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HUMAN RIGHTS COMMITTEE

**COMMENTS OF THE GOVERNMENT OF VENEZUELA
ON THE CONCLUDING OBSERVATIONS OF THE
HUMAN RIGHTS COMMITTEE (CCPR/C0/71/VEN)**

[7 May 2003]

DEPARTMENT FOR THE PROTECTION OF FUNDAMENTAL RIGHTS

PROMOTION DIVISION

Case: Jhonny José Paz

Background

The Director of Multilateral Affairs of the Ministry of Foreign Relations, Ms. Alexandra Paris Parra, requested information from the Department for the Protection of Fundamental Rights concerning the murder of Jhonny Paz. The case in question had been reported by the World Organization against Torture, which circulated a document on the subject to all Latin American and Caribbean delegations in Geneva. This punishable offence took place on 11 February 2002 in Valencia in Carabobo state.

Procurators of the Public Prosecutor's Office assigned to the case

- Mr. Jaime Martínez, procurator No. 5 of Carabobo state;
- Ms. Rossana Marcano, procurator No. 6 of Carabobo state;
- Mr. Jesús Ramírez, national procurator No. 23.

Action

On 14 January 2002, the procurator of the Public Prosecutor's Office of the judicial district of Carabobo state was assigned to case No. 76-148 by the senior procurator of the Public Prosecutor's Office of Carabobo state. The case concerned the victim Jhonny José Paz and is the subject of criminal investigation No. G-062.148, which was being conducted by the Scientific, Criminal and Forensic Investigation Unit of Las Acacias police station.

On 17 January 2002, Mr. Israel Álvarez, in his capacity as Human Rights Ombudsman, met with the aforementioned procurators and requested information on the case in question, at which time he was informed that any request for judicial formalities required by that procurator's office from the Scientific, Criminal and Forensic Investigation Unit of Las Acacias police station had to be submitted in writing, in accordance with the provisions of article 300 of the Code of Criminal Procedure.

On 6 March 2002, procurators No. 5 and No. 6 of Carabobo state, Mr. Jaime Martínez and Ms. Rossana Marcano, went to the headquarters of the Scientific, Criminal and Forensic Investigation Unit of Las Acacias police station to determine what action had been taken in criminal investigation No. G-062.148. The chief of police of Las Acacias police station, Mr. Jhon Carreño, was ordered to issue instructions to expedite the investigation of the case.

Subsequently, on 2 August 2002, national procurator No. 23, Mr. Jesús Ramírez, was assigned, along with aforementioned procurators No. 5 and No. 6 of Carabobo state, to the case. Mr. Ramírez accepted the assignment and went to that procurator's office to join the investigation.

The number of the file relating to the case in question in the office of procurator No. 5 of Carabobo state was 76-148; according to the file, no one had been charged and the case was being investigated by officials of the local office of Carabobo state, on instructions from the Public Prosecutor's Office.

On 21 August 2002, national procurator No. 23 went to the city of Valencia to attend the preliminary hearing scheduled for that date, concerning the indictment of Mr. Mauricio Escamilla as an accessory to the crime of homicide. The hearing was not held because the assigned procurators were on a course at which their attendance was mandatory.

Outcome or current status

The case is in the investigation stage.

DEPARTMENT FOR THE PROTECTION OF FUNDAMENTAL RIGHTS

PROMOTION DIVISION

Case: José Luis Nieves

Background

Extrajudicial killing of citizen José Luis Nieves, presumably by police officers of Carabobo state. The incident took place on 29 July 2001 and was brought to the attention of international organizations, which requested that measures should be taken to determine who was responsible.

Procurator of the Public Prosecutor's Office assigned to the case

- Mr. Jaime Martínez, procurator No. 5 of Carabobo state.

Action

On 2 August 2000, procurator No. 5 of the Public Prosecutor's Office of the judicial district of Carabobo state was assigned the case through the normal procedure. He immediately ordered the Technical Unit of the Judicial Police (now the Scientific, Criminal and Forensic Investigation Unit) of Las Acacias police station to investigate the murder of José Luis Nieves, in which the presumed guilty parties are officers Mauricio Alberto Escamilla and Daniel Alfonso Guillén, attached to General Police Headquarters of Carabobo state.

