



CHAPTER IV.b

Guatemala

**ANNUAL REPORT OF THE INTER-AMERICAN
COMMISSION ON HUMAN RIGHTS
2022**

TABLE OF CONTENTS

CHAPTER IV HUMAN RIGHTS DEVELOPMENTS IN THE REGION

B. Special Reports

Guatemala

CHAPTER IV. B GUATEMALA^{1 2}

I. INTRODUCTION

1. Within the framework of its conventional and statutory mandate, the Inter-American Commission on Human Rights (“the Commission,” “the Inter-American Commission,” or “the IACHR”) has followed the human rights situation in Guatemala with special attention, particularly concerning the serious severe setbacks in the fight against impunity³ and corruption in recent years.⁴

2. In 2021, the Commission determined the inclusion of the State of Guatemala in Chapter IV. B of its *Annual Report*, as it noted serious setbacks in the fight against impunity and corruption due to as a result of the intensification of attacks and interference against the independence of those bodies that, since the departure of the International Commission against Impunity in Guatemala (CICIG) from the country, stood out for their independent and impartial work in this matter, such as: the Constitutional Court (CC), the Special Prosecutor’s Office against Impunity (FECI) and the courts with criminal jurisdiction in high-risk processes. The IACHR observed the intensification of harassment and criminalization against justice operators from these entities, human rights defenders, and journalists, which was possible, among other reasons, due to the apparent lack of independence of the Public Prosecutor’s Office.⁵

3. In 2021, the Commission concluded that the interference with the independence of the judiciary and the setbacks in terms of corruption and impunity seriously affected access to justice and, consequently, the very validity of the human rights of the Guatemalan population, especially of historically excluded and discriminated groups, such as women, indigenous peoples, and victims of the internal armed conflict. The Commission urged the State of Guatemala to reaffirm its political commitment to the fight against corruption and impunity by strengthening the justice system and the respect for its independence, as well as through decisive measures aimed at investigating and punishing any form of corruption.⁶ It also expressed its willingness to collaborate technically with the State of Guatemala to comply with its international human rights obligations.⁷

¹Pursuant to Article 17.2 of the Commission’s Rules of Procedure, Commissioner Edgar Stuardo Ralón Orellana, a Guatemalan national, did not participate in the discussion, investigation, deliberation, and approval of this report.

² Commissioner Carlos Bernal Pulido approved the report and issued a partial reasoned vote. This reasoned vote is available at the Executive Secretariat of the IACHR.

³Impunity has been defined in Inter-American jurisprudence as the overall lack of investigation, pursuit, capture, trial, and conviction of those responsible for violations of human rights protected under the American Convention, given that the State must combat such a situation by all legal means within its power, as impunity fosters chronic recidivism of human rights violations and total defenselessness of the victims and of their next of kin. Inter-American Court of Human Rights (IAHR Court), *Bámaca Velásquez v. Guatemala*. Merits. Judgment of November 25, 2000. Series C No. 70, para. 211.

⁴For example, since the launch of the report of its visit to the country in 2017, the Inter-American Commission on Human Rights (IACHR) noted the problem of impunity derived from the lack of capacity of the Guatemalan State to provide an adequate and efficient system of administration of justice, and independent and impartial justice for both past and present cases. The IACHR also received repeated information on the persistence of parallel power structures that impeded the fight against impunity, corruption and the strengthening of the Rule of Law. At the end of its visit, the IACHR noted that Guatemala was at the crossroads of adopting measures to resolve these structural problems and guarantee Guatemalan people’s human rights, or else, it risked facing setbacks in this matter and repeating the episodes of serious human rights violations of the past. IACHR, *Situation of Human Rights in Guatemala*, OEA/Ser.L/V/II. Doc. 208/17, December 31, 2017, paras. 3 and 5.

⁵IACHR. *2021 Annual Report*. Chapter IV. B Guatemala, OEA/Ser.L/V/II. Doc. 64 rev. 1, May 26, 2022, para. 3.

⁶IACHR. *2021 Annual Report* Chapter IV. B Guatemala, OEA/Ser.L/V/II. Doc. 64 rev. 1, May 26, 2022, para. 247.

⁷IACHR. *2021 Annual Report*. Chapter IV. B Guatemala, OEA/Ser.L/V/II. Doc. 64 rev. 1, May 26, 2022, para. 248.

