon.[340]

185. According to information provided by the State, as of 2015, CCAJAR had six protection details consisting of one armor-plated vehicle and one bodyguard for Luis Guillermo Pérez Casas, Rafael Barrios Mendivil, Alirio Uribe Muñoz, María del Pilar Silva Garay, and Jomary Ortegón Osorio.[341]

D. The investigations carried out

186. In the proceedings before the IACHR the petitioners and the State provided information about a number of investigations opened in relation to the facts in this case. In this section, the Commission summarizes the information on those investigations.[342]

1. Investigations of the acts of aggression, threats, and surveillance

187. The Commission notes that the following investigations were advanced both by the National Human Rights and International Humanitarian Law Units of the Office of the Attorney General (*Unidad Nacional de Derechos Humanos y Derecho Internacional Humanitario de la Fiscalía General de la Nación*) (hereinafter UNDH) and by Delegated Prosecution Units (*Fiscalías Delegadas*).

1.1. Cases before the UNDH

i) Case UNDH 590

188. On September 13, 1999, the UNDH was assigned the investigation initiated ex officio at the request of the CTI in its brief No. 03706 of August 31, 1999, in which it asked that a criminal inquiry be opened into a

[335] Annex 5 to the petitioners' communication of March 18, 2015.
[336] State's brief containing observations on merits, January 23, 2015.
[337] Petitioners' communication of March 18, 2015. The communication refers to the article entitled *CCAJAR Colectivo de Abogados devuelve esquema de protección al DAS* [CCAJAR Lawyers Collective returns protection arrangements to DAS], April 12, 2011. http://www.colectivodeabogados.org/nuestro-trabajo/noticias-cajar/Colectivo-de-Abogados-Jose-Alvear,2893; Annex 5 to the petitioners' communication of March 18, 2015.
[338] Petitioners' communication of March 18, 2015. The communication refers to the article entitled *CCAJAR Colectivo de Abogados devuelve esquema de protección al DAS*, April 12, 2011. http://www.colectivodeabogados.org/nuestro-trabajo/noticias-cajar/Colectivo-de-Abogados-Jose-Alvear,2893
[339] Petitioners' communication of March 18, 2015. The communication refers to the article entitled *CCAJAR Colectivo de Abogados devuelve esquema de protección al DAS*, April 12, 2011. http://www.colectivodeabogados.org/nuestro-trabajo/noticias-cajar/Colectivo-de-Abogados-Jose-Alvear,2893
[340] State's brief containing observations on merits, January 23, 2015.
[341] State's brief containing observations on merits, January 23, 2015.
[342] Petitioners' communication of June 23, 2005; Petitioners' brief containing observations on merits, December 20, 2013; Petitioners' communication of March 18, 2015; petitioners' communication of December 16, 2015; petitioners' communication of January 27, 2015; State's brief containing observations on merits, January 23, 2015.

series of events, of which only two concerned CCAJAR.[343] They were (i) the pamphlet signed by the "Colombian Rebel Army" that mentioned Alirio Uribe Muñoz and (ii) the report entitled "Miscellaneous" prepared by the XIII Army Brigade, which referred to the aforementioned lawyer as a helper of the ELN[344]. September 17, the prosecutor decided to open a preliminary investigation and ordered the collection of evidence.[345]

189. The petitioners said that one of the statements received in the proceeding was that of Alejandro Reyes, another of those threatened in the above pamphlet.[346] Reyes said that General Óscar Naranjo, Commandant of the National Police of Colombia, reportedly said that the only thing needed to work out who the authors of the pamphlet produced by the Colombian Rebel Army were, was to remove the word "rebel."[347]

190. On October 4, 2002, the prosecutor's office decided to abstain from investigating (*inhibirse de investigar*) the aforementioned facts as its considered that the conduct did not amount to a recognized criminal offense.[348] In relation to the pamphlet, the prosecutor's office said that the record did not contain "the necessary minimum proof about the identity of the authors or participants."[349] Regarding the report entitled "Miscellaneous" and its inclusion of Alirio Uribe , the prosecutor's office said that that document "is not a military intelligence report," " that it cannot be considered a fit means for disseminating an opinion", and that, therefore, "it is not sufficient to characterize the criminal offense of making threats."[350]

191. The petitioners said that the civil party appealed against the abstention decision and it was abrogated three years later, on February 26, 2006.[351] They said that in that decision the prosecutor's office ordered to be provided in order to investigate the unwarranted delay in processing the appeal.[352] The Commission does not have any additional information in relation to the appeal and the decision thereon or about the investigation of the alleged delay.

192. According to information provided by the State, the investigation has been with the office for a decision on merits since December 16, 2013.[353]

ii) Case UNDH 912

193. On November 2, 2000, the prosecutor's office ordered a preliminary inquiry to be opened based on a brief presented by the director of CCAJAR, Reinaldo Villalba Vargas, regarding events connected with pamphlets and lists on which there appeared the name of the lawyer Alirio Uribe Muñoz; the inclusion of CCAJAR members in military intelligence reports (report entitled "Miscellaneous"); the existence of a plot to murder the lawyers Alirio Uribe Muñoz, Luis Guillermo Pérez, and Maret Cecilia García; the harassment of the lawyer Luis Guillermo Pérez at the 13th Military Police Battalion, and other threats received by CCAJAR

[343] Office of the Attorney General, Case UNDH 590, Abstention decision of October 4, 2002. Annex 91 to the petitioners' brief containing observations on merits, December 20, 2013.
[344] Office of the Attorney General, UNDH, Official letter No. 079/TPA of May 15, 2002, in response to the right to petition invoked by CCAJAR. Annex 89 to the petitioners' brief containing observations on merits, December 20, 2013.
[345] Office of the Attorney General, UNDH, Official letter No. 2790 of August 19, 2001. Annex 81 to the petitioners' brief containing observations on merits, December 20, 2013.
[346] Office of the Attorney General, Case UNDH 590, Official letter No. 346 of January 9, 2002. Annex 90 to the petitioners' brief containing observations on merits, December 20, 2013.
[347] Petitioners' brief containing observations on merits, December 20, 2013.
[348] Office of the Attorney General, Case UNDH 590, Abstention decision of October 4, 2002. Annex 91 to the petitioners' brief containing observations on merits, December 20, 2013.
[349] Office of the Attorney General, Case UNDH 590, Abstention decision of October 4, 2002. Annex 91 to the petitioners' brief containing observations on merits, December 20, 2013.
[350] Office of the Attorney General, Case UNDH 590, Abstention decision of October 4, 2002. Annex 91 to the petitioners' brief containing observations on merits, December 20, 2013.
[351] Petitioners' brief containing observations on merits, December 20, 2013.
[352] Petitioners' brief containing observations on merits, December 20, 2013.
[353] State's brief containing observations on merits, January 23, 2015.

members.[354] The UNDH undertook the preliminary inquiry. The Commission has no knowledge of the date on which the complaint was lodged.

194. On September 12, 2006, the 14th Special Prosecutor's Office issued a decision to abstain in respect of the "report 'Miscellaneous'" and the pamphlet signed by the Colombian Rebel Army, arguing that the rule of *res judicata* applied.[355] The foregoing on the basis that the Office of the Attorney General had already issued an abstention decision in Case UNDH 590 in relation to those facts (see *supra*, par. 170).[356]

195. In relation to the other offenses, the prosecutor's office determined that the statute of limitations on criminal action had run.[357] The foregoing was based on the argument that Article 531(2) of Law 906 of 2004 (Code of Criminal Procedure) applied, since it provided that "in preliminary investigations conducted by the Prosecutor's Office in which four (4) years have elapsed since the deed was committed, prescription shall apply, save for in the event of the exceptions based on the nature of the deed contained in the following paragraph."[358] Having the foregoing in mind, the prosecutor's office decided that, since the events occurred between 1999 and 2001 and therefore the aforementioned exceptions were not applicable, the prescription rule applied.[359] That decision was appealed and later upheld by the 42nd Prosecution Unit Delegated to the Superior Court of Bogotá.[360] In its analysis, the 42nd Prosecution Unit determined that the applicable rule was not Article 531 of Law 906 of 2004, since that provision had been declared unenforceable by the Constitutional Court of Colombia in Judgment C-1033 of 2006.[361] However, the deciding entity found that the applicable prescription time limit in the case was five (5) years, which had expired, and therefore, the rule on prescription of criminal action was applicable.[362]

196. In this investigation the petitioners noted that a number of elements that might of revealed the identity of the culprits were overlooked.[363] In relation to the foregoing, the petitioners said that the member of the Colombian Army who signed the report titled "Miscellaneous" was not called to provide a statement.[364] They also said that a witness clearly stated that Luis Eduardo Cifuentes, the paramilitary commander of the Self-Defense Forces of Cundinamarca and Casanare (*Autodefensas de Cundinamarca y Casanare* – ACC) was behind the plot to murder Mr. Uribe Muñoz but he was never considered a suspect in the investigation.[365] They said that the fact that information on the lawyer Alirio Uribe Muñoz was found at the home of Sgt. (Army) Evangelista Basto Bernal, who was implicated in the attack on the community leader Wilson Borja Díaz, was not investigated further.[366] Finally, they also said that the fact that the poster in which CCAJAR was called the legal arm of the ELN had been signed by the Association of Retired Servicemen was also not pursued.[367]

ii) Case UNDH 1577

[354] Office of the Attorney General, Case UNDH 912, Abstention decision September 12, 2006. Annex 36 to the petitioners' brief containing observations on merits, December 20, 2013.
[355] Office of the Attorney General, Case UNDH 912, Abstention decision September 12, 2006. Annex 36 to the petitioners' brief containing observations on merits, December 20, 2013.
[356] Office of the Attorney General, Case UNDH 912, Abstention decision September 12, 2006. Annex 36 to the petitioners' brief containing observations on merits, December 20, 2013.
[357] Office of the Attorney General, Case UNDH 912, Abstention decision September 12, 2006. Annex 36 to the petitioners' brief containing observations on merits, December 20, 2013.
[358] Office of the Attorney General, Case UNDH 912, Abstention decision September 12, 2006. Annex 36 to the petitioners' brief containing observations on merits, December 20, 2013.
[359] Office of the Attorney General, Case UNDH 912, Abstention decision September 12, 2006. Annex 36 to the petitioners' brief containing observations on merits, December 20, 2013.
[360] Office of the Attorney General, Prosecution Unit 42, Order of April 25, 2007. Annex 88 to the petitioners' brief containing observations on merits, December 20, 2013.
[361] Office of the Attorney General, Prosecution Unit 42, Order of April 25, 2007. Annex 88 to the petitioners' brief containing observations on merits, December 20, 2013.
[362] Office of the Attorney General, Prosecution Unit 42, Order of April 25, 2007. Annex 88 to the petitioners' brief containing observations on merits, December 20, 2013.
[363] Petitioners' communication of March 18, 2015.
[364] Petitioners' communication of March 18, 2015.
[365] Petitioners' communication of March 18, 2015.
[366] Petitioners' communication of March 18, 2015.
[367] Petitioners' communication of March 18, 2015.

197. On February 26, 2003, the UNDH ordered a preliminary inquiry to be opened for the offenses of making threats and violation of correspondence in relation to an intimidating e-mail message received by the lawyer Diana Milena Murcia (see *supra,* par. 92) and surveillance of the lawyer Javier Alejandro Acevedo (see *supra,* par. 100).[368] On July 28, 2006, the 14th Special Prosecutor's Office issued a decision to abstain.[369]

198. With respect to the offense of making threats, the prosecutor argued that the deed did not qualify as a criminal offense since the email received by the plaintiff did "not contain the subjective ingredient that the criminal classification requires, in the sense of causing consternation or fear, as its content amounts to comments regarding emails that the plaintiff had herself sent from her account and her conduct toward what appeared to be patriotic symbol during the administration of president Álvaro Uribe Vélez."[370]

199. In relation to the same offense, the prosecutor applied the special prescription rule.[371] The foregoing was based on the argument that Article 531(2) of Law 906 of 2004 (Code of Criminal Procedure) applied, since it provided that "in preliminary investigations conducted by the Prosecutor's Office in which four (4) years have elapsed since the deed was committed, prescription shall apply, save for in the event of the exceptions based on the nature of the deed contained in the following paragraph."[372] Based on the foregoing, since the events concerned occurred on November 14, 2002, the prosecutor found that "three years, six months have elapsed; in other words, longer than the special prescription time limit established in Law 906."[373]

200. With respect to the offense of violation of correspondence, the prosecutor said that the conduct did not qualify as a criminal offense, arguing that "it was the target of the offense who sent the emails, which were transmitted in a chain to other email accounts and, thus, received the aforementioned responses"; thus, he implied that the intimidating message came in response to an email sent previously by the victim (see *supra*, par. 91).[374]

201. As to the surveillance of the lawyer Acevedo, the prosecutor determined that the conduct did not constitute the offense of making threats due to the fact that those "acts were no more than that: surveillance from vehicles, completely unthreatening."[375] The office of the prosecutor had access to the testimony of the owner of the vehicle. The owner said that he did not know the plaintiff, that his daughter often drove the vehicle, and that she was a student at the National University, the place to where the lawyer Acevedo said he was followed.[376]

202. The State said that the Public Prosecution Service (*Ministerio Público*) and one of the plaintiffs filed motions for reversal.[377] Colombia said that both motions were declared void on account of being unfounded.[378]

[368] Office of the Attorney General, Case UNDH 1577, Abstention decision of July 28, 2006. Annex 92 to the petitioners' brief containing observations on merits, December 20, 2013.
[369] Office of the Attorney General, Case UNDH 1577, Abstention decision of July 28, 2006. Annex 92 to the petitioners' brief containing observations on merits, December 20, 2013.
[370] Office of the Attorney General, Case UNDH 1577, Abstention decision of July 28, 2006. Annex 92 to the petitioners' brief containing observations on merits, December 20, 2013.
[371] Office of the Attorney General, Case UNDH 1577, Abstention decision of July 28, 2006. Annex 92 to the petitioners' brief containing observations on merits, December 20, 2013.
[372] Office of the Attorney General, Case UNDH 1577, Abstention decision of July 28, 2006. Annex 92 to the petitioners' brief containing observations on merits, December 20, 2013.
[373] Office of the Attorney General, Case UNDH 1577, Abstention decision of July 28, 2006. Annex 92 to the petitioners' brief containing observations on merits, December 20, 2013.
[374] Office of the Attorney General, Case UNDH 1577, Abstention decision of July 28, 2006. Annex 92 to the petitioners' brief containing observations on merits, December 20, 2013.
[375] Office of the Attorney General, Case UNDH 1577, Abstention decision of July 28, 2006. Annex 92 to the petitioners' brief containing observations on merits, December 20, 2013.
[376] Office of the Attorney General, Case UNDH 1577, Abstention decision of July 28, 2006. Annex 92 to the petitioners' brief containing observations on merits, December 20, 2013.
[377] State's brief containing observations on merits, January 23, 2015.
[378] State's brief containing observations on merits, January 23, 2015.

iii) Case UNDH 8426

203. The State said that the investigation was opened in response to a complaint filed by Rafael Barrios.[379] Colombia stated that in his complaint, Mr. Barrios said that "the security arrangement assigned had been returned and he mentioned that the facts were being examined in the investigations into illegal intelligence activities on the part of DAS personnel."[380] In 2013, the prosecutor decided to set the case aside.[381] The Commission does not have any other information about the facts that gave rise to the investigation or regarding the decision to shelve it.

iv) Other cases with the UNDH

204. The Commission notes that the UNDH opened other investigations. According to information provided by the State in its communication of January 23, 2015, the following are at the preliminary inquiry stage:[382]

- Case UNDH 8698: Threats against CCAJAR and attempted homicide of Soraya Gutiérrez Argüello (see *supra*, par. 78).[383]

- Case UNDH 8690: Threats by electronic mail against CCAJAR members. The Commission does not have any information about the specific threats that prompted the investigation or against which members of CCAJAR they were made. The Commission notes that between October 12, 2006 and August 1, 2014, there were a number of procedural activities, including the presentation of certain reports by the judicial police and the assignment of the investigation to Office 106 of the Office of the Director of the Specialized National Prosecution Unit for Human Rights and International Humanitarian Law in 2014.[384]

- Case UNDH 8697: Threats against Soraya Gutiérrez.[385] The Commission does not have any information about the specific threats against Ms. Gutiérrez that prompted the investigation.