On 19 October 2000, the aforementioned procurator received information concerning the action taken in investigation No. F-702.084 from the Technical Unit of the Judicial Police of Las Acacias police station. Once the necessary steps had been taken to clarify the criminal investigation conducted by procurator No. 5 of the Public Prosecutor's Office of Carabobo state, the procedural judge was requested to order the pre-trial detention of the accused Daniel Alfonso Guillén and alternative preventive measures for the accused Mauricio Escamilla.

On 27 January 2001, the accused Daniel Alfonso Guillén was formally indicted for qualified homicide, an act punishable under article 408, paragraph 1, of the Criminal Code, by procedural judge No. 3 of that criminal circuit court (case No. C3-6603-00).

On 6 May 2002, the preliminary hearing of case No. C3-6603-00 against the accused Daniel Alfonso Guillén was held. Subsequently, the indictment and the procurator's evidence were admitted.

On 2 August 2002, the Department for the Protection of Fundamental Rights of the Public Prosecutor's Office assigned national procurator No. 23, Mr. Jesús Ramírez, to work with the previously assigned procurators.

On 21 August 2002, national procurator No. 23 went to Valencia to attend the preliminary hearing scheduled for that date. The hearing could not be held because the assigned procurators of that judicial district were on a course at which their attendance was mandatory.

On 7 October 2002, national procurator No. 23 again went to attend the preliminary hearing scheduled by the first procedural court of that judicial circuit, at which Mauricio Escamilla was to appear as the accused and where representatives of the Public Prosecutor's Office were to take a decision on detention. The hearing was postponed because Mr. Escamilla's counsel challenged one of the procurators on the grounds of manifest enmity.

On 10 October 2002, procurator No. 23 was informed that the hearing scheduled for that date had been postponed because of a mass demonstration (march of civil society) in the city.

Outcome or current status

The case is in the investigation stage.

Case: Maury Oviedo

Procurators assigned to the case

- Mr. Jaime Martínez, procurator No. 5 of Carabobo state;
- Ms. Rossana Marcano, procurator No. 6 of Carabobo state.

Action

On 5 September 2002, the Department for the Protection of Fundamental Rights of the Public Prosecutor's Office received an official letter signed by Ms. Alexandra Paris Parra, Director of Multilateral Affairs of the Ministry of Foreign Relations, stating that the World Organization against Torture had expressed concern at the alleged arbitrary detention of the transsexual Maury Oviedo, President of the organization Respeto a la Personalidad, by police officers of Carabobo state.

In fact, on 5 August 2002, the Department for the Protection of Fundamental Rights of the Public Prosecutor's Office had already assigned Mr. Jaime Martínez and Ms. Rossana Marcano, procurators No. 5 and No. 6 of the judicial district of Carabobo state, as well as Mr. Jesús Ramírez, national procurator No. 23, to investigate the incident with a view to establishing responsibility.

On 26 September 2002, the Department of Multilateral Affairs of the Ministry of Foreign Relations was notified of the assignment of the procurators and of the commencement of proceedings in the case. On 17 October 2002, the relevant information was submitted to Mr. Alcides Rondón, Vice-Minister of Public Safety of the Ministry of the Interior and Justice, who had asked to be kept informed of the steps taken by the Public Prosecutor's Office in the case in question.

On 4 September 2002, the assigned assistant procurator of the office of procurator No. 6, the lawyer Milagros Romero (assigned for this purpose) went to police headquarters in El Trigal in the company of assistant procurator No. 23 with full competence at the national level, and officers attached to the Scientific, Criminal and Forensic Investigation Unit of Las Acacias police station in order to ascertain whether that police station had detained Maury Oviedo, Vicky Martínez, Paola Sánchez, Kevin Capote and others. They found that the police station's logbook reflected only the number of persons detained in police operations, without specifying their identities.

It should be noted that the victims failed to cooperate, since they did not respond to the procurators' requests for information to help move the investigation forward.

Procurator No. 6, together with procurator No. 5 of the Public Prosecutor's Office of that judicial district and the scientific investigation unit, is currently taking steps to gather information with a view to elucidating the reported incidents and to determine the whereabouts of Maury Oviedo.