4. For its part, the State of Guatemala, despite its disagreement with being incorporated into Chapter IV.B,⁸ reiterated its willingness “to continue working and collaborating under the framework of respect, recognition of national sovereignty, impartiality in decision-making and good faith, thus avoiding polarizing Guatemalan society and achieving a country agenda, where the main objective is the respect and recognition of human rights without ideological bias or the prevalence of particular interests.”⁹ With the aim of improving communication and “find[ing] viable strategies to advance in a dialogic manner in the challenges detected in the matter of human rights,” the State proposed a roadmap between the State and the Commission (*Ruta de trabajo Estado de Guatemala – CIDH*) by convening meetings at a political and technical level, which consisted of: 1. a review of the portfolio of cases pending before the Commission; 2. the follow-up of petitions, cases, admissibility processes, merits processes, friendly settlement agreements and precautionary measures; 3. training sessions; 4. specific requirements.¹⁰

5. Throughout 2022, the Commission recognized the initiative of the State of Guatemala in presenting proposals to overcome the challenges it faces in terms of human rights,¹¹ as well as its openness to dialogue with the Commission, through technical meetings to make progress in this matter.¹² Unfortunately, this initiative has not been materialized, particularly to address the specific recommendations related to the issues raised in the report above. Furthermore, it has not been possible for the Commission to conduct an international on-site scrutiny as it had requested. However, in accordance with the Inter-American Commission’s Rules of Procedure, when the Commission receives information from the concerned State, that leads to the conclusion that the conditions that gave rise to its inclusion in the previous year’s Chapter IV. B have been resolved, it will not include the country in that chapter unless new reasons demand it.¹³ Likewise, the Rules of Procedure indicate that when a State is included in Chapter IV. B of the Commission’s *Annual Report* has been the subject of an *in loco* visit, it will not be included in that chapter of the *Annual Report* for the year corresponding to the visit.¹⁴

6. The information received and analyzed in 2022 suggests that the situation identified in that year related to the obligation of the State to combat impunity, and to respect and guarantee judicial independence, allegedly worsened.

7. For this reason, the Inter-American Commission considers that the human rights situation in Guatemala, for the second consecutive year, falls within the grounds established in Article 59.6, of its Rules of Procedure, which indicates that:

d. The presence of other structural situations that seriously affect the use and enjoyment of fundamental rights recognized in the American Declaration, the

⁸Government of Guatemala. Secretariat of Social Communication of the Presidency. [Intervención del presidente Alejandro Giammattei durante la Sesión Protocolar ante el Consejo Permanente de la Organización de Estados Americanos](#), June 28, 2022.

⁹Response of the State of Guatemala to the draft annual report of Chapter IV. B of the IACHR, Guatemala. Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). NV-OEA-M4- 980-2021, December 22, 2021, p. 6.

¹⁰Response of the State of Guatemala to the draft annual report of Chapter IV. B of the IACHR, Guatemala. Note from the Permanent Mission of Guatemala to the OAS. NV-OEA-M4- 980-2021, December 22, 2021, p. 6. In a communication dated May 24, 2022, the State of Guatemala supplemented information regarding their proposed roadmap, specifically in relation to the implementation of a series of working, promotional and recommendation follow-up visits to Washington D.C. on dates to be defined during 2022. Note from the Permanent Mission of Guatemala to the OAS. NV-OEA-M4-121-2022, May 24, 2022.

¹¹Over the course of 2022, the IACHR held various technical meetings related to the proposed roadmap sent by the State of Guatemala to the IACHR in response to the draft annual report of Chapter IV. B of the IACHR on Guatemala. Note from the Permanent Mission of Guatemala to the OAS. NV-OEA-M4-980-2021, December 22, 2021. Annex.

¹²For example, between March 29 and 31, the Commission held a virtual technical working meeting with representatives of the State of Guatemala with the aim of contributing to the strengthening of the processes of follow-up on the decisions and recommendations issued through the different human rights protection mechanisms available to the Commission, and in this way, advance on strategic agreements to increase State’s levels of compliance. This follow-up meeting did not address any of the recommendations made in Chapter IV. B of the *2021 Annual Report*. IACHR, Press Release No. 77/22, [“IACHR Holds Virtual Roundtable with State of Guatemala to Follow Up on Recommendations.”](#) Washington D.C., April 9, 2022.

¹³Article 59. 7 of the Rules of Procedure of the IACHR.

¹⁴Article 59. 8 of the Rules of Procedure of the IACHR.

American Convention or other applicable instruments. Factors to be considered shall include the following, among others:

[...]

ii. systematic of the State with its obligation to combat impunity, attributable to a manifest lack of will;

8. In this regard, the Commission warns of an intensification of judicial persecution, criminalization and abuse of the impeachment proceeding with the aim of intimidating and removing from office justice operators responsible for investigating and prosecuting cases related to the internal armed conflict, including cases that have been ruled on by the Inter-American Court of Human Rights (“Inter-American Court” or “IAHR Court”), and to high-impact or large-scale acts of corruption, aimed at favoring power structures and groups interested in ensuring impunity.¹⁵ These facts have occurred in a context of accusations pointing to the lack of independence of the Office of the Public Prosecutor and its Attorney General due to their role in judicial prosecution.