- Case UNDH 8699: Threats against CCAJAR members.[386] The Commission does not have any information about the specific threats that prompted the investigation or against which members of CCAJAR they were made.

- Case UNDH 8703: Threats against Martha Lucía Botero Vargas (at the preliminary inquiry stage).[387] The Commission does not have any information about the specific threats that prompted the investigation. The Commission notes that between April 14, 2009 and August 1, 2014, there were a number of procedural activities, including interviews of the victim and two other individuals, as well as the assignment of the investigation to Office 106 of the Office of the Director of the Specialized National Prosecution Unit for Human Rights and International Humanitarian Law in 2014.[388]

205. The Commission does not have up-to-date information about the status of those investigations.

1.2. Cases with delegated prosecution units

[379] State's brief containing observations on merits, January 23, 2015.
[380] State's brief containing observations on merits, January 23, 2015.
[381] State's brief containing observations on merits, January 23, 2015.
[382] State's brief containing observations on merits, January 23, 2015.
[383] State's brief containing observations on merits, January 23, 2015.
[384] State's brief containing observations on merits, January 23, 2015.
[385] State's brief containing observations on merits, January 23, 2015.
[386] State's brief containing observations on merits, January 23, 2015.
[387] State's brief containing observations on merits, January 23, 2015.
[388] State's brief containing observations on merits, January 23, 2015.

206. The Commission finds that the following investigations were conducted by delegated prosecution units:

- Case 7141 with the Bogotá Regional Prosecution Unit. The investigation concerns threats against CCAJAR members. The Commission does not have any information about the specific threats that prompted the investigation or against which members of CCAJAR they were made. On November 3, 1994, the prosecutor decided provisionally to suspend and set aside the investigation.[389] The Commission has no information regarding the reasons supporting that decision.

- Case 420211 with Sectional Prosecution Unit 239 of the Anti-kidnapping and Extortion Unit. The complainants are named as "*Integrantes Corporación Colectivo de Abogados*" [Members, Lawyers Collective Corporation].[390] The investigation concerns the crime of making threats against Reinaldo Villalba Vargas and Margarita Arregocés. The Commission does not have any information about the specific threats that prompted the investigation. On July 30, 1999, Sectional Prosecution Unit 239 issued a resolution by which it took up the proceedings.[391] In Official letter No. 1357 dated August 12, 1999, the prosecutor abstained from investigating the crime of making personal threats without expressly providing cause, but saying that "based on the context, it is not considered to match the classification of the criminal offense mentioned."[392] The Commission has no further information about the reasoning behind the decision. No one was brought in for questioning in the investigation.[393]

- Case 421312 with Sectional Prosecution Unit 242. The investigation concerns the crime of making threats against Rafael Barrios Mendivil, who is named as the complainant.[394] The Commission does not have any information about the specific threats that prompted the investigation. On December 1, 1999, the prosecutor abstained from opening a formal investigation because the period for criminal proceedings had lapsed.[395] The Commission does not have any information on the dates of the alleged acts or reasons why the action had prescribed.

- Case 562699 with the Unit for Crimes against Personal Liberty, Other Guarantees, and Others of the Office of the Attorney General. The investigation was opened on June 11, 2001, in connection with the crime of making threats, based on an alleged murder plot against Luis Guillermo Pérez Casas, Alirio Uribe Muñoz, and Maret Cecilia García (see *supra*, par. 74). On July 16, 2002, the prosecutor decided to abstain from investigating and ordered the proceedings to be set aside.[396] The Commission has no information regarding the reasons why the decision to abstain was adopted.

[389] Office of the Attorney General, Official letter No. 2790 of August 29, 2001. Annex 81 to the petitioners' brief containing observations on merits, December 20, 2013.
[390] Office of the Attorney General, Official letter No. 1357 of October 23, 2001. Annex 82 to the petitioners' brief containing observations on merits, December 20, 2013.
[391] Petitioners' brief containing observations on merits, December 20, 2013.
[392] Office of the Attorney General, Official letter No. 1357 of October 23, 2001. Annex 82 to the petitioners' brief containing observations on merits, December 20, 2013.
[393] Office of the Attorney General, Official letter No. 661 of June 18, 2002. Annex 83 to the petitioners' brief containing observations on merits, December 20, 2013.
[394] Office of the Attorney General, Official letter No. 1357 of October 23, 2001. Annex 82 to the petitioners' brief containing observations on merits, December 20, 2013, and Office of the Attorney General, Official letter No. 661 of June 18, 2002. Annex 83 to the petitioners' brief containing observations on merits, December 20, 2013.
[395] Office of the Attorney General, Official letter No. 1357 of October 23, 2001. Annex 82 to the petitioners' brief containing observations on merits, December 20, 2013, and Office of the Attorney General, Official letter No. 661 of June 18, 2002. Annex 83 to the petitioners' brief containing observations on merits, December 20, 2013.
[396] Office of the Attorney General, Communication of September 16, 2002. Annex 84 to the petitioners' brief containing observations on merits, December 20, 2013.

- Case 701328 with Bogotá Prosecution Unit 246. The investigation concerns the crime of making threats. The Commission does not have any information about the specific threats that prompted the investigation or against which members of CCAJAR they were made. The petitioner said that the investigation was suspended on May 3, 2004, and has been archived.[397] The Commission has no information about the reasons to suspend and archive the investigation.

- Case 42632 with the Special Terrorism Subunit of the Bogotá Special Prosecution Units. The investigation concerns the threatening pamphlets that contained the name of Alirio Uribe. On April 17, 2001, the investigation was joined with that of Case UNDH 912.[398] The Commission has no additional information in that regard

- Case 731980 with Sectional Prosecution Unit 59. The investigation concerns an illegal entry and threatening telephone calls to Adriana Cuéllar Ramírez (see *supra*, par. 102).[399] On February 17, 2005, the prosecutor ordered the investigation to be suspended. The Commission has no information about the reasons to suspend the investigation.

- Case 678599 with Sectional Prosecution Unit 263. On April 2, 2003, the prosecutor opened an investigation in relation to the attack made on February 14, 2001 on the lawyer Soraya Gutiérrez, who is named as complainant (see *supra*, par. 78). On May 22 of that year the prosecutor issued a resolution abstaining from the investigation and ordering the proceedings to be set aside on the grounds that it was not possible to identify or single out the perpetrator.[400]

- Case 701328 with Sectional Prosecution Unit 245 of the Unit for Crimes against Personal Liberty and Other Guarantees. The investigation also concerns the attack on the lawyer Soraya Gutiérrez (see *supra*, par. 78) and threats received by members of the Collective.[401] The Commission does not have any information about other threats that prompted the investigation or against which members of CCAJAR they were made. On May 3, 2004, the prosecutor ordered the investigation to be suspended.[402] The Commission has no information about the reasons to suspend the investigation.

- Case 4437. The investigation concerns threats made by e-mail; it is that the preliminary inquiry stage.[403] The Commission does not have any other information about the facts under investigation. As regards procedural activity, the Commission notes that a selective search was done of databases, in addition to searches of premises, intercepts, and orders issued to the judicial police to gather material elements and physical evidence.[404] The Commission has no information as to which prosecution unit is handling the case.

2. Investigations into military intelligence operations

207. The 11th Prosecution Unit Delegated to the Supreme Court of Justice conducted the investigations into the facts connected with the illegal intelligence operations of the DAS, specifically the acts of aggression against CCAJAR in the context of Operation Transmilenio. The Commission finds that there are several cases in that framework.

[397] Petitioners' brief containing observations on merits, December 20, 2013.
[398] Office of the Attorney General, Official letter No. 120 of October 3, 2002. Annex 85 to the petitioners' brief containing observations on merits, December 20, 2013.
[399] Petitioners' brief containing observations on merits, December 20, 2013.
[400] Office of the Attorney General, Official letter No. 0898 of October 20, 2009. Annex 96 to the petitioners' brief containing observations on merits, December 20, 2013.
[401] Petitioners' brief containing observations on merits, December 20, 2013.
[402] Petitioners' brief containing observations on merits, December 20, 2013.
[403]. State's brief containing observations on merits, January 23, 2015.
[404] State's brief containing observations on merits, January 23, 2015.

2.1. Case 12495

208. On May 28, 2009, Prosecution Unit 11 opened an investigation in Case 12495 against 41 DAS personnel for the crimes of conspiracy to commit crime, illicit violation of communications, and illicit use of transmission/receiving equipment.[405] In decisions dated June 17 and July 13, 2009, the prosecutor ordered 15 persons to be questioned.[406] The Commission does not have any information about the other individuals on whom investigations were opened being linked to the case.

209. In addition to those 15 persons, on August 6, 2009, the prosecutor linked Enrique Alberto Ariza Rivas, former Director General of Intelligence of the DAS, and Juan Carlos Sastoque Rodríguez, Coordinator of Special Intelligence Group 3, to the case as absent persons.[407]

210. On December 2, 2009, the prosecutor ordered the partial closure of the investigation.[408] The Commission has no information regarding the reasons for that decision. On January 26, 2010, the prosecutor filed indictments against José Miguel Narváez, Jackeline Sandoval Salazar, Jorge Armando Rubiano, Martha Inés Leal Llanos, Hugo Daney Ortíz, Enrique Alberto Ariza, and José Alexander Velásquez for the crimes of aggravated conspiracy to commit crime, illicit violation of communications, illicit use of transmission/receiving equipment, and abuse of authority by reason of an arbitrary and unjust act.[409] The Commission does not have any additional information about evidentiary procedures carried out in the investigation between 2009 and 2012.

211. On November 30, 2012, the Third Criminal Court of the Bogotá Special Circuit convicted Enrique Alberto Ariza, Jorge Armando Rubiano, Hugo Daney Ortíz, Jackeline Sandoval Salazar, and Martha Inés Leal Llanos of the crimes of conspiracy to commit crime, illicit violation of communications, illicit use of transmission/receiving equipment, and abuse of authority by reason of an arbitrary and unjust act.[410] The court sentenced each to 105 months in prison, deprivation of political rights, and a fine of two times the monthly minimum wage.[411]

212. According to information provided by the State, by January 2015 the convicted defendants were serving their prison terms.[412] According to information circulated in the media, in December 2014, Martha Leal regained her freedom for having served her sentence after spending four years in prison.[413]

213. The same decision found José Alexander Velásquez Sánchez guilty of the crime of abuse of authority by reason of an arbitrary and unjust act and acquitted him of the charges of conspiracy to commit crime and illicit violation of communications.[414] He was sentenced to pay a fine of two times the monthly minimum wage.[415] The detention order against him was revoked, so the court ordered his immediate release.[416]

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[405] Petitioners' brief containing observations on merits, December 20, 2013. The brief makes reference to Case 12495, Prosecution Unit 11 delegated to the Supreme Court of Justice, C. 1, pp. 5 and 6.
[406] Petitioners' brief containing observations on merits, December 20, 2013. The brief makes reference to Case 12495, Prosecution Unit 11 delegated to the Supreme Court of Justice, C. 2, pp. 205-207; C. 6, pp. 1-4.
[407] Petitioners' brief containing observations on merits, December 20, 2013. The brief makes reference to Case 12495, Prosecution Unit 11 delegated to the Supreme Court of Justice, C. 10, pp. 3-37.
[408] Petitioners' brief containing observations on merits, December 20, 2013. The brief makes reference to Case 12495, Prosecution Unit 11 delegated to the Supreme Court of Justice, C. 28, p. 138.
[409] Petitioners' brief containing observations on merits, December 20, 2013. The brief makes reference to Case 12495, Prosecution Unit 11 delegated to the Supreme Court of Justice, C. 28, pp. 1-99.
[410] Petitioners' brief containing observations on merits, December 20, 2013. The brief makes reference to Third Criminal Court of the Special Decongestion Circuit in and for Bogotá, file 2010-00020, judgment of November 30, 2012. Available at http://www.derechos.org/nizkor/colombia/doc/das299.html
[411] Petitioners' brief containing observations on merits, December 20, 2013. The brief makes reference to Third Criminal Court of the Special Decongestion Circuit in and for Bogotá, file 2010-00020, judgment of November 30, 2012. Available at http://www.derechos.org/nizkor/colombia/doc/das299.html
[412] State's brief containing observations on merits, January 23, 2015.
[413] El Tiempo: "Ya van más de 20 condenados por las interceptaciones del DAS" [More than 20 convicted for DAS wiretaps], February 27, 2015. Available at: http://www.eltiempo.com/politica/justicia/los-condenados-por-las-chuzadas-del-das/15313997.
[414] State's brief containing observations on merits, January 23, 2015.
[415] State's brief containing observations on merits, January 23, 2015.
[416] State's brief containing observations on merits, January 23, 2015.

214. On December 30, 2012, the civil party filed an appeal against that decision.[417] On March 7, 2014, the Criminal Chamber of the Court of Bogotá overturned the judgment against him, convicted him as the perpetrator of aggravated conspiracy to commit crime and as concurrent co-perpetrator of the crimes of illicit violation of communications and illicit use of transmission/receiving equipment, and sentenced him to 105 months in prison and ineligibility to hold positions in the public sector.[418]

2.2. The trial of Carlos Arzayuz Guerrero (Case 12839-11)

215. Carlos Arzayuz Guerrero, former deputy director of operations of the DAS, expressed a desire to entity a guilty plea and for that reason was not included in the indictment of January 26, 2010 (see *supra*, par. 190).[419] As he later retracted his plea, the prosecution presented an indictment against him and his trial proceeded in parallel with those of the other defendants.[420] On April 21, 2010, the Sixth Criminal Court of the Bogotá Special Circuit took up the proceedings and ordered that the public hearing begin.[421]

216. On March 19, 2014, the Sixth Criminal Court of the Special Circuit sentenced Mr. Arsayuz to 9 years, 10 months, and 15 days in prison as perpetrator of concurrent counts of the crime of aggravated conspiracy to commit crime; as co-perpetrator of concurrent and consecutive counts of the crimes of illicit violation of communications, illicit use of transmission/receiving equipment, and concurrent and consecutive counts of abuse of authority by reason of an arbitrary and unjust act in circumstances warranting higher penalties.[422]

217. On appeal of the above decision by the defense of Mr. Arzayuz, the Superior Court of Bogotá reduced the sentence imposed by the court to 8 years, 7 months in prison.[423] In that same decision, the case was sent back to the original court to decide on the matter of the request for release presented by the former official.[424] The Commission has no further information about the current status of the proceeding.

2.3. The trial of José Miguel Narváez Martínez (Case 1408-6)

218. The court examining the case directed the trial of Mr. Narváez to be conducted as a separate proceeding, in parallel with those of the other officials.[425] The Commission does not have any other information about that fact.