On 19 November 2002, in a report submitted to the Department for the Protection of Fundamental Rights, procurator No. 6 stated that:

“On 13 November 2002, the lawyers Rossana Marcano and Milagros Romero, the chief and assistant procurators of procurator’s office No. 6 of the Public Prosecutor’s Office of the judicial district of Carabobo state went to the Scientific, Criminal and Forensic Investigation Unit of Las Acacias police station in order to examine case No. G-216730 relating to Maury Oviedo, where they requested that Mr. Israel Álvarez de Armas, in his capacity as representative of the Office of the Ombudsman for Human Rights, should be summoned to make a statement with a view to providing information for the present investigation (...) as well as the identification and whereabouts of Maury Oviedo; the procurators also took a statement from Mr. Jorge Eliécer Felipe, holder of identity card No. V-7.306.679, in his capacity as President of FUNDAPROMI, a non-governmental human rights organization, with a view to including the statement in the investigation. In his statement, Mr. Felipe said, inter alia: ‘I am aware that she resides in Toronto, Canada, but I never had any personal contact with her since, according to Israel de Armas she lives in Canada, so they presumably communicate by e-mail. I also request an investigation of Israel de Armas and Dinorath Guerrero for acting as alleged human rights defenders ...’. The procurator requested the investigating body to notify ONIDEX and INTERPOL in order to obtain information on the movements of Ms. Maury Oviedo, and requested that all the necessary steps be taken for a complete clarification of the facts, under the supervision of the Public Prosecutor’s Office.

“On 18 November 2002, at 11 a.m., the undersigned was taken to the Scientific, Criminal and Forensic Investigation Unit of Las Acacias police station, where the investigation was reviewed. She was informed by officer Oliveros, who is attached to the police station, that today they would subpoena Mr. Israel de Armas to make a statement on the case and provide information that might elucidate the facts. On the other hand, it should be noted that, in connection with this incident, we do not yet have any evidence that would enable us to press charges against any individual.”

Outcome or current status

The case is currently in the investigation stage.

Case: Rafael Ramón Milano Bastidas

Procurator assigned to the case

- Mr. Alejandro Nicolás, procurator No. 4 of Carabobo state.

Action

On 22 May 2002, the Department for the Protection of Fundamental Rights of the Public Prosecutor's Office received a written report signed by Ms. Alexandra Paris Parra, Director of Multilateral Affairs of the Ministry of Foreign Relations.

On 4 September 2002, the assistant procurator of the office of procurator No. 6, lawyer Milagros Romero (assigned for this purpose) went to police headquarters in El Trigal in the company of assistant procurator No. 23 with full competence at the national level, and officers attached to the Scientific, Criminal and Forensic Investigation Unit of Las Acacias police station in order to ascertain whether that police station had detained Maury Oviedo, Vicky Martínez, Paola Sánchez, Kevin Capote and others. They found that the police station's logbook reflected only the number of persons detained in police operations, without specifying their identity.

Systematized information as at 31 March 2003 on steps taken to investigate cases involving extermination groups in Venezuela

States in which investigations of murder cases are in progress	No. of cases	Persons arrested and/or charged	Arrest warrants pending	Final action taken
Portuguesa	112	1. Case No. F-769.803 Charged: Segundo Doboduto, Alvis Leal and Guinson Freire Guerrero	1. Case No. F-769.803 Charged: Segundo Doboduto, Alvis Leal and Guinson Freire Guerrero	Case No. F-769.803 Indictment, based in the Caracas metropolitan area
		2. Case No. F-769.796 Charged: José Paredes	2. Case No. F-769.796 Charged: José Paredes	Case No. F-769.796 Being handled by court No. 4 of the Caracas metropolitan area, for a related offence
		3. Case No. F-849.376 Charged: Segundo Doboduto, Alvis Leal, Guinson Freire Guerrero, José Paredes and Jesús Aguilar	3. Case No. F-849.376 Charged: Segundo Doboduto, Alvis Leal, Guinson Freire Guerrero, José Paredes and Jesús Aguilar	Case No. F-849.376 Being handled by court No. 4 of the Caracas metropolitan area
		4. Case No. F-805.375 Charged: Alvis Leal, Guinson Freire Guerrero, Arturo Azuaje and Eddgar Mendoza	4. Case No. F-805.375 Charged: Alvis Leal, Guinson Freire Guerrero, Arturo Azuaje and Eddgar Mendoza	Case No. F-805.375 Being handled by court No. 4 of the Caracas metropolitan area
		5. Case No. 784.462 Charged: Joel Castillo, Alvis Leal, Régulo Salazar, Félix Rojas, José Fernández and Obiu Fernández	5. Case No. 784.462 Charged: Joel Castillo, Alvis Leal, Régulo Salazar, Félix Rojas, José Fernández and Obiu Fernández	Case No. 784.462 Being handled by court No. 4 of the Caracas metropolitan area