9. As developed in this report, criminal actions against justice operators are framed in a context of threats, intimidation, harassment and stigmatization campaigns against them.¹⁶ Among them are prosecutors, former prosecutors, as well as judges with higher-risk criminal jurisdiction, who have as a common denominator having driven forward cases for crimes such as genocide, forced disappearance, torture, organized crime and money-laundering.¹⁷ For its part, the Inter-American Court has granted provisional measures in favor of justice operators when there exists “an indicator of the intention to intimidate judges” or when necessary to guarantee the right to justice of victims.

10. In addition to the above, the Commission received information on the weakening of the FECI and other units of the Office of the Public Prosecutor in charge of investigating corruption and transitional justice cases, through the transfer, criminalization or arbitrary removal of its officials, including competent career prosecutors.¹⁸ The information available to the Commission indicates that, in 2022, at least 11 members and former members of the FECI were arbitrarily deprived of their liberty; eight officials were transferred from the FECI to other agencies, and there were another 14 district attorneys and prosecutor assistants who were “dismissed.”¹⁹ On July 20, the head of the FECI was sanctioned by the U.S. Government for his role in obstructing high-profile corruption investigations against current government officials and for filing spurious charges against other prosecutors of the FECI, private attorneys and former CICIG members.²⁰

¹⁵U.S. Department of State, “[Designation of Attorney General María Consuelo Porras Argueta de Porres for Involvement in Significant Corruption and Consideration of Additional Designations](#),” May 16, 2022; [House of Foreign Affairs Committee, Chairs Meeks and Sires Condemn Reappointment of Guatemalan Attorney General](#), press release, May 17, 2022; *Washington Post*, “[La fiscal general de Guatemala encubre no solo al presidente Giammattei](#),” February 22, 2022; Human Rights Watch, “[Guatemala: Attorney General’s Reappointment Threatens Rights](#),” May 19, 2022; Right Livelihood, International Network of Human Rights (INHR), Centre for Civil and Political Rights (CCPR), International Commission of Jurists (ICJ), WOLA (Washington Office on Latin America), “[The re-appointment of María Consuelo Porras as attorney general of Guatemala: a clear endorsement of impunity and corruption](#),” May 17, 2022.

¹⁶See also the report of the mission of judges of the Latin American Federation of Judges and the International Union of Judges, *Ataques a la independencia judicial en Guatemala*, October 2022; Cyrus R. Vance Center for International Justice, *Criminalization of Justice Operators in Guatemala as a Strategy to Secure Impunity*, December 2022.

¹⁷IACHR, 184th regular period of sessions, thematic hearing “[Human rights defenders, justice operators and the Rule of Law in Guatemala](#),” June 22, 2022; IACHR, 185th regular period of sessions, thematic hearing “[The situation of freedom of expression in Guatemala](#),” October 24, 2022; Press Release No. 37/22, “[IACHR Expresses Concern over New Violations of Judicial Independence in Guatemala](#),” Washington D.C., February 22, 2022.

¹⁸*Plaza Pública*, “[Así fue como Consuelo Porras y Rafael Curruchiche desbarataron la antigua Feci](#),” March 24, 2022; WOLA, “[ONG condenamos la destitución arbitraria de fiscales y el debilitamiento del Ministerio Público de Guatemala](#),” July 11, 2022.

¹⁹See: *Agencia Ocate*, “[Al menos 86 jueces, fiscales, periodistas y ciudadanos perseguidos en Guatemala](#),” October 6, 2022; IACHR, 184th regular period of sessions, thematic hearing “[Situation of the human rights of defenders, justice operators and the Rule of Law in Guatemala](#),” June 22, 2022.

²⁰The Engel List is covered by the [United States-Northern Triangle Enhanced Engagement Act](#), which in December 2020 was included as part of the [Department of State, Foreign Operations, and Related Programs Appropriations Act](#) of 2021. Section 353(b) requires the State Department to produce the list and make it available to Congress at least twice a year. The main consequence for those listed is

11. According to the information received, during the current administration, more than 30 justice operators have left the country in exile after having stated that they were being criminally prosecuted because of their work.²¹ At the same time, dozens of cases related to transitional justice or corruption acts involving high-level government officials have reportedly registered a lack of progress or severe setbacks.²² However, on May 17, 2022, the current Attorney General was elected for a new term as the head of the Office of the Public Prosecutor in a process that did not meet international standards on the matter.²³

12. Within this context, the plenary of the Congress decided to send to its Human Rights Commission Bill No. 6099, “Law on the Strengthening of Peace,” which establishes an absolute amnesty for serious human rights violations committed during the internal armed conflict.

13. The information received by the Commission this year indicates that the *de facto* dismantling of the FECI, as well as the criminalization of prosecutors and judges with high-risk criminal jurisdiction, are allegedly part of a gradual process of co-optation of the bodies responsible for administering and imparting justice by power groups interested in perpetrating impunity and corruption since years ago in Guatemala.