219. On July 26, 2016, the Sixth Enforcement Court sentenced Mr. Narváez to 8 years in prison for illegal intercepts and surveillance of journalists, NGOs, and human rights defenders, included among which was CCAJAR.[426] Mr. Narváez was found guilty of creating the DAS G-3 espionage group.[427]

2.4. The investigation and trial of Gian Carlo Auque de Silvestri et al. (Case 12753-11)

220. On March 4, 2011, the Prosecution Unit 11 filed indictments against the former DAS personnel Gian Carlo Auque de Silvestri, Eduardo Aya Castro, Rodolfo Medina Alemán, and Mario Orlando Ortiz Mena for the

[417] State's brief containing observations on merits, January 23, 2015.
[418] State's brief containing observations on merits, January 23, 2015.
[419] State's brief containing observations on merits, January 23, 2015.
[420] Petitioners' brief containing observations on merits, December 20, 2013. The brief makes reference to Office of the Attorney General, Former deputy director of operations of the DAS accused, April 29, 2010. Available at: http://www.fiscalia.gov.co/colombia/noticias/acusado-ex-subdirector-de-operaciones-del-das/
[421] State's brief containing observations on merits, January 23, 2015.
[422] State's brief containing observations on merits, January 23, 2015.
[423] El Espectador, "Tribunal Superior rebajó condena al exjefe de inteligencia del DAS por 'chuzadas,'" February 15, 2015. Available at: http://www.elespectador.com/noticias/judicial/tribunal-superior-rebajo-condena-al-exjefe-de-inteligen-articulo-544243.
[424] El Espectador, "Tribunal Superior rebajó condena al exjefe de inteligencia del DAS por 'chuzadas,'" February 15, 2015. Available at: http://www.elespectador.com/noticias/judicial/tribunal-superior-rebajo-condena-al-exjefe-de-inteligen-articulo-544243.
[425] Petitioners' brief containing observations on merits, December 20, 2013.
[426] El Espectador, "Condenan a José Miguel Narváez por interceptaciones ilegales en el DAS," July 26, 2016. Available at: http://www.elespectador.com/noticias/judicial/condenan-jose-miguel-narvaez-interceptaciones-ilegales-articulo-645425.
[427] El Espectador, "Condenan a José Miguel Narváez por interceptaciones ilegales en el DAS," July 26, 2016. Available at: http://www.elespectador.com/noticias/judicial/condenan-jose-miguel-narvaez-interceptaciones-ilegales-articulo-645425.

crimes of aggravated conspiracy to commit crime, illicit violation of communications, illicit use of transmission/receiving equipment, and abuse of authority by reason of an arbitrary and unjust act on concurrent and consecutive counts.[428]

221. According to information provided by the State, by January 2015 the proceedings were at the trial stage before the Sixth Criminal Court of the Special Circuit.[429] The Commission has no additional information about the current stage of the proceedings.

2.5. The guilty pleas entered by German Villalba Chávez and Fabio Duarte Traslaviña

222. In relation to the cases of Germán Villalba Chávez, former head of the Human Sources Area, and Fabio Duarte Traslaviña, former chief of operations of the DAS, in decisions dated December 14, 2010 and January 5, 2011, the prosecution unit formulated charges to which they pleaded guilty.[430]

223. The Commission notes that in the preliminary inquiry Mr. Villalba Chávez acknowledged the existence of another spy ring in Europe, whose function was to establish relations between the guerrilla groups and human rights organizations, and that the mission was entrusted by the DAS director, Jorge Noguera.[431]

224. On August 9, 2011, the Sixth Criminal Court of the Bogotá Special Circuit convicted both officials of the crimes of aggravated conspiracy to commit crime, illicit violation of communications on concurrent and consecutive counts, illicit use of transmission/receiving equipment, and abuse of authority by reason of an arbitrary and unjust act on concurrent and consecutive counts.[432] According to the State, they were sentenced to 73 months in prison.[433] That decision was upheld at second instance by the Criminal Chamber of the Superior Court of Bogotá in a judgment of September 27, 2012.[434]

2.6. Investigation of Danny Usma et al. (Case 13153)

225. Prosecution Unit 11 delegated to the Supreme Court of Justice also opened a preliminary investigation against 19 former DAS officials for the crimes of conspiracy to commit crime in connection with illicit violation of communications, illicit use of transmission/receiving equipment, and abuse of authority.[435]

226. In August 2016, the prosecution unit presented an indictment against Ronald Harvey Rivera Rodríguez, José Alexis Mahecha Acosta, William Gabriel Romero Sánchez, Blanca Cecilia Rubio Rodríguez, Astrid Fernanda Cantor Varela, Germán Albeiro Ospina Arango, Sergio Pérez Barrera, William Alberto Merchan López, Jesús Hernando Caldas Leyva, Carlos Alberto Orozco Garcés, Jimmy Galvis, and Juan Carlos Sastoque Rodríguez[436].

227. In the same decision, the prosecution unit decided to abstain from investigating the following former DAS officials: Carlos Alberto Herrera Romero, Oscar Barrero López, Carlos Fabián Sandoval Sabogal, Ibet Senobia Gutiérrez Guardo, Neider de Jesús Ricardo Hoyos, Juan Carlos Gutiérrez Galván, andy Juan Carlos Benavides Suárez, for conspiracy to commit crime in connection with the same acts.[437]

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[428] State's brief containing observations on merits, January 23, 2015.
[429] State's brief containing observations on merits, January 23, 2015.
[430] Petitioners' brief containing observations on merits, December 20, 2013.
[431] Petitioners' brief containing observations on merits, December 20, 2013. The brief makes reference to "Germán Villalba admits spying on NGOs in Europe," Noticia UNO, January 22, 2011. Available at: http://noticiasunolaredindependiente.com/2011/01/22/noticias/germn-villalba-reconoce-espionaje-del-das-a-ongs-en-europa/
[432] State's brief containing observations on merits, January 23, 2015.
[433] State's brief containing observations on merits, January 23, 2015.
[434] State's brief containing observations on merits, January 23, 2015.
[435] Petitioners' brief containing observations on merits, December 20, 2013.
[436] El Tiempo, "Un nuevo capítulo por chuzadas ilegales del DAS en caso G3," August 31, 2016. Available at: http://www.eltiempo.com/politica/justicia/resolucion-de-acusacion-por-chuzadas-ilegales-del-das-a-12-exfuncionarios/16688092.
[437] El Tiempo, "Un nuevo capítulo por chuzadas ilegales del DAS en caso G3," August 31, 2016. Available at: http://www.eltiempo.com/politica/justicia/resolucion-de-acusacion-por-chuzadas-ilegales-del-das-a-12-exfuncionarios/16688092.

2.7. Investigation of former directors of the DAS

228. On May 28, 2009, the prosecution unit ordered an investigation of the former directors of the DAS, Jorge Aurelio Noguera Cotes, María del Pilar Hurtado, Joaquín Polo Montalvo, and Andrés Mauricio Peñate Giraldo for illegal intelligence operations.[438] The Commission notes that only in the case of Mr. Noguera were the investigations connected with the attacks on CCAJAR.[439]

229. On June 23, 2009, the prosecutor opened a preliminary inquiry linking Jorge Noguera to the investigation for the crimes of of aggravated conspiracy to commit crime, illicit violation of communications, illicit use of transmission/receiving equipment, and abuse of authority by reason of an arbitrary and unjust act to the detriment of CCAJAR.[440] On January 6, 2011, the Attorney General issued a pretrial detention order for him without the possibility of release.[441] That decision was appealed by the victims in order to increase the charges for which he was originally linked to the case to include the crimes of embezzlement and psychological torture, and that those offenses be declared to constitute crimes against humanity.[442] The Attorney General decided not to reconsider the decision, arguing that there was insufficient proof.[443]

230. On July 11, 2012, the prosecution unit decided to indict the former director of the DAS Jorge Noguera for the offenses alleged.[444] On October 8, 2013, the Criminal Chamber of the Supreme Court of Justice ruled that the time limit for the investigation had lapsed in relation to the offenses of illicit violation of communications and illicit use of transmission/receiving equipment.[445]

231. The Division found that pursuant to Article 83 of Law 599 of 2000, the time limit for criminal action lapses after the same amount of time as the maximum penalty provided by law, which shall never be less than five years, and that if the conduct is carried out by a public servant in the performance of their duties, the time limit increases by one third.[446] Thus, the court argued that in this case, the time limit for criminal action in relation to the offenses of illicit violation of communications and illicit use of transmission/receiving equipment lapsed after six years, eight months.[447] Based on the foregoing, the Criminal Chamber ruled:

> Applying the rules of arithmetic, if we accept that Dr. NOGUERA COTES allegedly committed the offenses mentioned until the last day on which he served as director of the DAS, that is, October 26, 2005, the time limit for criminal action for the three alleged crimes lapsed on June 25, 2012, a term of six years, eight months. As the classification was made on July 21, 2012, those offenses were clearly time-barred before the indictment was presented.[448]

232. In the same decision, the Criminal Chamber of the Supreme Court of Justice ordered copies to be produced so that he might be investigated for the crime of torture.[449]

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[438] Petitioners' brief containing observations on merits, December 20, 2013. The brief makes reference to Office of the Attorney General, Case 12490-7 C. 1, pp. 4-10.
[439] Petitioners' brief containing observations on merits, December 20, 2013.
[440] Petitioners' brief containing observations on merits, December 20, 2013. The brief makes reference to Office of the Attorney General, Case 12490-7, Preliminary inquiry proceedings of June 23, 2009, (C.3, pp. 107-119); Continuation of preliminary inquiry, January 22, 2010 (C. 11, pp. 226-227), and Continuation of preliminary inquiry, April 6, 2010 (C. 12, pp. 101-108).
[441] Petitioners' brief containing observations on merits, December 20, 2013.
[442] Petitioners' brief containing observations on merits, December 20, 2013.
[443] Petitioners' brief containing observations on merits, December 20, 2013. The brief makes reference to Office of the Attorney General, Case 12490-7 C. 17, pp. 63-84.
[444] Prosecution Unit Delegated to the Supreme Court of Justice, Case 12490-7, Indictment against Jorge Noguera Cotes, July 11, 2012. Annex 97 to the petitioners' brief containing observations on merits, December 20, 2013.
[445] Petitioners' brief containing observations on merits, December 20, 2013. The brief makes reference to "El exjefe del DAS Jorge Noguera no será procesado por chuzadas," Diario El Tiempo, online edition, October 8, 2013. Available at: http://bit.ly/17a3mYm
[446] Available at: http://www.derechos.org/nizkor/colombia/doc/noguera10.html, October 8, 2013.
[447] Available at: http://www.derechos.org/nizkor/colombia/doc/noguera10.html October 8, 2013.
[448] Available at: http://www.derechos.org/nizkor/colombia/doc/noguera10.html October 8, 2013.
[449] Available at: http://www.derechos.org/nizkor/colombia/doc/noguera10.html October 8, 2013.

233. On November 27, 2013, that decision became final after the motions for reconsideration filed by the victims and the prosecution were denied.[450]

234. In 2013, the Accusations Committee of the Colombian Chamber of Representatives was investigating the former president of the Republic, Álvaro Uribe Vélez, who gave a voluntary deposition on the facts in August 2011, without the victims having the possibility of questioning him.[451]

3. Disciplinary investigations against state agents

235. The Commission notes the following disciplinary investigations conducted in relation to the various facts in this case.

3.1. Preliminary investigation 477-01

236. On June 30, 2001, the Internal Control Office of the DAS ordered a preliminary investigation to determine the responsibility, if any, of its officials for the threats against CCAJAR.[452] The Commission does not have any information about the specific threats that prompted the investigation or against which members of CCAJAR they were made. On October 3, 2001, CCAJAR requested the Internal Affairs Office of the Nation to assume preferential jurisdiction over the above investigation.[453]

237. On December 31, 2001, the Internal Control Office of the DAS set aside the preliminary inquiry.[454] The Internal Control Office argued that the submissions made by CCAJAR lacked evidence.[455] On April 10, 2002, the Internal Affairs Office responded to the request of October 3, 2001, advising that said entity had exercised oversight on that investigation and that it had been canceled because insufficient evidence was found to continue it.[456]

3.2. Preliminary investigation 008-59071-2001

238. On July 26, 2001, the Internal Affairs Office launched a preliminary investigation to establish possible disciplinary responsibilities on the part of public officials (whether of the DAS, National Police, Army, or CTI) for threats made to the lawyers Reinaldo Villalba and Alirio Uribe.[457] On March 22, 2002, the Internal Affairs Office ordered the investigation to be set aside.[458] The Internal Affairs Office said that "if the persons threatened provide no information as to the identity of the perpetrators or presumed perpetrators of the threats or their motive, their impunity is no longer the responsibility of the state entity."[459]

239. The Commission notes that similar decisions to set aside were adopted in the framework of other preliminary investigations carried out by the Internal Affairs Office. That occurred in relation to the preliminary investigations for harassment at the 13th Battalion against lawyer Luis Guillermo Pérez[460] and against the lawyer Diana Teresa Sierra.[461]

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[450] Available at: http://190.24.134.101/corte/wp-content/uploads/relatorias/pe/b1dic2013/39931(27-11-13).doc, November 27, 2013.
[451] Petitioners' brief containing observations on merits, December 20, 2013. The brief makes reference to "Jamás pasó por mi mente ordenar chuzadas, dijo el ex Presidente Uribe," Diario El Tiempo, online edition, August 8, 2011. Available at: http://bit.ly/19ktOMd
[452] Petitioners' communication of June 23, 2005.
[453] Petitioners' communication of June 23, 2005.
[454] Petitioners' communication of June 23, 2005.
[455] Petitioners' communication of June 23, 2005.
[456] Petitioners' communication of June 23, 2005.
[457] Internal Affairs Office, Case No. 008-59071/2001, Decision of March 22, 2002. Annex 99 to the petitioners' brief containing observations on merits, December 20, 2013.
[458] Internal Affairs Office, Case No. 008-59071/2001, Decision of March 22, 2002. Annex 99 to the petitioners' brief containing observations on merits, December 20, 2013.
[459] Internal Affairs Office, Case No. 008-59071/2001, Decision of March 22, 2002. Annex 99 to the petitioners' brief containing observations on merits, December 20, 2013.
[460] Case No. 15558753-01. Petitioners' brief containing observations on merits, December 20, 2013.
[461] Internal Affairs Office, Case No. 008-113526 de 2004, communication of December 1, 2004. Annex 98 to the petitioners' brief containing observations on merits, December 20, 2013.

240. The Colombian state said that the internal affairs office of the nation impose the penalties of dismissal and general ineligibility for positions in the public sector on Jorge Aurelio Noguera Cotes, José Miguel Narváez Martínez, Carlos Arzayuz Guerrero, Fernando Alonso Tabares Molina, and Jorge Alberto Lagos León.