States in which investigations of murder cases are in progress	No. of cases	Persons arrested and/or charged	Arrest warrants pending	Final action taken
		6. Case No. F-836.946 Charged: Andrés Escalona and Rafael Blanco	6. Case No. F-836.946 Charged: Andrés Escalona and Rafael Blanco	Case No. F-836.946 Being handled by court No. 4 of the Caracas metropolitan area
		7. Case No. F-593.380 Charged: Julio González, Antonio Romero and Segundo Doboduto	7. Case No. F-593.380 Charged: Julio González, Antonio Romero and Segundo Doboduto	Case No. F-593.380 Being handled by court No. 4 of the Caracas metropolitan area
		8. Case No. F-593.469 Charged: Omar Romero, Julio González, Segundo Doboduto and Manuel Ramos	8. Case No. F-593.469 Charged: Omar Romero, Julio González, Segundo Doboduto and Manuel Ramos	Case No. F-593.469 Being handled by court No. 4 of the Caracas metropolitan area
		9. Case No. F-769.725 Charged: Coufax Madrid, Jaime Quevedo and Darwin Pérez	9. Case No. F-769.725 Charged: Coufax Madrid, Jaime Quevedo and Darwin Pérez	Case No. 769.725 Indictment; the procurator was disqualified for having expressed an opinion. Being handled in Portuguesa state
		10. Case No. F-805.508 Charged: Omar Romero, Segundo Doboduto and Alvis Leal	10. Case No. F-805.508 Charged: Omar Romero, Segundo Doboduto and Alvis Leal	Case No. 805.508 Being handled by court No. 4 of the Caracas metropolitan area

States in which investigations of murder cases are in progress	No. of cases	Persons arrested and/or charged	Arrest warrants pending	Final action taken
Yaracuy	22	1. Case No. F-640.147 La Morita case Charged: Alexander Parra, Luis Gámez, Gustavo Mújica, Pedro Campos, Domingo Parra, Miguel Quiroga and Juvenal Acosta	1. Case No. F-640.147 La Morita case Charged: Alexander Parra, Luis Gámez, Gustavo Mújica, Pedro Campos, Domingo Parra, Miguel Quiroga and Juvenal Acosta	1. Case No. F-640.147 Indictment, based in Táchira state
		2. Case No. F-507.728 Charged: Favio Pérez, Oscar Pérez, Julián Villegas, José Mata, Esry Rivero, Arelis Ochoa, Rossy García, Abel Alvarado, Luis Azuaje and José Peralta	2. Case No. F-507.728 Charged: Favio Pérez, Oscar Pérez, Julián Villegas, José Mata, Esry Rivero, Arelis Ochoa, Rossy García, Abel Alvarado, Luis Azuaje and José Peralta	2. Case No. F-507.728 Indictment, based in Monagas state
		3. Case No. G-073.552 Charged: Officers of the police urban patrol squad of San Felipe in Yaracuy state.	3. Case No. G-073.552 Charged: Officers of the police urban patrol squad of San Felipe in Yaracuy state.	3. Case No. G-073.552 In the investigation stage
Anzoátegui	164	None	None	None
Táchira	30	Case No. G-255248 Charged: Álvaro Estava Blanco	Álvaro Estava Blanco	None
Zulia	111	None	None	None
Falcón	81	None	None	None

States in which investigations of murder cases are in progress	No. of cases	Persons arrested and/or charged	Arrest warrants pending	Final action taken
Aragua	125	C-82 Charged: CSOP officers of Aragua state (San Carlos police station) Jesús Padrón, Erica Milano	None	None
		F-681.684 Charged: CSOP officers of Aragua state, Joel Tablante	None	None
		Case No. 539.00 Charged: CSOP officers of Aragua state (Las Acacias police station), Ramón González Aldana and Jhonny García Tovar	None	None
		F-974.768 Charged: CSOP of Aragua state (Las Acacias police station), Deputy Chief José Piñango and officers César Olivo, Jhonny Aguilera and Iván Aguilar	None	None

Note: While no extermination groups are active in Zulia state, the number of investigations into alleged clashes involving police officers of that state is alarming.