14. The fight against impunity and corruption has permeated institutions in Guatemala since the time of the internal armed conflict. During the *in loco* visit conducted in 2017, the Commission repeatedly received information from civil society on the persistence of parallel power structures that obstruct the fight against impunity and corruption, and that impact on the strengthening of the Rule of Law. In turn, in its report on the visit, the Commission warned that facts that called into question the country’s commitment to the fight against impunity and corruption continued to develop in Guatemala.²⁴

15. In its preliminary observations on the visit, the Commission once again highlighted²⁵ its concern that “progress against corruption [in Guatemala] has been accompanied by attacks and threats against justice system operators.” It also indicated that it “received information regarding acts of harassment, attacks and threats used to control and intimidate them in their work, especially those who participate in high-impact cases involving corruption or serious human rights violations, or cases in which important economic interests are at stake.” In addition, it referred to the “powerful campaigns carried out in the press and social media to stigmatize justice operators by calling them ‘guerrillas’ or ‘development detractors,’ in addition to other intimidation strategies that include subjecting them repeatedly to unfounded disciplinary or criminal proceedings and threatening written messages or phone calls.”²⁶

16. This situation led the Commission to issue a resolution on human rights and the fight against corruption and impunity, in which it reaffirmed the importance of the fight against corruption to combat impunity through a strengthened, independent and impartial justice system, as well as the fundamental importance of the full exercise of the rights to freedom of expression and access to public information, as well as the rights to association and to peaceful assembly, for the investigation and denunciation of cases of

that it makes them ineligible for visas to enter the United States, and opens the possibility of having assets blocked from accounts or property in U.S. territory. WOLA, “[Engel List: What is the United States Telling Central America?](#),” July 21, 2022.

²¹Associated Press, “Juez que denunció ser criminalizado sale de Guatemala,” November 4, 2022.

²²El Periódico, “Los casos de presunta corrupción que el MP dejó en el olvido,” December 18, 2022; WOLA, “[Guatemala’s Attorney General Elections: Judicial Independence and Democracy at a Crossroads](#),” April 18, 2022.

²³IACHR, Press Release No. 50/22, “[The IACHR and UN Special Rapporteur Urge Guatemala to Guarantee Independence and Impartiality in the Appointment of the Country’s New Attorney General](#),” Washington D.C., March 9, 2022. See also: *No Ficción*, “[La confabulación para elegir de nuevo a Consuelo Porras](#),” May 9, 2022; *Alianza por las Reformas*, “[Un proceso de elección de fiscal general de la República de Guatemala hecho a la medida](#),” April 28, 2022.

²⁴IACHR, *Report on the Situation of Human Rights in Guatemala*, December 31, 2017.

²⁵IACHR, *2015 Report on the Situation of Human Rights in Guatemala*. See also: IACHR. PM-433-14, Claudia Escobar *et al.* regarding Guatemala; PM-125-13, Iris Yassmín Barrios Aguilar *et al.* regarding Guatemala; PM-497-16, Thelma Esperanza Aldana Hernández and family regarding Guatemala; and PM-366-16 Miguel Ángel Gálvez and family regarding Guatemala, available at <https://www.oas.org/en/iachr/decisions/precautionary.asp>

²⁶IACHR, Preliminary observations of the IACHR *in loco* visit to Guatemala. Press release, August 4, 2017.

corruption. The Commission called for the independence of the branches of government in the exercise of their powers, so as to guarantee the Rule of Law in the country.²⁷

17. In addition, various actors in the international community have also expressed their concern about the intensification of judicial proceedings and the manipulation of criminal law against independent judges, prosecutors and lawyers, as well as the weakening of the independence of the judiciary and the profound undermining of the Rule of Law in Guatemala. On February 11, the European Union rejected “the ongoing deterioration of the Rule of Law in Guatemala, where the Supreme Court of Justice and the attorney general have initiated legal action against independent judges, lawyers and prosecutors, resulting in arrests and loss of judicial immunity.”²⁸ On March 20, the European Union’s Chief Foreign Affairs and Security Policy Spokesperson denounced that “the proliferation of legal proceedings undertaken by the authorities in Guatemala against a number of independent judges, prosecutors and lawyers, who have been involved in investigating anti-corruption cases”²⁹ followed a “deeply troubling pattern,”³⁰ serving “to further weaken the Rule of Law and the independence of justice in Guatemala, eroding the basis on which democracy is founded.”³¹

18. On April 7, the European Parliament approved a resolution in which it reiterated its concern over “the deterioration of the Rule of Law in Guatemala and the legal actions initiated by the country’s Supreme Court of Justice and the attorney general against independent judges, lawyers and prosecutors who investigate criminal structures with ties to high-ranking state officials and business owners.”³² It also condemned “the criminalization, detention and discrediting of the media, threats and acts of harassment against justice operators involved in the prosecution of corruption cases and the fight against impunity, as well as against human rights defenders and journalists,”³³ and therefore urged the Guatemalan authorities to “put an end to these actions and to defend the Rule of Law and the full respect for the independence of government branches as key elements in the fight against impunity and corruption.”³⁴