3.3. Action for constitutional protection against the then-President of the Republic. Constitutional Court Judgment T-1062/05

241. On March 5, 2005, Soraya Gutiérrez Argüello, legal representative of CCAJAR, filed an action for constitutional protection against then-president Álvaro Uribe Vélez in response to public statements made against the organization. The purpose of the Collective's petition was to request protection for the fundamental rights to life, physical integrity, equality, freedom of expression and opinion, honor and reputation, petition, and defense of the members of the Collective, as well as that the president be ordered publicly to rectify the statements mentioned in the suit (see *supra*, pars. 141 and 143).[462] The Constitutional Court of Colombia took up the action for protection under appeal.[463]

242. The legal counsel of the president of the Republic presented her response to the suit. She said that the quotations mentioned by the respondent institution, ascribed to the speech of the President of the Republic were not true, as they did not appear in that speech but in comments thereon published in the newspaper El Tiempo.[464] She added that in relation to communications written by groups operating outside the law, she could not say if they were true and that they did not prove anything at all, other than the fact that those statements could not be attributed to the President.[465] She argued that the President could not be held responsible for the exercise of freedom of expression by individuals who used electronic media to opine about a publicly known organization.[466]

243. Furthermore, she added that the accusations of persecution by the DAS referred to third parties and, therefore, could not be attributed to the President of the Republic.[467] She added that the President was not responsible for information posted on the website of the National Narcotics Control Bureau (DNE). As for the other accusations, she said that she had no record of them and that she would confine herself to what was proven.[468]

244. On April 1, 2005, the Sectional Council of the Judiciary of Cundinamarca denied the action for protection filed by the Collective.[469] The Sectional Council found that, after reviewing the texts forwarded by the plaintiff, there was no evidence in the speeches of September 8, 2003, and February 10, 2004, given before the High Command of the Armed Forces of Colombia and the Foreign Affairs Committee of the European Parliament, that the president was referring specifically to CCAJAR or one of its members as a mouthpiece of terrorists or guerillas.[470] The Council held that the then-President referred to "some" human rights organizations that, in their capacity as such, could lawfully defend those persons.[471]

245. The Sectional Council specifically stated that the president's statements had also not violated the right to life and physical integrity of the members of the lawyers' collective, "since there have been no mortal or wounded victims belonging to the entity seeking protection as a result of his alleged statements."[472] Finally, the Sectional Council urged the president of the Republic to present to the domestic and international

[462] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006.
[463] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006.
[464] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006.
[465] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006.
[466] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006.
[467] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006.
[468] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006.
[469] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006.
[470] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006.
[471] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006.
[472] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006.

community in a considered, measured, and objective way the reality of the useful and essential task that organizations that defend human rights in Colombia perform.[473]

246. On April 6, 2005, the Ministry of the Interior and Justice informed the court of first instance that it had ordered the reference to the José Alvear Restrepo Lawyers' Collective in its 2003 management report to be removed from the website of the DNE.[474] The foregoing until the matter had been settled judicially.[475]

247. In a brief dated April 8, 2005, the José Alvear Restrepo Lawyers' Collective challenged the decision at first instance.[476]

248. On May 11, 2005, the Disciplinary Chamber of the Superior Council of the Judiciary decided to modify the decision to refuse the action for protection and instead declared it out of order.[477] In the opinion of the Chamber, the fact that the action for protection had been filed 13 months after the events occurred was incompatible with the immediacy requirement of the constitutional action.[478]

249. On October 20, 2005, the Constitutional Court returned a judgment after examining the ruling of the Disciplinary Chamber of the Superior Council of the Judiciary under appeal.[479] With regard to the statements of the president in September 2003, the Court considered that the alleged violation of the individual rights invoked by the suing organization was not present in the speech of September 8, 2003, as the Constitutional Court had held in Judgment T-1191 of 2004, since "in this specific case sufficient evidence [was not found] to conclude that the accusations of the president were specifically directed at the nongovernmental organizations here suing," which included the José Alvear Restrepo Lawyers' Collective.[480]

250. In relation to the statements of the president in February 2004, the Constitutional Court found that there was nothing in the speech to suggest a direct allusion to the work of the Lawyers' Collective or its members.[481] There is no evidence in the record that directly shows that the president of the Republic made the statements that he is said to have made or that, if he did, he referred in them to the Lawyers' Collective or any of its members.[482]

251. Regarding the reference to CCAJAR on the DNE website, the Court said that until a decision had been adopted by a competent judicial authority settling the matter, the DNE was barred from publishing any information on its website that might endanger the physical integrity of that organization's members.[483]

252. Based on the foregoing, the court vacated the decision of second instance that declared the action for protection out of order for failing to meet the immediacy requirement, and confirmed the decision at first instance denying the protection sought.[484]

253. The Court also held that the fact that no harm was found to the members of CCAJAR did not exempt the head of government or any public servant from fulfilling the duties associated with the protection of the rights of such groups, including the obligation to refrain from making unfounded statements that might unjustifiably endanger the human rights protection activities in which they engage.[485]

[473] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006.
[474] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006.
[475] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006.
[476] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006.
[477] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006.
[478] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006.
[479] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006.
[480] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006.
[481] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006.
[482] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006.
[483] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006.
[484] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006.
[485] Judgment T-1062/05 of the Constitutional Court, October 20, 2005. Enclosed with the State's communication of November 1, 2006.

4. Communications sent by CCAJAR to the presidents between 1999 and 2015, and to the vice president in 2002

254. On August 25, 1999, CCAJAR sent a communication to then-President Andrés Pastrana Arango in relation to threats contained in pamphlets and to statements made against human rights defenders by a high-ranking officer in the Colombian Army. The communication also requested that particular attention be given to the security problems of the lawyer Alirio Uribe.[486]

255. In September 2000, CCAJAR's lawyers requested the president of the Republic for an "immediate explanation of the reasons why members of our institution arbitrarily and illegally appear in various military intelligence reports."[487] Their request was based on discoveries made in a May 1999 Report of the Internal Affairs Office.[488] That communication also included an urgent appeal for the State to fulfill its obligation to provide meaningful, real and effective protection to the members of CCAJAR.[489]

256. In May 2002 the Presidential Program on Human Rights of the Office of the Vice President of the Republic pledged to arrange the declassification and screening of the intelligence reports found, to which end it organized a series of meetings that culminated in the adoption of commitments by the Colombian Government.[490] The petitioners said that the State never honored those commitments.[491] The Commission has no information regarding the possible fulfillment of those commitments.

257. Toward the end of 2002, CCAJAR wrote to the vice president of the Republic, Francisco Santos, in order to inform him of the surveillance and communications intercepts on the Collective's members. In that communication CCAJAR also requested an explanation as to why the Collective's members appeared in intelligence reports, that said information be corrected, and that evidence be shown of concrete results in the investigations carried out in relation to the attacks on members of the Collective.[492] The Commission has no information as to any response or follow-up on this request on the part of the office of the vice president.

258. On June 11, 2003 CCAJAR and other entities and associations of defense lawyers sent a letter to president Uribe Vélez, expressing their concern at the systematic persecution of defense lawyers in Colombia.[493] They included several CCAJAR members. The IACHR does not have any information about follow up on that communication.

259. On February 23, 2015, CCAJAR wrote a letter to president Juan Manuel Santos.[494] They asked him to take effective steps to ensure that the intelligence agencies attached to the Colombian Army, the National Police, and other intelligence agencies "cease their illegal intelligence and persecution" activities against them. They identified recent incidents purporting to demonstrate that CCAJAR members "continue[d] to be victims of systematic and widespread persecution, of attacks by authorities and intelligence agencies." They asked that he "take urgent and effective steps to put an end to the harassment and persecution of CCAJAR and its members."[495] The IACHR does not have any information about follow up on that communication.

V. ANALYSIS OF LAW

[486] Petitioners' communication of June 23, 2005.
[487] Open letter from CCAJAR to the president of the Republic dated September 7, 2000. Annex 21 to the petitioners' brief containing observations on merits, December 20, 2013.
[488] Open letter from CCAJAR to the president of the Republic dated September 7, 2000. Annex 21 to the petitioners' brief containing observations on merits, December 20, 2013.
[489] Open letter from CCAJAR to the president of the Republic dated September 7, 2000. Annex 21 to the petitioners' brief containing observations on merits, December 20, 2013.
[490] Communication from the Director of the Presidential Program on Human Rights of the Office of the Vice President of the Republic addressed to CCAJAR, May 18, 2001. Annex 22 to the petitioners' brief containing observations on merits, December 20, 2013.
[491] Petitioners' brief containing observations on merits, December 20, 2013.
[492] Letter from CCAJAR to the vice president of the Republic dated November 22, 2002. Annex 50 to the petitioners' brief containing observations on merits, December 20, 2013.
[493] Annex 5 to the petitioners' communication of March 18, 2015.
[494] Letter to Juan Manuel Santos, February 23, 2015. Annex 1 to the petitioners' communication of March 18, 2015.
[495] Letter to Juan Manuel Santos, February 23, 2015. Annex 1 to the petitioners' communication of March 18, 2015.

A. Preliminary matter

260. The Commission underscores that, based on the information furnished by the parties, this case falls under an alleged pattern of persecution directed at members of CAJAR, consisting of threats, harassment, stigmatizing statements, intelligence work, wiretapping, etc., all due to the human rights defense work done by the organization. In this regard, the IACHR notes that the instant case does not center its analysis on isolated events, but rather on a sequence of alleged violations of human rights from 1990 to the present.

B. Rights to personal integrity, freedom of thought and expression, and freedom of association (Articles 5(1),[496] 13(1),[497] and 16(1)[498] of the American Convention, in relation to Article 1(1) thereof)

1. General considerations

1.1. Characterization of human rights defenders

261. Both the IACHR and the Court have underscored the work carried out by human rights defenders, considering it "fundamental for the strengthening of democracy and the Rule of Law."[499] In addition, the Organization of American States has indicated that the member states should recognize the "valuable contribution [of defenders] to the promotion, observance, and protection of fundamental rights and liberties."[500]

262. The IACHR has determined that "every person who in any way promotes or seeks the realization of human rights and fundamental freedoms, nationally or internationally, must be considered a human rights defender."[501] In this same regard, the Court has considered that the definition of human rights defender lies in the work carried out, regardless of whether the individual acts as a private individual or as a public servant.[502]

263. In this vein, the Court has referred to the monitoring, reporting, and education[503] work done by human rights defenders, pointing out that the defense of human rights is not limited to civil and political rights, but necessarily involves economic, social, and cultural rights […] in accordance with the principles of universality, indivisibility, and interdependence.[504]

264. At the same time, there is international consensus that human rights defenders work to promote and protect human rights, among other things. The United Nations High Commissioner for Human Rights has suggested that human rights defenders are characterized by the work they do rather than by other qualities. To

[496] Article 5(1): Every person has the right to have his physical, mental, and moral integrity respected.
[497] Article 13(1): Everyone has the right to freedom of thought and expression. This right includes the 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.
[498] Article 16(1): Everyone has the right to associate freely for ideological, religious, political, economic, labor, social, cultural, sports, or other purposes.
[499] 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, paragraph 128. IACHR, Report on the Situation of Human Rights Defenders in the Americas OEA/Ser.L/V/II.124. Doc. 5 rev.1, March 7, 2006, paragraph 13.
[500] Organization of American States, "Human Rights Defenders in the Americas, Support for the Individuals, Groups, and Organizations of Civil Society Working to Promote and Protect Human Rights in the Americas," AG/Res. 1671 (XXIX-O/99) of June 7, 1999.
[501] IACHR, Report on the Situation of Human Rights Defenders in the Americas, OEA/Ser.L/V/II.124. Doc. 5 rev.1, March 7, 2006, paragraph 13.
[502] I/A Court H.R. Case of Luna López *v*. Honduras. Merits, Reparations, and Costs. Judgment of October 10, 2013. Series C No. 269, paragraph 122.
[503] I/A Court H.R. Case of Kawas-Fernández *v*. Honduras. Merits, Reparations, and Costs. Judgment of April 3, 2009. Series C No. 196, paragraph 147.
[504] I/A Court H.R. Case of Kawas-Fernández *v*. Honduras. Merits, Reparations, and Costs. Judgment of April 3, 2009. Series C No. 196, paragraph 147.

be considered a human rights defender, a person must protect or promote any right or rights of persons or groups of persons.[505]

265. Additionally, Article 1 of the Declaration on the Right and Responsibility of Individuals, Groups, and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms provides that:

> Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.[506]

1.2. Obligations of the State vis-à-vis human rights defenders

266. The Commission considers that the States have the obligation to take positive actions to do away with environments that are hostile or dangerous to the work of human rights defenders.[507] In this regard, States are required to create the conditions for eradicating violations by state agents or individuals such that people may freely engage in their work to defend and promote human rights.[508]

267. Accordingly, the Inter-American Court has emphasized that the actions States must take to protect human rights defense work include: "to provide the resources necessary for human rights defenders to conduct their activities freely; to protect them when they are subject to threats (…); to refrain from setting up hindrances that might make their work more difficult; and to conduct conscientious, effective investigations of violations against them, thus preventing impunity."[509]

268. The aforementioned duties of the State, in addition to ensuring that human rights defenders can carry out their fundamental work, are also related to the enjoyment of several rights contained in the American Convention on Human Rights, such as the rights to personal integrity, freedom of expression, and freedom of association,[510] which the State has the obligation to respect and protect. Such rights, taken together, allow for the free exercise of activities of defense and promotion of human rights. Thus, the attack of a human rights defender in retaliation for his or her activities can have the effect of violating those rights.[511]

269. The Commission recalls that the right to freedom of association has two dimensions: one individual and another social. On the one hand, this means "those who are protected by the Convention have (…) the right and freedom to associate freely with other persons, without the interference of the public authorities limiting or obstructing the exercise of the respective right."[512] On the other hand, the IACHR has indicated that individuals "enjoy the right and freedom to seek the common achievement of a licit goal, without pressure or interference that could alter or change their purpose."[513]

270. Accordingly, the States must create legal and genuine conditions for the exercise thereof, which encompass, where relevant, the duties to prevent attacks against free association, including for human rights

[505] United Nations Office of the High Commissioner for Human Rights, Human Rights Defenders: Protecting the Right to Defend Human Rights, Fact Sheet No. 29, 2004, p. 8.
[506] Declaration on the Right and Responsibility of Individuals, Groups, and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, Article 1.
[507] IACHR, Report on the Situation of Human Rights Defenders in the Americas, OEA/Ser.L/V/II.124. Doc. 5 rev.1, March 7, 2006, paragraph 45.
[508] United Nations General Assembly, A/65/223, Report of the Special Rapporteur on the situation of human rights defenders, 4 August 2010.
[509] I/A Court H.R. Case of Nogueira de Carvalho *et al. v.* Brazil. Preliminary Objections and Merits. Judgment of November 28, 2006. Series C No. 161, paragraph 77.
[510] IACHR, Second Report on the Situation of Human Rights Defenders in the Americas, December 31, 2011, paragraph 19.
[511] IACHR, Second Report on the Situation of Human Rights Defenders in the Americas, December 31, 2011, paragraph 19.
[512] I/A Court H.R. Case of Huilca Tecse *v.* Peru. Merits, Reparations, and Costs. Judgment of March 3, 2005, Series C No. 121, paragraph 69.
[513] IACHR, Report No. 56/12, Case 12.775, Merits, Florentín Gudiel et al., Guatemala, March 21, 2012, paragraph 216.

defense organizations.[514] The Court indicated that such obligation remains even when it comes to respect for relations among individuals if a case so warrants.[515]

271. The IACHR has emphasized the broad content of the right to freedom of [thought and] expression and has examined the convention provision that protects it from several perspectives through which human beings relate to information.[516] Both the IACHR and the Court have arrived at this broad interpretation of the right to freedom of thought and expression through the analysis of its two dimensions: the individual and the social. In this respect, the Court has indicated that those who are protected under the Convention have not only the right and freedom to express their thoughts, but also the right and freedom to seek, receive, and disseminate information and ideas of all kinds.[517]

272. The Commission has held that this right can be infringed when human rights defenders are victims of aggression, threats, and harassment.[518] This, because such occurrences can silence or intimidate those who exercise their right to express themselves critically or to lodge complaints of alleged human rights violations.[519]

273. In terms of the right to personal integrity, the State has the obligation to adopt the measures necessary to prevent physical and psychological assaults, threats, and harassment used in order to diminish the physical and mental capacity of human rights defenders.[520] The Commission has stated that such elements not only compromise their right to physical integrity, but also their mental and moral integrity.[521] This, insofar as such [proceedings] produce anguish, fear, and insecurity.[522]

2. Probative value of the facts described

274. Regarding the allegations of violence, threats, and harassment against CAJAR members, the Commission has identified three sets of facts, as evidenced in the section on findings of fact: (i) facts alleged for which there is some proof they occurred; (ii) facts alleged that were reported to domestic authorities; and (iii) facts alleged and described by the petitioners in their communications to the IACHR.