No. DPDF-16-705-03

Caracas, 25 February 2003

Ms. María Auxiliadora Belisario
Vice-Minister of Public Safety (E)
Ministry of the Interior and Justice

I have the honour to acknowledge receipt of your communication No. 000021 dated 7 January 2003 in which you request information on the cases involving citizens Luis Alberto Aponte Moreno, Antonio José Blanco Gómez, Juan Adolfo García Zabala, Roberto Javier Hernández Paz, Yolanda Landino, Marco Antonio Monasterio Pérez, David Rigoberto Mora Inojosa, José Francisco Rivas Fernández and Óscar José Blanco Romero, which will shortly be considered by the United Nations Working Group on Enforced or Involuntary Disappearances.

In this regard, I should like to point out that the relevant reports were requested from the competent procurators of the Public Prosecutor's Office in each of the judicial districts in which the reported incidents allegedly occurred. The following information was received:

1. With regard to the victims Óscar José Blanco Romero and Marco Monasterio Pérez, on 14 September 2001 procurators No. 45 and No. 74 of the Caracas metropolitan area and national procurator No. 30 filed criminal charges with the fifth court of first instance overseeing the judicial district of Vargas state, against Mr. José Yáñez Casimiro, an active officer of the Intelligence and Prevention Services Directorate (DISIP), and Justiniano de Jesús Martínez Carreño, for the crime of enforced disappearance. Mr. Yáñez Casimiro was indicted as the principal, while Mr. Martínez Carreño was indicted for concealment. The preliminary hearing was held on 6 September 2002, at which time the court dismissed the charges brought by the Public Prosecutor's Office and terminated the proceedings against the accused. On 12 September 2002, the aforementioned procurators appealed the decision to the criminal circuit court of appeal of Vargas state, maintaining that the decision was based on a false assumption and was unfounded and illogical, violated due process and restricted the actions of both the victim and his legal representative.

On 17 October 2002, the aforementioned court of appeal issued a decision declaring the appeal lodged by the procurators inadmissible, revoking a decision of the fifth court declaring null and void the identification of the individuals mentioned on pages 91, 106 and 109 of the respective case file and admitted, in part, the appeal lodged in the case.

The procurators of the Public Prosecutor's Office have decided to apply for a constitutional motion (*amparo*) against the decision issued by the court of appeal. The text of the motion is currently being drafted.

2. With regard to the victim José Francisco Rivas Fernández, proceedings were begun on 22 January 2000 pursuant to a complaint lodged by Ms. Nélide Josefina Fernández Pelicie. Procurators No. 45 and No. 74 of the Caracas metropolitan area and national procurator No. 30 have been assigned to the case.

The following measures were taken to elucidate the incident: statements, verbal descriptions, identification from photograph albums, and requests for information from various bodies. Such measures have made it possible to gain a better idea of the circumstances surrounding the criminal offence. However, to date the procurators assigned to the case are of the opinion that there is not enough evidence for establishing the responsibility of the perpetrators of, or the accessories to, the offence. There is also no information concerning the whereabouts of Mr. Rivas Fernández. The case is therefore still in the preparatory stage.

3. With regard to the victim Roberto Javier Hernández Paz, proceedings were begun on 21 January 2000 pursuant to a complaint lodged by Mr. Carlos Paz, who stated that, on 24 December 1999, a number of individuals - presumably from the Intelligence and Prevention Services Directorate - dressed in black and wearing balaclavas that concealed their faces, entered his residence, an unnumbered house on Rada street opposite La Gallera, in Tarigua district, Caraballeda sector, in Vargas state, looking for his nephew, Roberto Javier Hernández Paz. He also stated that he heard his nephew conversing with the aforementioned persons. He also heard a shot and his nephew Roberto Javier Hernández Paz cry out "You've killed me, man". He subsequently heard another shot; however, he was unable to see what was happening because his vision is impaired by cataracts.