19. In its concluding observations on the fourth periodic report of Guatemala, the UN Committee on Economic, Social and Cultural Rights expressed its concern about “the high levels of impunity that persist in the State,”³⁵ as well as regarding “the intimidation, threats and reprisals that some judges, prosecutors and attorneys have faced, especially those handling prominent cases of corruption or human rights violations.”³⁶ On November 25, 2022, the UN Special Rapporteur on the independence of judges and lawyers, Margaret Satterthwaite, stated that Guatemala is “abusing criminal law to attack state agents and justice operators” who protect and guarantee human rights and have made “great progress in the fight against impunity in the

²⁷IACHR, *Report on the Situation of Human Rights in Guatemala*, December 31, 2017. IACHR, Resolution 1/17, [Human Rights and the Fight against Impunity and Corruption](#), September 12, 2017.

²⁸It also claimed that these actions were preceded by a long campaign on social media that included intimidation and threats, especially against members of the teams of the Special Prosecutor’s Office Against Impunity (FECI) and the International Commission Against Impunity in Guatemala (CICIG). European Union, “[Guatemala: Statement by the Spokesperson on the rule of law situation](#),” February 11, 2022.

²⁹European Union, “[Guatemala: Statement by the Spokesperson on the deterioration of Rule of Law in the country](#),” March 28, 2022.

³⁰European Union, “[Guatemala: Statement by the Spokesperson on the deterioration of Rule of Law in the country](#),” March 28, 2022.

³¹European Union, “[Guatemala: Statement by the Spokesperson on the deterioration of Rule of Law in the country](#),” March 28, 2022.

³²European Union Parliament, European Parliament Resolution of April 7, 2022 on the situation of the Rule of Law and human rights in the Republic of Guatemala ([2022/2621\(RSP\)](#)).

³³European Union Parliament, European Parliament Resolution of April 7, 2022 on the situation of the Rule of Law and human rights in the Republic of Guatemala ([2022/2621\(RSP\)](#)).

³⁴European Union Parliament, European Parliament Resolution of April 7, 2022 on the situation of the Rule of Law and human rights in the Republic of Guatemala ([2022/2621\(RSP\)](#)).

³⁵Committee on Economic, Social and Cultural Rights, “Concluding observations on the fourth periodic report of Guatemala,” E/C.12/GTM/CO/4, October 14, 2022, para. 8.

³⁶Committee on Economic, Social and Cultural Rights, “Concluding observations on the fourth periodic report of Guatemala,” E/C.12/GTM/CO/4, October 14, 2022, para. 6.

country.”³⁷ In addition, she considered that the criminal actions against judges and prosecutors constitute an “attack on the Rule of Law and a reprisal against their anti-corruption work.”³⁸ On December 20, the United Nations High Commissioner for Human Rights expressed concern about “how the judiciary continues to be undermined and judicial officials criminalized”³⁹ and called upon Guatemala to “strengthen and guarantee the independence of the justice system and combat corruption.”⁴⁰

20. Finally, over the period under analysis, the Commission notes with concern that the context of impunity has contributed to exacerbate a climate of censorship and intense prosecution of other people who play a relevant role in public life and contribute to the democratic debate in Guatemala, in particular, human rights defenders and media workers.⁴¹ Among other serious incidents, the Commission learned of the arrest of José Rubén Zamora, president of *El Periódico*, on July 29, for allegedly committing crimes related to money laundering, who will reportedly remain in preventive detention. Journalist José Rubén Zamora has been the beneficiary of precautionary measures from the Commission since 2003, when the Commission understood that there was an imminent risk to his life and personal integrity due to a series of physical attacks and threats he received in the exercise of his profession, and the context of violence against the press in Guatemala.⁴²

21. To monitor the human rights situation in Guatemala, the Commission has used different mechanisms, which include calls for public hearings, press releases, requests for information from the State based on Article 41 of the American Convention, information provided by the State, civil society organizations, as well as international organizations, all of the above in accordance with Article 59.5 of the Rules of Procedure of the Commission.

22. On January 26, 2022, the IACHR sent the Guatemalan State a preliminary copy of this report forming part of Chapter IV.B of its 2022 Annual Report and, in accordance with its Rules of Procedure, ask it to submit its comments within one month. The State sent its response on February 24, 2023.⁴³ The Commission acknowledges and expresses appreciation for the information received, the pertinent parts of which were included in the final version of this report, approved on March 22, 2023.

23. In its communication of February 24, 2023, the State of Guatemala said that “[for] the second year in a row, the report sent by the IACHR seeks to include Guatemala in Chapter IV.B; it is clear that, as the

³⁷The rapporteur also urged the Guatemalan authorities to protect the independence of the country's judges and prosecutors, as well as to take immediate measures to guarantee the security of former prosecutor Virginia Laparra Rivas and former judge Miguel Ángel Gálvez. UN Office of the High Commissioner for Human Rights (OHCHR), “[Guatemala: UN expert condemns targeting of prosecutor and judge](#),” November 25, 2022.