275. The IACHR notes that, by their very nature, the acts of violence, threats, and harassment alleged in this case are difficult to prove. Accordingly, the Commission believes it is necessary to examine all of the information in the case file together and not strive to determine the probative value of each occurrence separately.

276. The IACHR first believes there are similarities between the acts of violence, threats, and harassment targeting CAJAR members. Second, the Commission notes that there are also similarities between those acts and the specific context of CAJAR, as indicated earlier in this report. Third, the IACHR observes that CAJAR's specific context can be framed within the general context of human rights defenders in Colombia, as established in the previous section. Added to this, many of the facts alleged were reported to judicial entities. As indicated earlier, such reports have not been duly investigated.

[514] I/A Court H.R. Case of Yarce *et al. v*. Colombia. Preliminary Objection, Merits, Reparations, and Costs. Judgment of November 22, 2016. Series C No. 325, paragraph 271.
[515] I/A Court H.R. Case of Yarce *et al. v*. Colombia. Preliminary Objection, Merits, Reparations, and Costs. Judgment of November 22, 2016. Series C No. 325, paragraph 271.
[516] IACHR, Case 12.442, Application to the Inter-American Court of Human Rights, Gabriela Perozo *et al.*, Venezuela, April 12, 2007, paragraph 141.
[517] 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, paragraph 108.
[518] IACHR, Report No. 88/10, Case 12.661, Merits, Néstor José and Luis Uzcátegui et al., Venezuela, October 22, 2010, paragraph 288.
[519] IACHR, Second Report on the Situation of Human Rights Defenders in the Americas, December 31, 2011, paragraph 98.
[520] IACHR, Report No. 86/13, Cases 12.598, 12.596, and 12.621, Merits, Ana Teresa Yarce et al. (*Comuna* 13), Colombia, November 4, 2013, paragraph 217.
[521] IACHR, Second Report on the Situation of Human Rights Defenders in the Americas, December 31, 2011, paragraph 119.
[522] IACHR, Second Report on the Situation of Human Rights Defenders in the Americas, December 31, 2011, paragraph 119.

277. The foregoing relates the multiple facts alleged to one another and, moreover, examines them in light of the more general context the Commission has been monitoring since the 1990s, as well as concurrently, in the timeframe in which they took place according to the descriptions made in the section on finding of facts. Based thereon, and with the added fact of the State's failure to adequately shed light on the facts, the Commission considers that it has been sufficiently proven that in recent decades, the members of CAJAR suffered a series of acts of violence, harassment, and threats that, by their nature were tied to the human rights defense work done by that organization, impairing the members' personal integrity, freedom of expression, and freedom of association.

3. Analysis of attribution of responsibility

278. In its first judgment in a contentious case, the Inter-American Court indicated the following:

> Article 1(1) is essential in determining whether a violation of the human rights recognized by the Convention can be imputed to a State Party. In effect, that Article charges the States Parties with the fundamental duty to respect and guarantee the rights recognized in the Convention. Any impairment of those rights can be attributed under the rules of international law to the action or omission of any public authority constitutes an act imputable to the State, which assumes responsibility in the terms provided by the Convention.[523]

279. The international responsibility of the State can be based on acts or omissions of any of its powers or organs that violate the American Convention, and it is generated immediately with the international illegal act attributed to the State. In these conditions, in order to establish whether a violation of the human rights established in the Convention has been produced, it is not necessary to determine, as it is in domestic criminal law, the guilt of the authors or their intention; nor is it necessary to identify individually the agents to whom the acts that violate [the human rights embodied in the Convention] are attributed. It is sufficient "that a State obligation exists and that the State failed to comply with it."[524]

280. Over time, the work of the Commission and the Court has defined the content of the obligations to respect and guarantee [the rights] set forth under Article 1(1) de the Convention. As to the obligation to respect [rights], the Court indicated that "[a]ccording to Article 1(1), any exercise of public power that violates the rights recognized by the Convention is illegal. Whenever a State organ, official, or public entity violates one of those rights, this constitutes a failure of the duty to respect the rights and freedoms set forth in [the Convention]."[525]

281. In the words of the Court, this conclusion is independent of whether the organ or official contravened provisions of internal law or overstepped the limits of his authority; under international law, a State is responsible for the acts of its agents undertaken in their official capacity and for their omissions, even when those agents act outside the sphere of their authority or violate internal law.[526]

282. Regarding the obligation to guarantee [rights], the Court has indicated that States must prevent, investigate, and punish any violation of the rights recognized by the Convention and, moreover, if possible, attempt to restore the right violated and provide compensation as warranted for damages resulting from the violation.[527] These obligations also apply to possible acts committed by non-state actors. Specifically, the Court has indicated that "the State's international responsibility may arise from attribution to the State of human rights violations committed by third parties or individuals, within the framework of the State's

[523] I/A Court H.R. Case of Velásquez Rodríguez *v*. Honduras. Merits. Judgment of July 29, 1988. Series C No. 4, paragraph 164.
[524] I/A Court H.R. Case of González Medina and Family *v.* Dominican Republic. Preliminary Objections, Merits, Reparations, and Costs. Judgment of February 27, 2012 Series C No. 240, paragraph 133; and Case of the Pueblo Bello Massacre *v*. Colombia, Judgment of January 31, 2006, Series C No. 140, paragraph 112.
[525] I/A Court H.R. Case of Velásquez Rodríguez *v*. Honduras. Merits. Judgment of July 29, 1988. Series C No. 4, paragraph 169. See also: IACHR, Report No. 11/10, Case 12.488, Merits, Barrios Family, Venezuela, March 16, 2010, paragraph 91.
[526] I/A Court H.R. Case Velásquez Rodríguez *v*. Honduras. Merits. Judgment of July 29, 1988. Series C No. 4. Paragraph 170.
[527] I/A Court H.R. Case Velásquez Rodríguez *v*. Honduras. Merits. Judgment of July 29, 1988. Series C No. 4. Paragraph 166.

obligations to guarantee respect for those rights between individuals;[528] (…) the obligations *erga omnes* to respect and ensure respect for the norms of protection, which is the responsibility of the States Parties to the Convention, extend their effects beyond the relationship between its agents and the persons subject to its jurisdiction, because they are also manifest in the positive obligation of the State to adopt the necessary measures to ensure the effective protection of human rights in inter-individual relations."[529] These obligations must be determined in function of the need for protection in each particular case."[530]

283. Specifically, with respect to the duty to protect, the Court has indicated that "a State cannot be responsible for all the human rights violations committed between individuals within its jurisdiction. Indeed, the nature *erga omnes* of the treaty-based guarantee obligations of the States does not imply their unlimited responsibility for all acts or deeds of individuals,[531] because their obligations to adopt prevention and protection measures for individuals in their relationships with each other are conditioned by: (i) whether a State was aware of a situation of danger; (ii) if such danger was real and immediate; and (iii) if the State adopted measures that could reasonably be expected to prevent or avoid that danger.[532]

284. Regarding the analysis of attribution of international responsibility to the State in the instant case, the Commission observes that a significant number of the acts described were committed by individuals whose identity has not been proven in such a way as to determine whether or not they were state agents. These are fundamentally the acts related to threats, harassment, and surveillance in different places. Nevertheless, the IACHR also observes that some of the acts described came directly from the State, primarily the intelligence activities and statements made by senior officials. The Commission deems that even though these acts originated with the State, they warrant a separate analysis that will be made further on in this report; they are also relevant in this section on analysis of attribution of responsibility for threats, harassment, and surveillance by persons whose ties to the State are impossible to establish. This, to the degree that they might have been involved in the commission of these acts, or by instigating or at least tolerating them. In this regard, the Commission contends that the duties to respect and guarantee [rights] are interrelated in the instant case, as will be analyzed.

285. The Court has deemed that certain rights protected under the American Convention have been violated, for example, in situations in which there has been no state response to threats, harassment, surveillance, and searches committed by non-state actors that were brought to the authorities' attention.[533] Specifically, when human rights defenders have reported to the authorities the threats they have received, this should be enough for the State to activate protection mechanisms to the benefit of the defender at risk.[534]

286. The Commission thus underscores the fundamental link between an effective investigation and the duty to protect in these types of cases. An effective investigation was one of the main mechanisms the Colombian State had at its disposal to identify sources of risk, understand the facts in context and as part of a possible pattern of common sources of risk related to CAJAR's work, and, by imposing the respective punishment, to send a message of zero tolerance for acts against CAJAR's members. In addition, a diligent investigation would have made it possible to institute protection mechanisms for the alleged victims that were suitably designed and implemented to effectively mitigate the specific sources of risk.

[528] I/A Court H.R. Case of the Pueblo Bello Massacre. Judgment of January 31, 2006. Series C No. 140, paragraph 113.
[529] I/A Court H.R. Case of the "Mapiripán Massacre." Judgment of September 15, 2005. Series C No. 134, paragraph 111.
[530] I/A Court H.R. Case of the Pueblo Bello Massacre. Paragraph 117.
[531] I/A Court H.R. Case of the Pueblo Bello Massacre. Paragraph 117.
[532] In several of its judgments, the Inter-American Court has considered European Court case law with respect to the elements comprising the duty to protect. In this regard, see: I/A Court H.R. Case of the Pueblo Bello Massacre *v.* Colombia. Judgment of January 31, 2006. Series C No. 140, paragraph 124; 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, paragraph 284; I/A Court H.R. Case of Luna López *v.* Honduras. Merits, Reparations, and Costs. Judgment of October 10, 2013. Series C No. 269, paragraph 124.
[533] I/A Court H.R. Case of Gutiérrez Soler *v.* Colombia. Merits, Reparations, and Costs. Judgment of September 12, 2005. Series C No. 132, paragraphs 56-57.
[534] IACHR, Second Report on the Situation of Human Rights Defenders in the Americas, December 31, 2011, paragraph 43.

287. Because of the foregoing, the Commission has underscored the fact that in order to meet this obligation, States must investigate and punish the persons responsible for harassment, threats, and attacks against human rights defenders.[535] The investigation must be done immediately and must be thorough, serious, and impartial in order to identify the source of the threats and punish those responsible, with the aim of trying to prevent the threats from being carried out.[536] In terms of the obligation to punish those responsible, the Convention requires that not only the direct perpetrators of human rights violations be punished, but also the masterminds.[537] As will be analyzed further on, this is especially relevant in cases of human rights defenders in which determining who the mastermind is is directly tied to the examination of whether the facts reported constitute retaliation for the work they do.

288. The IACHR takes note that many of the allegations of threats, harassment, surveillance, searches, and other acts of violence against CAJAR members were reported to state authorities. Based on the information presented by the State itself, none of the perpetrators of any of these acts has been either identified or punished thus far. Indeed, the Commission points out that many of the investigations opened are in a preliminary phase, while others have been shelved. Bearing in mind the number of reports received, the time elapsed since the acts occurred, and the failure, to date, to identify a single perpetrator, the Commission believes the investigation mechanisms proved ineffective as suitable avenues for identifying the sources of risk and enabling measures to be developed to, on the one hand, mitigate the risk, and on the other, to effectively protect CAJAR members against the commission or continuation of the acts against them. In this regard, reiterating the fundamental link in these cases between investigation and protection, the Commission deems that the lack of an effective response in the context of the investigations constituted a failure to comply with the duty to guarantee [rights] in both extremes.

289. Additionally, the duty to protect includes the obligation to adopt material protection measures. This, for purposes of preventing new acts of violence, threats, or harassment from being repeated or from occurring.[538] The Commission recognizes that the Colombian State has adopted protection measures in favor of the CAJAR members. In this regard, the IACHR observes that in the context of the precautionary measures, Colombia reported on the system of protection for different CAJAR members, including the provision of armored vehicles, bodyguards, means of communication, etc.

290. The IACHR likewise takes note of the failings alleged by the petitioners with respect to implementation of those measures. In particular, the petitioners indicated that the DAS, in the context of its surveillance of CAJAR, intercepted messages of members of the organization who were using communication devices provided by the State. The petitioners also stated that they had to turn down the vehicles assigned to them because they had information that the military had reportedly infiltrated as drivers in an effort to obtain information about their activities.

291. Notwithstanding the actions implemented, the Commission points out that in these types of cases in which the facts being alleged are not isolated, but rather form part of an already verified context, the State response cannot be limited to the adoption of protection measures. For this reason, as previously indicated, a diligent and effective investigation is crucial in order to seriously identify sources of risk, and on the basis of its findings, take specific actions to mitigate them, as well as to ensure that protection measures are carefully designed to address them. Nevertheless, as stated earlier, this did not happen in the instant case.

292. On the contrary, the Commission believes that the State actively adopted measures that exacerbated the situation of risk the CAJAR members found themselves in.

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[535] IACHR, Second Report on the Situation of Human Rights Defenders in the Americas, December 31, 2011, paragraph 45.

[536] In considerations related hereto, the Inter-American Court of Human Rights has indicated, for example, that "as an essential part of its duty to protect, the State must take effective measures to investigate and, where appropriate, punish those responsible for the acts that gave rise to the adoption of the provisional measures." I/A Court H.R. Giraldo Cardona Case with respect to Colombia. Provisional Measures. Order of June 19, 1998, operative point 4.

[537] IACHR, Second Report on the Situation of Human Rights Defenders in the Americas, December 31, 2011, paragraph 45.

[538] IACHR, Case 12.442, Application to the Inter-American Court of Human Rights, Gabriela Perozo *et al.*, Venezuela, April 12, 2007, paragraph 133.

293. First, the IACHR takes note of statements made by state officials about the work done by CAJAR members. The Commission observes that in the late 1990's and early 2000's, a national army commander and Colombia's National Narcotics Directorate indicated that CAJAR had ties to the guerrillas and were defenders of the FARC. In 2003, the then President of the Republic stated that, "collectives appeared (…), that ultimately serve terrorism and that heinously shield themselves under the flag of human rights." The next year, that same President of the Republic also declared that CAJAR members "use human rights as a pretext for providing coverage to terrorists." The Commission takes note that those statements by the then President were denounced and examined by the Constitutional Court, as established in the finding of facts section.

294. Moreover, in 2004 a Colombian senator stated that CAJAR was an organization involved with "the dark money moved by the guerrillas." That same year, the then governor of the Department of Cesar stated that CAJAR was a "procurer for the guerrillas."

295. The Commission reiterates that these statements are relevant to the analysis of attribution of responsibility for the threats, harassment, and acts of violence against CAJAR members, inasmuch as they necessarily placed them in a situation of aggravated risk. Further on in this report the IACHR will delve deeper into these statements in light of Article 11 of the Convention. On this point, with respect to attribution of responsibility for the repeated acts of violence, threats, and harassment, the Commission cannot but note the extreme seriousness of senior officials making statements linking members of CAJAR to the guerrillas in the context of the armed conflict. In the Colombian context, this turned them into targets for law enforcement and paramilitary groups.

296. Secondly, the Commission points out that the intelligence work done by the DAS, and referred to in the previous section, helped put the CAJAR members at greater risk. The intelligence actions engaged in by the State in light of Article 11 of the American Convention are examined below. Based on that analysis, the Commission underscores that the DAS's intelligence activities had illegitimate ends that contravened the Convention and included delivery of information collected about CAJAR members to paramilitary groups. This grave situation does not just constitute a serious failure by the State to comply with its duty to protect; these actions also openly ran contrary to such duty, with the corresponding implications for attribution of responsibility to the State for the acts of violence, threat, and harassment against CAJAR.

297. In light of the foregoing, the material protection measures implemented—when evaluated on par with the lack of elucidation about and total impunity for the acts reported, the arbitrary intelligence efforts, and the surveillance by State authorities, the intentions of which placed the alleged victims at serious risk, as well as stigmatizing statements made by senior authorities to that same effect—were clearly insufficient. The Commission therefore concludes that the State as a whole failed to fulfill its duty to protect, in keeping with its international obligations, as well as its duty to respect [rights] by making itself party, through specific actions taken by its authorities, to the risk faced by CAJAR, and by proving itself to be tolerant and acquiescent with respect to the acts targeting CAJAR members.