The following measures were taken to elucidate the incident: data and information were gathered, principally in the form of individual statements made by relatives and neighbours, as well as requests for information from various bodies. To date, however, the procurators assigned to the case are of the opinion that there is not enough evidence for establishing the responsibility of the perpetrators of, or the accessories to, the offence, particularly because the individuals who committed the offence were dressed in black and wore balaclavas that concealed their faces, which makes it difficult to describe and/or identify the persons involved in the disappearance of Mr. Roberto Javier Hernández Paz. There is also no information on the whereabouts Mr. Hernández Paz. This case is therefore still in the preparatory stage.

4. With regard to the victims Antonio José Blanco Gómez, Juan Antonio García Zabala, David Rigoberto Mora Inojosa, pursuant to information dated 19 September 2002, reported by the first assistant procurator of the Public Prosecutor's Office of the judicial district of the second circuit of Sucre state, case No. D-312772 containing the inquiry into the disappearance of the aforementioned persons, who have not reappeared, was transmitted by official letter No. 2891 dated 31 October 2000 to the second transitional court of Sucre state.

On 12 September 2002, the senior procurator of Sucre state said that the case records could not be found, although he has computerized records of all the cases dealt with by this circuit. He entrusted the matter to a procurator of the circuit.

5. With regard to the case of Mr. Luis Alberto Aponte Moreno, it should be pointed out that, on 14 March 1991, Ms. Nereyda Roberto de Aponte reported to the Human Rights Department of the Office of the Attorney-General, which is now called the Department for the Promotion of Fundamental Rights, that her husband, Luis Alberto Aponte Moreno, had disappeared in Valencia, Carabobo state, on 28 February 1991. On 19 March 1991, the aforementioned Department assigned procurator No. 4 of the Public Prosecutor's Office of the judicial district of Carabobo state to investigate the incident. According to information recently released by the procurator assigned to the case (the assignment has been concluded), the vehicle that

Luis Alberto Aponte Moreno, accompanied by Fermín José Díaz, was driving was later found by the uniformed police of Aragua state in the town of La Victoria; at that time, instructions were issued at the national level to ascertain the whereabouts of the disappeared persons. The fact that Luis Alberto Aponte Moreno had previously complained to the police about harassment by certain police officers leads one to presume that those police officers could have been involved in the disappearance. To date, the destination of the disappeared persons remains unknown and no progress has been made in the case since, in the opinion of the aforementioned procurator, there are no means of taking further measures with a view to obtaining concrete results.

On 29 November 2002, Mireya Sanchez, head of court cases of the Carabobo Scientific, Criminal and Forensic Investigation Unit assigned the case to a procurator of the Public Prosecutor's Office who is competent in cases of provisional criminal regime, since this regime is applicable to the case.

6. With regard to the case of Yolanda Landino, the Department for the Protection of Fundamental Rights requested information from procurator No. 16 of the Public Prosecutor's Office of the judicial district of Zulia state, with headquarters in Santa Bárbara, who in a letter dated 14 February stated that:

“with regard to the alleged disappearance of Ms. Yolanda Landino, on 27 March 1993, we were informed that Ms. Betty Espinoza and Ms. Vilma Blanca, the secretary and clerk of this office, having conducted a detailed search in the files and spoken with Mr. Ángel Parra, a retired official of this office, reported that this office is not dealing with the case of the minor Yolanda Landino but with that of her brother, Henry Landino Contreras, in case file No. 65, which was received by this office on 12 February 1996; the file currently cannot be found.”

Procurator No. 16 also stated that, on 14 April 1994, Mr. Carlos Lugo Quiva, the special alternate procurator, granted a hearing to Mr. Mario Landino Corona in connection with the arrest of his son, Henry Landino Contreras, for kidnapping, since Mr. Landino Corona alleged that his son was innocent. The procurator went to criminal court of first instance No. 16, where he examined cases Nos. 02339 and 02340, in anticipation of the completion of formalities for the joinder of the cases in order to transmit them with criminal charges. Since the files were incomplete, the hearing did not take place.

For the Attorney-General

(Signed): Magally García Malpica
Director of the Department for the
Protection of Fundamental Rights