³⁸The rapporteur also urged the Guatemalan authorities to protect the independence of the country's judges and prosecutors, as well as to take immediate measures to guarantee the security of former prosecutor Virginia Laparra Rivas and former judge Miguel Ángel Gálvez. OHCHR, “[Guatemala: UN expert condemns targeting of prosecutor and judge](#),” November 25, 2022.

³⁹#Guatemala: UN Human Rights Chief @volker_turk is deeply disturbed at how the judiciary continues to be undermined and justice officials criminalized in the country. He calls on the authorities to strengthen & guarantee the independence of the justice system and fight corruption.” Twitter account of the OHCHR (@UNHumanRights), [statement of December 20, 2022](#).

⁴⁰#Guatemala: UN Human Rights Chief @volker_turk is deeply disturbed at how the judiciary continues to be undermined and justice officials criminalized in the country. He calls on the authorities to strengthen & guarantee the independence of the justice system and fight corruption.” Twitter account of the OHCHR (@UNHumanRights), [statement of December 20, 2022](#).

⁴¹IACHR, 184th regular period of sessions, thematic hearing “[Human rights defenders, justice operators and the Rule of Law in Guatemala](#),” June 22, 2022; IACHR, 185th regular period of sessions, thematic hearing “[The situation of freedom of expression in Guatemala](#),” October 24, 2022; [R196/22 - The State of Guatemala must fully and effectively guarantee the right to freedom of expression and freedom of the press](#). Washington D.C., September 2, 2022.

⁴²IACHR, [Precautionary measures 2003](#).

⁴³In its response, the State of Guatemala provides a summary of the actions taken by the State in 2022, including the fight against impunity and corruption in the country; actions to strengthen institutions for peace and protecting freedom of expression; and specific State responses to a variety of IACHR considerations. Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023.

IACHR was made aware 2022, this report once again lacks objective criteria and is void of all scientific and methodological rigor."⁴⁴

24. In particular, according to the State Guatemala, the IACHR's evaluation of the issue of impunity "shows signs of a lack of process and outcome indicators that are based on measurement criteria, dimensions, and components for measuring it, preventing comparability with previous years."⁴⁵ Likewise, it requested the IACHR "include in chapter IV.B of its annual report the information provided by the State of Guatemala" on the "procedures, processes, and public proceedings closely related to the issues of primary concern to the IACHR, which are developed, followed, respected, and realized pursuant to the constitutional, legislative, and regulatory guarantees in force in the country."⁴⁶

25. Likewise, the State of Guatemala submitted relevant information on specific cases, asking the IACHR to "properly handle and keep custody of it" because it was confidential. This information has therefore not been included in this report.⁴⁷

26. Below, the Commission elaborates on the factors that led it to determine the inclusion of Guatemala in Chapter IV. B of its *2022 Annual Report*.

II. FIGHT AGAINST IMPUNITY AND CORRUPTION, AND JUDICIAL INDEPENDENCE

27. In 2022, the Inter-American Commission observed a resurgence of the interference in the independence of the judiciary, the weakening of human rights institutions and increasingly evident setbacks in the fight against corruption and impunity. All of this, in turn, affects democratic stability and the very validity of the human rights of the Guatemalan population.

28. The State of Guatemala informed the Commission that it is committed to the fight against corruption through a strengthened, independent, and impartial justice system. First, the State informed about the development of training programs for judges and magistrates through the School of Judicial Studies, which are offered at various educational levels and in different specializations. It also highlighted the importance of the selection and appointment process for judges in the Republic of Guatemala, which includes a competitive examination process that evaluates the legal knowledge, merits, values, and institutional identity of the candidates. And when they are selected, they must participate in the corresponding training courses of the School of Judicial Studies, where the candidates are prepared and trained in topics related to the fight against corruption, the control of conventionality as a responsibility of the judiciary and the duty to defend the fundamental rights and guarantees enshrined in the Political Constitution of the Republic.⁴⁸

29. In addition, the State presented information on the actions taken by the Presidential Commission against Corruption and the Presidential Commission on Open and Electronic Government in the

⁴⁴ COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights. Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023, pg. 4.

⁴⁵ Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 11.

⁴⁶ Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 6.

⁴⁷ [Note from the Permanent Mission of Guatemala to the Organization of American States \(OAS\). OEA-M4-NV-042-2023](#), February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 6.