298. The IACHR thus concludes that when it comes to all of the acts of violence, threats, and harassment, that, by their very nature, are tied to the human rights defense activities carried out by CAJAR, the Colombian State is responsible for violation of the rights to personal integrity, freedom of expression, and freedom of association established in Articles 5(1), 13(1), and 16(1) of the American Convention, in relation to the obligations set forth in Article 1(1) thereof, to the detriment of the 16 CAJAR members identified in the finding of facts section.

C. Rights to honor and dignity, and private and family life, freedom of expression, and freedom of association (Articles 11(2),[539] 13, and 16 of the American Convention, in relation to Article 1(1) thereof)

1. Intelligence activities by the State

299. With respect to Article 11(2) of the American Convention, the Commission and the Court have indicated that while this provision is entitled "Protection of Honor and Dignity," its content includes protection of private life.[540]

300. The European Court of Human Rights has heard several cases related to State intelligence activities.[541] In those matters, there were allegations of, *inter alia*, searches of homes and interception of electronic communications and data transfers. The European Court determined that such allegations must be analyzed in connection with Article 8(1) of the European Convention,[542] which protects the right to respect for private and family life.

301. The European Court recalled that such right covers protection of individuals in their private lives vis-à-vis State intelligence activities.[543] This, bearing in mind technological advances in recent decades and possible interference with email, cell phones, and Internet usage States can engage in against individuals.[544]

302. The European Court likewise indicated that interference of this kind in the private life of an individual can be justified under Article 8(2) of the European Convention[545] if it is in accordance with the law, pursues one or more of the legitimate aims referred to in that provision, and is necessary in a democratic society in order to achieve such aim.[546] The European Court added that Article 8(2) is to be narrowly interpreted.[547]

303. First, interception activities must be provided for by law. The European Court, in analyzing these types of cases, has held that the expression, "in accordance with the law," requires that the measure being challenged be based in domestic law.[548] This means that that provision is compatible with the Rule of Law.[549]

304. Regarding this point, the European Court has maintained that "foreseeability" in the context of interception of communications cannot be the same as in many other fields.[550] Foreseeability in the special context of secret measures of surveillance, such as the interception of communications, cannot mean that an individual should be able foresee when the authorities are likely to intercept his communications so that he can adapt his conduct accordingly.[551] However, the risks of arbitrariness are evident.[552] It is therefore

[539] Article 11(2) of the American Convention: 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.

[540] IACHR, Report No. 4/16, Case 12.690, Merits, V.R.P and V.P.C, Nicaragua, April 13, 2016, paragraph 82. I/A Court H.R. Case of the Ituango Massacres *v*. Colombia. Preliminary Objection, Merits, Reparations, and Costs. Judgment of July 1, 2006 Series C No. 148, paragraph 193; Case of Tristán Donoso *v*. Panamá. Preliminary Objection, Merits, Reparations, and Costs. Judgment of January 27, 2009 Series C No. 193, paragraph 55.

[541] ECHR, Iordachi and Others v. Moldova. Judgment of 2 October 2009; Liberty and Others v. United Kingdom. Judgment of 1 July 2008; Iliya Stefanov v. Bulgaria. Judgment of 22 May 2008, paragraph 49; and Szabó and Vissy v. Hungary, Judgment of 6 June 2016.

[542] Article 8(1) of the European Convention on Human Rights: Everyone has the right to respect for his private and family life, his home, and his correspondence.

[543] ECHR, Copland v. United Kingdom. Judgment of 4 March 2007, paragraph 41.

[544] ECHR, Copland v. United Kingdom. Judgment of 4 March 2007, paragraph 41.

[545] Article 8(2) of the European Convention on Human Rights: There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety, or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

[546] ECHR, Szabó and Vissy v. Hungary. Judgment of 6 June 2016, paragraph 54.

[547] ECHR, Szabó and Vissy v. Hungary, Judgment of 6 June 2016, paragraph 54.

[548] ECHR. Lambert v. Romania. Judgment of 26 April 2007, paragraph 61.

[549] ECHR, Roman Zakharov v. Russia, Judgment of 12 April 2006, paragraph 236.

[550] ECHR, Szabó and Vissy v. Hungary, Judgment of 6 June 2016, paragraph 62.

[551] ECHR, Szabó and Vissy v. Hungary, Judgment of 6 June 2016, paragraph 62.

[552] ECHR, Szabó and Vissy v. Hungary, Judgment of 6 June 2016, paragraph 62.

essential to have clear, detailed rules on interception of telephone conversations.[553] Domestic law must be sufficiently clear to give citizens an adequate indication as to the circumstances in which and the conditions under which public authorities are empowered to resort to any such measures.[554]

305. Additionally, the European Court has held that this provision must provide for the following safeguards: (i) the nature of offences which may give rise to an interception order; (ii) a definition of the categories of people whose telephones may be tapped; (iii) a limit on the duration of telephone tapping; (iv) the procedure to be followed for examining, using, and storing the data obtained; (v) the precautions to be taken when communicating the data to other parties; (vi) and the circumstances in which recordings may or must be erased or destroyed.[555]

306. In its judgment of December 2016 in the case of Szabó and Vissy *v*. Hungary, the European Court analyzed State intelligence activities directed at members of a non-governmental organization that was critical of the administration in power at the time.[556] The activities identified included recording telephone calls and copying e-mails.

307. The European Court took into account the 2013 report issued by the then UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, who stated the following:

> Communications techniques and technologies have evolved significantly, changing the way in which communications surveillance is conducted by States. States must therefore update their understandings and regulation of communications surveillance and modify their practices in order to ensure that individuals' human rights are respected and protected (…) Without adequate legislation and legal standards to ensure the privacy, security, and anonymity of communications, journalists, human rights defenders, and whistleblowers, for example, cannot be assured that their communications will not be subject to States' scrutiny.[557]

308. With respect to surveillance of communications, the then Rapporteur added the following:

> Communications surveillance should be regarded as a highly intrusive act that potentially interferes with the rights to freedom of expression and privacy and threatens the foundations of a democratic society. Legislation must stipulate that State surveillance of communications must only occur under the most exceptional circumstances and exclusively under the supervision of an independent judicial authority. Safeguards must be articulated in law relating to the nature, scope and duration of the possible measures, the grounds required for ordering them, the authorities competent to authorize, carry out and supervise them, and the kind of remedy provided by the national law.
> (…)
> States should criminalize illegal surveillance by public or private actors. Such laws must not be used to target whistleblowers or other individuals seeking to expose human rights violations, nor should they hamper the legitimate oversight of government action by citizens.[558]

[553] ECHR, Szabó and Vissy v. Hungary, Judgment of 6 June 2016, paragraph 62.
[554] ECHR, Szabó and Vissy v. Hungary, Judgment of 6 June 2016, paragraph 62.
[555] ECHR, Roman Zakharov v. Russia. Judgment of 12 April 2006, paragraph 231.
[556] For further information see: ECHR, Szabó and Vissy v. Hungary, Judgment of 6 June 2016.
[557] UN, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, 17 April 2013. Available at: https://www.refworld.org/docid/51a5ca5f4.html
[558] UN, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, 17 April 2013. Available at: https://www.refworld.org/docid/51a5ca5f4.html

309. Furthermore, the European Court underscored the importance of examining in the specific case whether the intelligence activities were aimed at a particular group of persons, such as, for example, civil society organizations that might be critical of the government of a State.[559]

310. In the 2013 Report on Freedom of Expression and Internet, the IACHR and its Special Rapporteur for Freedom of Expression indicated the following on the effects on the rights to privacy and freedom of expression through the interception of private communications:

> 148. The interception and retention of data on private communications entails both a direct limitation on the right to privacy and an infringement of the right to freedom of thought and expression.[560](…)
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> 149. With respect to the right to privacy, the resolution "The Right to Privacy in the Digital Age." adopted on December 18, 2013 by the General Assembly of the United Nations.[561] This document underscores the value of the right to privacy in communications and expresses concern at the negative impact the surveillance of communications may have on the exercise of human rights(…) It also calls for measures to put a stop to arbitrary interference in the privacy of individuals and to prevent future abuses in that respect.[562]
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> 150. As far as freedom of expression is concerned, the violation of the privacy of communications can give rise to a *direct* restriction when—for example—the right cannot be exercised anonymously as a consequence of the surveillance activity. In addition, the mere existence of these types of programs leads to an *indirect* limitation that has a chilling effect on the exercise of freedom of expression.[563] Indeed, the violation of the privacy of communications makes people cautious of what they say and—therefore—of what they do; it instills fear and inhibition as part of the political culture, and it forces individuals to take precautions in communicating with others. Moreover, the people most affected are those who take unpopular positions, or the members of political, racial, or religious minorities who are often unjustifiably classified as "terrorists," which makes them the object of surveillance and monitoring without proper oversight.[564] A democratic society requires that individuals be able to communicate without undue interference, which means that their communications must be private and secure.[565]

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[559] ECHR, Szabó and Vissy v. Hungary, Judgment of 6 June 2016, paragraphs 36-37.

[560] United Nations. General Assembly. Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue. A/HRC/23/40. April 17, 2013. Para. 81. Available for consultation at: http://ap.ohchr.org/documents/dpage_e.aspx?m=85

[561] United Nations. General Assembly. Resolution adopted by the General Assembly on December 18, 2013. 68/167. The right to privacy in the digital age. A/RES/68/167. January 21, 2014. Available for consultation at: http://www.un.org/Depts/dhl/resguide/r68_en.shtml; General Assembly. Department of Public Information. *General Assembly Adopts 68 Resolutions, 7 Decisions as It Takes Action on Reports of Its Third Committee*.

[562] United Nations. General Assembly. Resolution adopted by the General Assembly on December 18, 2013. 68/167. The right to privacy in the digital age. A/RES/68/167. January 21, 2014. Available for consultation at: http://www.un.org/Depts/dhl/resguide/r68_en.shtml; General Assembly. Department of Public Information. *General Assembly Adopts 68 Resolutions, 7 Decisions as It Takes Action on Reports of Its Third Committee*.

[563] United Nations. General Assembly. Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue. A/HRC/17/27. May 16, 2011. Para. 53 and 55. Available for consultation at: http://ap.ohchr.org/documents/dpage_e.aspx?m=85; United Nations. General Assembly. Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Martin Scheinin. A/HRC/13/37. December 28, 2009. Para. 33. Available for consultation at: http://www.ohchr.org/EN/Issues/Terrorism/Pages/Annual.aspx

[564] IACHR. Report on Terrorism and Human Rights. Chapter III (Norms and Principles of International Human Rights and Humanitarian Law Applicable in Terrorist Situations). OEA/Ser.L/V/ll.116 Doc. 5 rev. 1 corr. October 22, 2002. Para. 371; United Nations. General Assembly. Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue. A/HRC/17/27. May 16, 2011. Para. 54, 79 and 89. Available for consultation at: http://ap.ohchr.org/documents/dpage_e.aspx?m=85

[565] United Nations. General Assembly. Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue. A/HRC/23/40. April 17, 2013. Para. 23. Available for consultation at: http://ap.ohchr.org/documents/dpage_e.aspx?m=85

311. In the same Report and with respect to the requirements that must be fulfilled by possible interceptions so that they do not constitute arbitrary and abusive limitations and interference in such rights, after remembering the criteria of legality, imperative purpose, necessity and proportionality, the following was indicated with respect to each one from them:

> 154. As this Office of the Special Rapporteur has already indicated, clandestine espionage conducted unlawfully or without legal support is an act that is highly offensive to fundamental rights and seriously compromises the actions of the State, its international responsibility, and even the very basis of democracy.[566]
> Nevertheless, the existence of a law is not enough for a program to be legitimate. As previously mentioned, vague or ambiguous legal provisions that grant very broad discretionary powers are incompatible with the American Convention, because they can serve as the basis for potential arbitrary acts that translate into violations of the right to privacy or the right to freedom of thought and expression guaranteed by the Convention.[567]
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> 156. The laws that authorize the interception of communications must establish clearly and precisely the reasons the State can invoke to request that interception, which can only be authorized by a judge.[568] Additionally, must be established by law safeguards pertaining to the nature, scope, and duration of the surveillance measures; the facts that could justify these measures, and the authorities competent to authorize them, carry them out, and supervise them.[569] The law must be clear with regard to the possible remedies for abuses committed in the exercise of those powers.[570]
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> 157. (…) In the case of State surveillance activities—on the Internet or in any other sphere—reasons of national security and the fight against crime or organized crime tend to be invoked. The Office of the Special Rapporteur has maintained that when national security is invoked as a reason for monitoring personal data and correspondence, in order to prevent discretionary interpretations the law must clearly specify the criteria to be applied in determining the cases in which these types of limitations are legitimate, and it must be careful to define that concept precisely. In particular, the Office of the Special Rapporteur has asserted that the concept of national security cannot be interpreted haphazardly and must be defined from a democratic perspective.[571]

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[566] United Nations Special Rapporteur on the Protection and Promotion of the Right to Freedom of Opinion and Expression and Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights. June 21, 2013. *Joint Declaration on surveillance programs and their impact on freedom of expression*. Point 10; IACHR. Annual Report 2009. Annual Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere). OEA/Ser.L/V/II. Doc. 51. December 30, 2009. Para. 135 *et seq*.; IACHR. Annual Report 2010. Annual Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere). OEA/Ser.L/V/II. Doc. 5. March 7, 2011. Para. 140 *et seq*.; IACHR. Democracy and Human Rights in Venezuela. Chapter VI (The Right to Life, to Humane Treatment, and to Personal Liberty and Security). OEA/Ser. L/V/II. Doc. 54. December 30, 2009. Para. 703.

[567] IACHR. Annual Report 2009. Annual Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter III (Inter-American Legal Framework of the Right to Freedom of Expression). OEA/Ser.L/V/II. Doc. 51. December 30, 2009. Para. 71.

[568] United Nations. General Assembly. Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue. A/HRC/23/40. April 17, 2013. Para. 81. Available for consultation at: http://ap.ohchr.org/documents/dpage_e.aspx?m=85

[569] United Nations Special Rapporteur on the Protection and Promotion of the Right to Freedom of Opinion and Expression and Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights. June 21, 2013. *Joint Declaration on surveillance programs and their impact on freedom of expression*. Point 8.

[570] United Nations. General Assembly. Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue. A/HRC/23/40. April 17, 2013. Para. 81. Available for consultation at: http://ap.ohchr.org/documents/dpage_e.aspx?m=85

[571] IACHR. Annual Report 2009. Annual Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter III (Inter-American Legal Framework of the Right to Freedom of Expression). OEA/Ser.L/V/II. Doc. 51. December 30, 2009. Para. 76 *et seq*; IACHR. Annual Report 2010. Annual Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter III (Access to Information on Human Rights Violations). OEA/Ser.L/V/II. Doc. 5. March 7, 2011. Para. 4, 12 *et seq*.; United Nations Special Rapporteur on the Protection and Promotion of the Right to Freedom of Opinion and Expression and Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights. June 21, 2013. *Joint Declaration on surveillance programs and their impact on freedom of expression*. Point 9.

158. (…) Even today, it has been reported that national security reasons tend to be invoked to place human rights defenders, journalists, members of the media, and activists under surveillance, or to justify excessive secrecy in the decision-making processes and investigations tied to surveillance issues.223 Clearly, this kind of interpretation of the "national security" objective cannot be the basis for the establishment of surveillance programs of any kind, including, naturally, online communications surveillance programs.[572]

159. In any event, in order for an online communications surveillance program to be appropriate, States must demonstrate that the limitations to the rights to privacy and freedom of expression arising from those programs are strictly necessary in a democratic society to accomplish the objectives they pursue.