⁴⁸State of Guatemala, Response to the recommendations of the IACHR regarding Chapter IV. B of the *2021 Annual Report*: measures of the State of Guatemala to comply with the recommendations of the IACHR *Annual Report* - Chapter IV. B, Note NV-OEA-M4-299-2022, December 19, 2022, p. 11.

fight against corruption. It also indicated that, during 2022, all the institutions that were part of the Inter-Institutional Cooperation Agreement on Anti-Corruption implemented different actions related to the adoption of the National System of Internal Governmental Control, which sought to strengthen the institutions of the sector, so as to have a positive impact on the services provided.⁴⁹ Among the actions and achievements developed by the Presidential Commission against Corruption between January and October 2022, the following was indicated: Youth workshop for the prevention of corruption and migration; Inter-university essay contest entitled "The fight against corruption is everyone's job"; National Drawing Contest entitled "Building a Guatemala Free of Corruption"; Anti-Corruption Inter-agency Cooperation Agreement; Inter-agency Cooperation Agreement on Good Governance to Promote a Culture of Transparency, Accountability and Corruption and Impunity Prevention; Methodology for preparing institutional transparency diagnoses; Labor transparency in the public sector; Publicity campaign on the preventative actions taken by the Executive Branch; Technical committees on access to public information of the Executive Branch; Inter-agency public information portal; Accountability Mechanism of the Executive Branch; Accountability section; Technical committees on Executive Branch accountability; Code of Ethics and Probity of the Executive Branch; Administrative investigation of acts of corruption; Guidelines to prevent and combat nepotism in Executive Branch entities; Guidelines on promoting ethics and public integrity in Executive Branch entities; Strategy for preventing and combating Executive Branch corruption⁵⁰; United Nations Convention Against Corruption (UNCAC)⁵¹; Inter-American Convention against Corruption (IACC).⁵²

30. According to the State, the independence of judges and magistrates is established in the Constitution and guaranteed by both it and ordinary law through the Law on the Judiciary, Decree 2-89 of the Congress of the Republic.⁵³ It indicated that it fully respects the independence of judges and magistrates as they do their work.⁵⁴ Therefore, in its comments on the draft of this report, it "dismisses the IACHR's assertions as to the existence of judicial persecution and improper use of pretrial proceedings as a means of coercing a number of judges for their performance in different cases."⁵⁵

31. The Commission analyzes hereunder the patterns observed in the criminalization of justice operators, as well as the concrete facts that resulted in the exile of dozens of justice operators, in the use of deprivation of liberty as a possible form of retaliation and, consequently, in the reversal of the cases in which they were involved, related to corruption and serious human rights violations that occurred in the context of

⁴⁹ Response to the recommendations of the IACHR regarding Chapter IV. B of the *2021 Annual Report*: measures of the State of Guatemala to comply with the recommendations of the IACHR *Annual Report* - Chapter IV. B, Note NV-OEA-M4-299-2022, December 19, 2022, p. 13.

⁵⁰ Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pgs. 20-25

⁵¹ Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 26.

⁵² In 2022, both the Thirty-seventh and the Thirty-eighth Meeting of the Committee of Experts of the Follow-Up Mechanism for the Implementation of the Inter-American Convention against Corruption (MESICIC) were held. During the meetings, information was presented on good practices for preventing and combating corruption, along with experiences and lessons learned with respect to protecting public officials and private citizens who, in good faith, report acts of corruption. Lastly, a country report was presented underscoring the progress made in Guatemala to follow up on the recommendations issued by the mechanism. Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 27.

⁵³ Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 14.

⁵⁴ Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 14.

⁵⁵ Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 14.

the internal armed conflict. It also addresses the process of selection and appointment of the head of the Office of the Public Prosecutor as a debilitating factor affecting the independence of this institution.

a. Context of criminalization of justice operators in Guatemala

32. The Commission understands that the criminalization of justice operators occurs through the improper use of criminal law by means of the manipulation of the punitive power of the State by state and non-state actors with the aim of hindering justice operators' work.⁵⁶

33. In Guatemala, the Commission has observed the systematic use of criminal law directed against justice operators who identified themselves as independent for their work in emblematic cases of corruption and serious human rights violations during the internal armed conflict.⁵⁷ In this regard, the State informed the Commission that it should be considered that the opening of an investigation or criminal proceeding against a prosecutor does not presuppose their guilt or conviction, but only the initiation of proceedings through which the truth of the facts must be elucidated, the existence or not of criminal offenses must be determined and, if applicable, those responsible for them must be identified. In addition, it indicated that in any democratic system, individuals are subject to the legal system in force. Therefore, no one may be superior to the law, regardless of the position held or the function exercised, and all persons must submit to the corresponding administrative and jurisdictional procedures and exercise their right of defense and petition in each of them.⁵⁸

34. In its comments on the draft of this report, the State reiterated that the above observation is "resounding."⁵⁹ "At no time has criminal law been used systematically against justice officials identified as independent, in retaliation for the work done in emblematic cases of corruption and serious human rights violations in the internal armed conflict."⁶⁰ In addition, it indicated that the Judicial Branch "reiterates what has been stated in this section and emphasizes that it acts at all times as described therein, handling processes brought by users and at their request. Its rulings are based on analysis of the facts presented and the law on which they are based."⁶¹

35. However, one of the main common patterns registered in the acts of criminalization is related to the nature of the cases managed by justice operators, who tend to be criminally accused as a way of intimidation or alleged retaliation, or disagreement with their judicial resolutions or activities in the framework of these legal proceedings, both by implicated and accused persons, as well as by complainants who have no direct participation in the proceedings in question. These facts directly affect the victims of serious human rights violations and seek to hinder the population's right of access to justice.