162. Given the importance of the exercise of these rights in a democratic system, the law must authorize access to personal data and communications only under the most exceptional circumstances defined in the law. When fairly open-ended grounds such as national security are invoked as the reason to monitor personal data and correspondence, the law must clearly specify the criteria to be applied in determining those cases in which such limitations are legitimate.[573] Their application should be authorized solely when there is a definite risk to the protected interests, and when that harm is greater than society's general interest in maintaining the rights to privacy and the free expression of thought and the circulation of information.[574]

312. In the same Report, and regarding the applicable procedural safeguards, it was indicated that:

164. Furthermore, any restriction to freedom of expression or privacy on the Internet as a result of a State security measure should respect the procedural requirements imposed by inter-American law. (…) As discussed below, the Special Rapporteurs have already underscored the need for effective controls to ensure that online surveillance programs are designed and implemented taking account of all of the rights at stake, including the procedural guarantees.[575]

165. In light of the above, decisions to undertake surveillance activities that invade the privacy of individuals must be authorized by independent judicial authorities, who must state why the measure is appropriate for the accomplishment of the objectives pursued in the specific case; whether it is sufficiently restricted so as not to infringe upon the right in question more than necessary; and whether it is proportionate in relation to the interests pursued. In this respect, the European Court of Human Rights has held that "in a field where

[572] United Nations. General Assembly. Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue. A/HRC/23/40. April 17, 2013. Para. 60. Available for consultation at: http://ap.ohchr.org/documents/dpage_e.aspx?m=85; United Nations Special Rapporteur on the Protection and Promotion of the Right to Freedom of Opinion and Expression and Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights. June 21, 2013. *Joint Declaration on surveillance programs and their impact on freedom of expression*. Point 10 and 12; IACHR. Annual Report 2009. Annual Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere). OEA/Ser.L/V/II. Doc. 51. December 30, 2009. Para. 135 *et seq*.; IACHR. Annual Report 2010. Annual Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere). OEA/Ser.L/V/II. Doc. 5. March 7, 2011. Para. 140 *et seq.*; IACHR. Democracy and Human Rights in Venezuela. Chapter VI (The Right to Life, to Humane Treatment, and to Personal Liberty and Security). OEA/Ser. L/V/II. Doc. 54.

[573] United Nations. General Assembly. Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue. A/HRC/23/40. April 17, 2013. Para. 81. Available for consultation at: http://ap.ohchr.org/documents/dpage_e.aspx?m=85

[574] United Nations Special Rapporteur on the Protection and Promotion of the Right to Freedom of Opinion and Expression and Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights. June 21, 2013. *Joint Declaration on surveillance programs and their impact on freedom of expression*. Point 9.

[575] United Nations Special Rapporteur on the Protection and Promotion of the Right to Freedom of Opinion and Expression and Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights. June 21, 2013. *Joint Declaration on surveillance programs and their impact on freedom of expression*. Point 9.

abuse is potentially so easy in individual cases and could have such harmful consequences for democratic society as a whole, it is in principle desirable to entrust supervisory control to a judge."[576] States must ensure that the judicial authority is specialized and competent to make decisions on the legality of the communications surveillance, the technologies used, and its impact on the sphere of rights that could be involved.

166. The State must be transparent with respect to the laws regulating communications surveillance and the criteria used for their application.[577] The principle of "maximum disclosure" is applicable to this issue, and indeed governs all State acts: they are public and can only be kept secret from the public under the strictest circumstances, provided that this confidentiality is established by law, seeks to fulfill a legitimate aim under the American Convention, and is necessary in a democratic society.[578]

167. As the European Court of Human Rights has held, a secret surveillance system can "undermine or even destroy democracy under the cloak of defending it." The Court therefore demands that there be "adequate and effective guarantees against abuse."[579]

168. To determine whether this is being done in a particular case, the Court indicated that it is necessary to examine "nature, scope and duration of the possible measures, the grounds required for ordering them, the authorities competent to authorize, carry out and supervise them, and the kind of remedy provided by the national law."[580]

313. In the instant case, the IACHR has determined that the State, through the DAS, created a special strategic intelligence group for purposes of: (i) monitoring CAJAR members' work activities; (ii) intercepting their landline and cell phone calls and their e-mails; (iii) preparing personal files on each member, which included personal data, names of their relatives, photos, and daily activities.

314. The Commission notes that the State did not dispute said information, so it is obvious that there was interference in the alleged victims' right to private life.

315. In this case the IACHR observes that the State did not present information on whether it had adopted legislation providing for the State's surveillance and monitoring of CAJAR members. The Commission notes that a special strategic intelligence group was created under the DAS, and based on the documents provided by the parties, the safeguards referred to above were not set forth under any law.

316. The IACHR takes note of the fact that in 2011, the same year the DAS was dismantled, the Colombian State passed an Intelligence and Counter-intelligence Law. In its 2013 country report, the Commission recalled that the UN High Commissioner had highlighted the need to adopt comprehensive reform measures that included a process for updating, rectifying, annulling, or keeping confidential personal information in intelligence files, as well as to ensure that public servants who reported abuses or refused to carry out illegal orders were protected.[581] In addition, the High Commissioner indicated that military intelligence services

[576] European Court of Human Rights. *Affaire Ashby Donald et autres c. France*. Requête no 36769/08. Arrêt. 10 janvier 2013. Para. 36; European Court of Human Rights. *Case of Klass and others v. Germany*. Application no. 5029/71. Judgment 6 September 1978. Para. 56.
[577] United Nations Special Rapporteur on the Protection and Promotion of the Right to Freedom of Opinion and Expression and Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights. June 21, 2013. *Joint Declaration on surveillance programs and their impact on freedom of expression*. Point 12; United Nations. General Assembly. Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue. A/HRC/23/40. April 17, 2013. Para. 91 and 92. Available for consultation at: http://ap.ohchr.org/documents/dpage_e.aspx?m=85
[578] IACHR. Annual Report 2009. Annual Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter IV (The Right of Access to Information). OEA/Ser.L/V/II. Doc. 51. December 30, 2009. Para. 9 and 45.
[579] European Court of Human Rights. *Case of Weber and Saravia v. Germany*. Application no. 54934/00. Decision as to the admissibility of 29 June 2006. Para. 106.
[580] European Court of Human Rights. *Case of Weber and Saravia v. Germany*. Application no. 54934/00. Decision as to the admissibility of 29 June 2006. Para. 106.
[581] IACHR, Report on Colombia, December 31, 2013, paragraph 1186. Available at: http://www.oas.org/en/iachr/reports/pdfs/colombia-truth-justice-reparation.pdf

needed a public set of regulations that framed and delimited their actions, and that the Office of the Procurator General should go further in carrying out its preventive and disciplinary functions.[582]

317. Furthermore, bearing in mind the 2013 report of the then UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the IACHR takes note of the fact that surveillance activities carried out by the Colombian State were not subject to judicial oversight. Nothing was established as to the scope and duration of possible measures, the grounds required for ordering them, the authorities competent to authorize and supervise them, or the kind of redress set forth under domestic legislation.

318. In light of the foregoing, the Commission deems that the State did not meet the requirement of legality to conduct monitoring and surveillance of CAJAR members. As for the justification for said interference, the State did not invoke any legitimate purpose for these intelligence activities directed at CAJAR members, nor did it present any element that would allow for an analysis of the suitability, need, and proportionality of such measures in light of a potentially legitimate purpose. On the contrary, by noting that it had adopted measures to investigate and thus determine the corresponding responsibilities, the State implicitly recognized the illegitimate and unlawful nature of the DAS intelligence activities analyzed herein. The IACHR considers that this is sufficient to conclude that these activities were illegal and arbitrary and therefore contrary to the right set forth under Article 11 of the Convention.

319. Consequently, the Commission concludes that the Stated violated the right provided for in Article 11 of the American Convention, in relation to Article 1(1) thereof, to the detriment of the persons that belonged to CAJAR at the time these intelligence activities were carried out.

320. Additionally, the European Court has observed that intelligence actions have a serious impact on the activities of the group affected.[583] In this case, different documents from state agencies and statements by officials involved in the intelligence activities confirm that these State-run activities targeting CAJAR members were aimed at hindering their work, and threatening and instilling fear in them. This was due to the fact that CAJAR was considered an organization that defended illegal groups.

321. The Commission underscores that said activities affected the organization's regular work and necessarily had a chilling effect on the exercise of CAJAR members' rights to freedom of expression and association. Indeed, DAS activities were not limited to the surveillance and monitoring already analyzed in the previous section; beyond this, the DAS had ties to paramilitary groups, which impacted the risk CAJAR members faced, as was also discussed above.

2. Statements by senior government authorities

322. The Commission has pointed out that accusing and stigmatizing a person may constitute a violation of that person's right to honor and dignity and dramatically increases the risk that their rights to life and integrity will be affected.[584] This is above all the case when these accusations and stigmatization come from public officials and in the context of armed conflicts, in which illegal groups may believe that acts of violence against persons subject to stigmatization enjoy the acquiescence of governments.[585]

[582] IACHR, Report on Colombia, December 31, 2013, paragraph 1186. Available at: http://www.oas.org/en/iachr/reports/pdfs/colombia-truth-justice-reparation.pdf

[583] ECHR, Szabó and Vissy v. Hungary, Judgment of 6 June 2016, paragraph 38.

[584] IACHR, Truth, Justice, and Reparation: Fourth Report on the Human Rights Situation in Colombia, OEA/Ser.L/V/II.Doc.49/13, December 31, 2013, paragraph 775.

[585] IACHR, Report on the Situation of Human Rights Defenders in the Americas, OEA/Ser.L/V/II.124 Doc. 5 rev.1, 2006 paragraph 170. Along the same lines, the UN Special Rapporteur on the situation of human rights defenders has indicated that the continued stigmatization of defenders exposes them to heightened risks and produces a chilling effect on the public perception of them. See Human Rights Council. Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, A/HRC/25/55, 23 December 2013; Report of the Special Rapporteur on the situation of human rights defenders on his mission to Azerbaijan, 20 February 2017, A/HRC/34/52/Add.3, paragraph 30.

323. Along the same lines, the Special Rapporteur on the situation of human rights defenders has stated that "the growing characterization of human rights defenders as "terrorists," "enemies of the State," or "political opponents" by State authorities and State-owned media is a particularly worrying trend, as it […] increase[s] their vulnerability."[586]

324. The Inter-American Court's case law has also established that stigmatizing acts can harm the stigmatized person's right to honor and dignity.

325. In the case of Cepeda Vargas *v.* Colombia, the Inter-American Court confirmed that the son of a Senator of the Republic was the subject of public accusations by the then President of the Republic, who accused him of being, among other things "a human rights imposter and of using the protection of victims of human rights violations to request donations from abroad." The Court found in this case that "the situation of stigmatization affecting the next of kin of Senator Cepeda Vargas exposed them to continued threats and harassment in their search to clarify the facts. These circumstances have been further exacerbated by the extended length of time that has elapsed without all the responsibilities for the facts having been clarified."[587] Likewise, in the case of Gomez Paquiyauri *v.* Peru, the Inter-American Court found that "it has been proven that the alleged victims were treated as 'terrorists,' subjecting them and their family to hatred, public contempt, persecution, and discrimination, for which reason there has been a violation of Article 11 of the American Convention (…)."[588]

326. For its part, the Constitutional Court of Colombia has provided that:

> In a country with the complexities of Colombia, public denial by the State, without sufficient evidence, of a crime, threat, or harassment committed against an individual or a group of individuals, who, in their capacity as independent journalists or human rights defenders, investigate and question the State itself, becomes a stand-alone violation of the fundamental right of those threatened to dignity, honor, and the truth. Furthermore, it constitutes a violation of society's right to collective memory. It could even constitute a grave breach of the duty to guarantee and protect the fundamental rights threatened. Indeed, in some extreme situations, when such statements incite violence against vulnerable individuals and groups, this conduct may even constitute a direct violation of those individuals' right to personal safety and related rights. In these cases, if the public official causes harm, the State must provide redress and file an action against the perpetrator thereof.[589]

327. The IACHR considers that repeated vilifying statements by public officials for exercise of a right recognized by international conventions or domestic legislation may exacerbate the climate of hostility and intolerance on the part of different sectors of the population or public officials, making exercise of the right ineffective or worthless. The IACHR recalls that States are guarantors of individuals' fundamental rights, and therefore, public officials' exercise of freedom of expression is subject to certain special duties, such as verifying in a reasonable manner the truth of the facts on which their statements or opinions are based.[590]

328. In light of the foregoing considerations, the IACHR concludes that, in addition to being a factor in attributing international responsibility to the State for the acts of violence, stigmatization, and harassment, the statements of senior officials and some state agencies constituted an impairment of CAJAR members' right to honor and dignity.

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[586] Human Rights Council. Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, 30 December 2009, A/HRC/13/22, paragraph 27.
[587] 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, paragraph 209.
[588] I/A Court H.R. Case of the Gómez Paquiyauri Brothers *v.* Peru. Merits, Reparations, and Costs. Judgment of July 8, 2004. Series C No. 110, paragraph182.
[589] Constitutional Court of Colombia. Judgment T-1037 de 2008. M.P. Jaime Córdoba Triviño.
[590] IACHR, Inter-American Legal Framework regarding the Right to Freedom of Expression, OEA/Ser.L/V/IIIACHR/RELE/INF.2/09/, December 30, 2009, paragraph 202.

D. Right to freedom of movement and residence and the rights of the child (Articles 22(1)[591] and 19[592] of the American Convention, in relation to Article 1(1) thereof)

329. Article 22 of the American Convention provides for the protection of the right to [freedom of] movement and residence, that is, the right of all persons lawfully within a State to move freely within that State and to choose their place of residence; and the right of such persons to enter, to remain in, or to leave the State's territory without any unlawful interference.[593] Furthermore, the Court has held that this right may be violated when an individual is the victim of threats or harassment and the State fails to provide the necessary guarantees to ensure they may move and reside freely within the territory in question, even when the threats and harassment come from non-State actors.[594]

330. The Court has found violations of Article 22(1) of the Convention in different cases of persons who were forced into exile "without being able or wanting to return home owing to a well-founded fear of persecution."[595] In this respect, the Court has noted the social, family, and economic impact that having to go into exile had on these persons.[596]

331. As the findings of fact in this case reveal, Soraya Gutiérrez, Rafael Barrios, Luis Pérez, and Miguel Puerto, together with their respective families, had to leave Colombia due to the acts of violence, threats, and harassment they suffered for being CAJAR members. The Commission deems that there is a sufficiently well-established causal link between the absence of investigation and effective protection measures and these individuals' departure from the country to attribute responsibility to the State for their forced departure from Colombia for extended periods of time.

332. The Commission considers that this situation created great insecurity for them and a well-founded fear that their lives and personal safety were in peril if they remained in Colombia, which led to their exile.[597] Therefore, the IACHR concludes that the State is responsible for violation of the right to movement and residence, protected under Article 22(1) of the American Convention, in connection with Article 1(1) thereof, to the detriment of Soraya Gutiérrez, Rafael Barrios, Luis Pérez, and Miguel Puerto, as well as their respective families.

333. The IACHR has information that some of those family members were minor children at the time of the events.[598] The Commission thus concludes that the State violated its special protection duties regarding children, provided for in Article 19 of the American Convention, in relation to Article 1(1) thereof, to the detriment of Camilo Pérez, Karina Pérez, and Paula Romero.

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[591] Article 22(1) of the American Convention: Every person lawfully in the territory of a State Party has the right to move about in it, and to reside in it subject to the provisions of the law.

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

[593] 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, paragraph 138.

[594] I/A Court H.R. Case of Vélez Restrepo and family *v.* Colombia. Preliminary Objections, Merits, Reparations, and Costs. Judgment of September 3, 2012. Series C No. 248, paragraph 220.

[595] 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, paragraphs 140, 141, and 144.

[596] 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, paragraph 141.

[597] For further information see: 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.

[598] (i) The minors Camilo Ernesto Pérez Niño and Katia Karina Pérez Niño, children of Luis Guillermo Pérez Casas; and the minor Paula Camila Romero Gutiérrez, daughter of Soraya Gutiérrez Argüello.

E. Rights to due legal guarantees, judicial protection, and access to information (Articles 8(1),[599] 25(1),[600] and 13 of the American Convention, in relation to Article 1(1) thereof)

334. The IACHR and the Inter-American Court have found that any person who has suffered a violation of his or her human rights has the right to obtain from competent authorities of the State clarification of these human rights violations and determination of responsibility, through the investigation and prosecution provided for in Articles 8 and 25 of the Convention.[601] Protection of these rights is strengthened by the general obligation to respect and guarantee [rights] imposed by Article 1(1) of the American Convention. In this respect, the Inter-American Court has provided that:

> Article 25 in relation to Article 1(1) of the American Convention obliges the State to guarantee to every individual access to the administration of justice and, in particular, to simple and prompt recourse, so that, *inter alia*, those responsible for human rights violations may be prosecuted and reparations obtained for the damages suffered (…) Article 25 "is one of the fundamental pillars not only of the American Convention, but of the very rule of law in a democratic society…" Said Article is closely linked to Article 8(1), which provides that every person has the right to a hearing, with due guarantees (…) for the determination of his rights, whatever their nature.[602]

335. Consequently, the States are obliged to take all measures to ensure that no one is deprived of [the right to] judicial protection or exercise of the right to a simple and effective recourse.[603] Pursuant to the Inter-American Court's case law, "each State act that composes the investigation proceeding, and the entire investigation in itself, should be oriented at a specific purpose: the determination of the truth and the investigation, finding, arrest, prosecution, and, if applicable, punishment of those responsible for the events."[604]

336. The IACHR advises that the obligation to investigate is an obligation of means, rather than results, which the State must undertake as a standalone legal obligation and not a mere formality predestined to be ineffective.[605] In this regard, the investigation must be conducted with due diligence and in an effective, serious, and impartial manner[606] within a reasonable period of time.[607] The Commission recalls that the obligation to investigate and punish every act that entails a violation of the rights protected by the Convention requires that not only the direct perpetrators of human rights violations be punished, but also the masterminds.[608]

337. Taking into account the precedents cited, the Commission will analyze whether in the instant case the Colombian State conducted a serious and diligent investigation within a reasonable period of time, in order to shed light on the different allegations reported, as well as to identify and eventually punish the persons responsible. The IACHR underscores that this case does not refer to isolated acts against CAJAR members,

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[599] Article 8(1) of the American Convention: 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.

[600] Article 25(1) of the American Convention: 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.

[601] IACHR, Report No. 56/12, Case 12.775, Merits, Florentín Gudiel *et al.*, Guatemala, March 21, 2012, paragraph 108. I/A Court H.R. Case of Barrios Altos *v.* Peru. Judgment of March 14, 2001. Series C No. 75, paragraph 48.

[602] I/A Court H.R. Case of Loayza Tamayo. Reparations. Judgment of November 27, 1998. Series C No. 42, paragraph 169.

[603] I/A Court H.R. Case of Barrios Altos *v.* Peru. Judgment of March 14, 2001. Series C No. 75, paragraph 43.

[604] I/A Court H.R. Case of Kawas Fernández *v.* Honduras. Merits, Reparations, and Costs. Judgment of April 3, 2009. Series C No. 196, paragraph 101.

[605] I/A Court H.R. Case of Cantoral Huamaní and García Santa Cruz *v.* Peru. Preliminary Objections, Merits, Reparations, and Costs. Judgment of July 10, 2007. Series C No. 167, paragraph 131.

[606] I/A Court H.R. Case of García Prieto *et al. v.* El Salvador. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 20, 2007. Series C No. 168, paragraph 101.

[607] I/A Court H.R. Case Bulacio *v.* Argentina. Judgment of September 18, 2003. Series C No. 100, paragraph 114.

[608] IACHR, Report on the Situation of Human Rights Defenders in the Americas OEA/Ser.L/V/II.124. Doc. 5 rev.1, March 7, 2006, paragraph 109.

but rather, to a pattern of acts with common potential sources of risk related to their work as human rights defenders.

1. The investigations into acts of aggression, threats, and harassment

338. In a preliminary manner, the IACHR takes note of the different complaints filed by CAJAR members regarding the acts of aggression, threats, and harassment they suffered at the hands of individuals as well as agents of the State.

339. The Commission has indicated that the most effective means for protecting human rights defenders in the hemisphere is by effectively investigating the acts of violence against them and punishing those responsible.[609] For its part, the Office of the United Nations High Commissioner for Human Rights has stated that the failure to investigate and punish those responsible for violations against defenders is the factor that most heightens the risk defenders face, as it leaves them defenseless and vulnerable.[610]

340. Regarding what the duty to investigate "with due diligence" consists of, the Inter-American Court has pointed out that this duty means that the investigation should be undertaken utilizing all the legal means available and should be oriented toward the determination of the truth.[611] States must ensure that they take all the necessary steps to learn the truth about what happened and have those responsible punished,[612] involving all the relevant government institutions.[613]

341. As far as how the investigation is conducted, the Inter-American Court has indicated that it is not its role to replace the domestic jurisdiction by ordering specific methods for investigating and judging a given case in order to obtain a better or more effective outcome, but rather, to verify whether or not the steps that were effectively taken domestically violated the international obligations of the State.[614]

342. In this respect, the State has to demonstrate that it has conducted an immediate, exhaustive, serious, and impartial investigation,[615] which must be aimed at exploring all possible lines of inquiry to identify the perpetrators of the crime with a view to their subsequent prosecution and punishment.[616] The State can be held accountable for failing to "order, practice, or evaluate evidence" that may be critical to solving a case.[617] In the case of human rights defenders, the IACHR has deemed that as part of the due diligence required when conducting the investigation, the investigative authority must take into account the activities of the aggrieved human rights defender in order to identify what interests may have been harmed in the exercise of such activities and thus establish lines of inquiry and theories about the crime.[618]

343. In the instant case, the IACHR has learned of more than 15 investigations carried out by the National Unit for Human Rights and delegated offices of the prosecutor of the acts described herein. This notwithstanding, the Commission has no detailed information about any investigation, or about the inquiries carried out.

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[609] IACHR, Report on the Situation of Human Rights Defenders in the Americas OEA/Ser.L/V/II.124. Doc. 5 rev.1, March 7, 2006

[610] OHCHR. Defending human rights: between a commitment and a risk. Report on the situation for human rights defenders in Mexico. Executive Summary, paragraph 7.

[611] I/A Court H.R. Case of García Prieto et al. *v.* El Salvador. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 20, 2007. Series C No. 168. Paragraph 101.

[612] I/A Court H.R. Case of Bulacio *v.* Argentina. Judgment of September 18, 2003. Series C No. 100, paragraph 114.

[613] I/A Court H.R. Case of Huilca Tecse *v.* Peru. Judgment of March 3, 2005. Series C No. 121, paragraph 66.

[614] I/A Court H.R. Case of Nogueira de Carvalho *et al. v.* Brazil. Preliminary Objections and Merits. Judgment of November 28, 2006. Series C No. 161, paragraph 80.

[615] IACHR, Report on the Merits, No. 55/97, Juan Carlos Abella *et al.* (Argentina), November 18, 1997, paragraph 412.

[616] IACHR, Report on the Merits No. 25/09 (Sebastião Camargo Filho), Brazil, March 19, 2009, paragraph 109. See also: IACHR, Access to Justice for Women Victims of Violence in the Americas, OEA/Ser. L/V/II. doc. 68, January 20, 2007, paragraph 41.

[617] I/A Court H.R. Case of the "Street Children" (Villagrán Morales *et al.*) *v.* Guatemala. Judgment of November 19, 1999. Series C No. 63, paragraph 230. See also, IACHR, Access to Justice for Women Victims of Violence in the Americas, OEA/Ser. L/V/II. doc. 68, January 20, 2007, paragraph 41.

[618] IACHR, Second Report on the Situation of Human Rights Defenders in the Americas, December 31, 2011, paragraph 236.

344. Based on the documents presented, the Commission highlights that to date none of the investigations have been able to shed light on the facts. Furthermore, the perpetrators have never been identified or punished. The Commission takes note that more than half of the aforementioned investigations have been suspended or shelved due to the statute of limitations lapsing, an absence of conducts defined as crimes, or the impossibility of identifying the perpetrators. Another significant number are in the preliminary stages.

345. The Commission notes that in addition to the criminal cases, two disciplinary investigations were initiated in order to determine potential liability on the part of officials of the State (agents from the DAS, the National Police, or the National Army). The Commission has pointed out repeatedly, however, that disciplinary proceedings are not sufficient for prosecuting, punishing, and redressing the consequences of human rights violations.[619]

346. The Court has likewise noted that an investigation in the disciplinary jurisdiction "tends to protect the administrative function and the correction and control of public officials, so that, in cases of grave human rights violations, it can complement but not substitute completely the function of the criminal jurisdiction."[620] In the instant case, however, this did not happen inasmuch as both investigations were shelved due to insufficient grounds to proceed. Thus, these investigations were not effective either for determining who was responsible for the acts described above.

347. In light of the foregoing, the Commission deems that the State has not conducted serious, diligent, and exhaustive investigations aimed at discovering the truth about these acts, identifying the perpetrators, or uncovering the sources of risk that CAJAR faced which have taken into account the context or sought to impose the respective punishments.

2. Investigations into surveillance activities and interception of communications

348. The Commission takes note that at least seven cases were filed regarding DAS intelligence and surveillance activities that targeted several people, including CAJAR members. The IACHR points out in this regard that it has no detailed information on the individual investigations or the inquiries pursued.

349. The IACHR notes that, according to the documents presented in the framework of these investigations, 10 people were convicted for crimes of unlawful violation of communications, unlawful use of transmission and reception equipment, abuse of authority, conspiracy to commit a crime, among other charges. The Commission underscores the convictions in these cases, aimed at remedying the impunity with which the DAS and other State agencies operated for years.

350. Nevertheless, the Commission notes that other investigations remain open and that it has no updated information on the inquiries being conducted. Furthermore, the IACHR recalls that in its 2015 Annual Report it mentioned that the trial of former DAS Director, Rafael Noguera, and the DAS' former Intelligence Directors, Giancarlo Auqué de Silvestri and Enrique Alberto Ariza Rivas, had been stymied[621] inasmuch as: (i) Mr. Noguera did not appear at the court hearing the case; and (ii) although arrest warrants are in effect for Messrs. Auqué and Ariza, they have not been executed to date.[622]

351. The Commission also considers that a suitable explanation has not yet been provided of who the masterminds are, including potential responsibility of senior executive branch authorities who may have been involved in the design and implementation of the intelligence activities referred to herein.

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[619] IACHR, Report No. 74/07, Petition 1136-03, Admissibility, José Antonio Romero Cruz et al., Colombia, October 15, 2007, paragraph 34; and Report No. 31/11, Case No. 12.416, Merits, Massacre of Santo Domingo, Colombia, March 24, 2011, paragraph 157.
[620] I/A Court H.R. Case of the Pueblo Bello Massacre *v.* Colombia. Merits, Reparations, and Costs. Judgment of January 31, 2006. Series C No. 140, paragraph 204.
[621] IACHR, 2015 Annual Report, March 17, 2016, paragraph 299. Available at: http://www.oas.org/en/iachr/docs/annual/2015/doc-en/InformeAnual2015-cap5-Colombia-EN.pdf
[622] IACHR, 2015 Annual Report, March 17, 2016, paragraph 299. Available at: http://www.oas.org/en/iachr/docs/annual/2015/doc-en/InformeAnual2015-cap5-Colombia-EN.pdf

352. Furthermore, the Commission takes note of the fact that the victims were denied access to the personal data that was in DAS intelligence files.[623] The Commission indicated in its 2013 country report that the State had not adopted a law that allows for the effective exercise of the right of *habeas data* so that persons who have been subject to arbitrary intelligence activities could have access to their data and thus request it be corrected, updated, or, where applicable, scrubbed from intelligence files.[624] The IACHR took note of the creation, pursuant to Law 1621 of 2013, of the Advisory Committee on Purging Intelligence and Counter-Intelligence Data and Files ("Advisory Committee").

353. In its 2015 Annual Report, the IACHR received worrisome information that by mid-2015 the Advisory Committee had met few times and, in addition to other challenges [faced], was moving slowly in compliance with its mandate.[625] In light of this, the Commission considers that the State has not provided victims a suitable remedy for addressing their demands for access to information in the military intelligence database.

3. Conclusion

354. In light of the above, the Commission concludes that the State is responsible for the violation of the rights set forth under Articles 8(1), 25(1), and 13 of the American Convention, in relation to the obligations set forth in Article 1(1) thereof, to the detriment of the CAJAR members identified in the section on findings of fact.

VI. CONCLUSIONS

355. Based on the foregoing considerations of fact and law, the Inter-American Commission concludes the Colombian State is responsible for violation of the rights to life, personal integrity, due legal guarantees, protection of honor and dignity, freedom of expression, freedom of association, rights of the child, movement and residence, and judicial protection provided for in Articles 4(1), 5(1), 8(1), 11, 13(1), 16(1), 19, 22(1), and 25(1) of the American Convention, in connection with the obligations set forth under Article 1(1) thereof, to the detriment of the persons listed in each one of the sections of this report.

VII. RECOMMENDATIONS

356. Pursuant to the above conclusions,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS RECOMMENDS TO THE COLOMBIAN STATE THAT IT:

1. Make comprehensive reparations, both materially and morally, for the human rights violations stated herein suffered by the victims in this case. This includes both compensation as well as measures of satisfaction.

2. Undertake and complete judicial, administrative, and disciplinary investigations in an impartial, effective, and expeditious manner in order to establish the corresponding responsibilities for the violations committed in this case.

3. Guarantee that all processes to adopt, implement, monitor, and withdraw special protection measures ensure victims' effective involvement. In particular, the Commission recommends that the State make sure that the personnel who participate in the security regimes for victims are designated with the beneficiaries' participation and agreement so as to enjoy their trust.

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[623] IACHR, Report on Colombia, December 31, 2013, paragraph 1188. Available at: http://www.oas.org/en/iachr/reports/pdfs/colombia-truth-justice-reparation.pdf

[624] IACHR, Report on Colombia, December 31, 2013, paragraph 1188. Available at: http://www.oas.org/en/iachr/reports/pdfs/colombia-truth-justice-reparation.pdf

[625] IACHR, 2014 Annual Report, May 7, 2015, paragraph 360. Available at: http://www.oas.org/en/iachr/docs/annual/2014/docs-en/Annual2014-chap5-Colombia.pdf

4. Ensure victims can access their data found in intelligence files and are able, if they so desire, to request correction, updating, or, if applicable, scrubbing of the intelligence files.

5. Adopt legislative, institutional, and judicial measures aimed at reducing the risks faced by human rights defenders. In this sense, the State must:

5.1. Build institutional capacity to fight the pattern of impunity in cases involving threats against and deaths of human rights defenders by preparing investigative protocols that take into account the inherent risks that defending human rights entails, thus allowing for an exhaustive investigation based on that premise.

5.2. Develop appropriate and expeditious institutional responses to effectively protect human rights defenders who are at risk. Specifically, adopt measures to ensure effective implementation of the special protection measures issued by the bodies of the inter-American system.