⁵⁶IACHR, *Criminalization of human rights defenders*, OEA/SER.L/V/II. Doc. 49/15, December 31, 2015.

⁵⁷Report of the mission of judges of the Latin American Federation of Judges and the International Union of Judges, [Ataques a la independencia judicial en Guatemala](#), October 2022, p. 11. See also: *Alianza por las Reformas*, forum "Desafíos en la elección de Fiscal General y Jefe o Jefa del Ministerio Público," January 27, 2022; WOLA, "[Guatemala's Attorney General Elections: Judicial Independence and Democracy at a Crossroads](#)" April 18, 2022; Right Livelihood, INHR, CCPR, ICJ, WOLA, "[The re-appointment of María Consuelo Porras as attorney general of Guatemala: a clear endorsement of impunity and corruption](#)," May 17, 2022.

⁵⁸State of Guatemala, Response to the recommendations of the IACHR regarding Chapter IV. B of the *2021 Annual Report: measures of the State of Guatemala to comply with the recommendations of the IACHR Annual Report - Chapter IV. B*, Note NV-OEA-M4-299-2022, December 19, 2022, p. 5.

⁵⁹Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 96.

⁶⁰Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 97.

⁶¹Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 97.

36. Another element observed is the filing of a high number of complaints against justice operators, which are either processed more quickly or remain inactive or are not filed at all, so that the Office of the Public Prosecutor can maintain a climate of fear and intimidation.

37. In this sense, in response to the complaints filed, the Office of the Public Prosecutor reportedly does not act with independence and impartiality in the exercise of its duties. On the contrary, there is a general perception that the actions taken by the attorney general are part of a policy of persecution and retaliation against justice operators.

38. According to the State of Guatemala, “this argument is false. The Office of the Public Prosecutor, within its criminal jurisdiction, acts based on the principle of objectivity, set forth in article 108 of the Criminal Procedural Code.”⁶² Regarding the Archive, it indicated that “it is a procedural institution that empowers the Office of the Public Prosecutor to streamline prosecutions. However, this institution cannot definitively close a process. Instead, judicial authorization is needed through the respective hearing, with the participation of the subjects of the proceeding, who may or may not accept it.”⁶³

39. This high number of complaints allegedly increases the possibilities of prosecution and sanction, and is aimed at wearing down defendants, due to the personal, economic and professional burden derived from the legal defense and follow up of each proceeding.⁶⁴ An example of this pattern is the situation of High Risk Judge Erika Aifán, who faces more than 100 proceedings, including reports, administrative complaints and requests for impeachment.⁶⁵ Former Judge Gloria Porras allegedly faces 50 complaints against her;⁶⁶ former Attorney General Thelma Aldana has more than 30 complaints against her under investigation; and former Attorney General Juan Francisco Sandoval has more than 50 complaints against him under investigation.⁶⁷ Regarding the latter, the State of Guatemala informed that the different complaints in which Juan Francisco Sandoval appears as a defendant are under investigation, and during 2021-2022, three of them were dismissed and notified to him.⁶⁸

40. In the resolution of *Provisional Measures and Monitoring of Compliance with Judgment in the case of Gudiel Álvarez et al. (‘Diario Militar’) v. Guatemala* in September 2022, the Inter-American Court found that, for years, criminal law had been used as a mechanism to threaten the work of Judge Miguel Ángel Gálvez. As such, in addition to the intimidating effect created by the complaints filed against him, Judge Gálvez had been forced to devote time and resources to deal with the constant high number of criminal complaints against him. In this regard, the Inter-American Court emphasized that, “although the filing of complaints is a citizen’s right, the pattern of complaints was an indicator of the intention to intimidate the judge.”⁶⁹

⁶²Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 98.

⁶³Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 97.

⁶⁴Report of the mission of judges of the Latin American Federation of Judges and the International Union of Judges, [Ataques a la independencia judicial en Guatemala](#), October 2022, pp. 6 and 7; Cyrus R. Vance Center for International Justice, [Criminalization of Justice Operators in Guatemala as a Strategy to Secure Impunity](#), December 2022, p. 23.

⁶⁵Report of the mission of judges of the Latin American Federation of Judges and the International Union of Judges, [Ataques a la independencia judicial en Guatemala](#), October 2022, pp. 6 and 7; Cyrus R. Vance Center for International Justice, [Criminalization of Justice Operators in Guatemala as a Strategy to Secure Impunity](#), December 2022, p. 23.

⁶⁶Report of the mission of judges of the Latin American Federation of Judges and the International Union of Judges, [Ataques a la independencia judicial en Guatemala](#), October 2022, pp. 6 and 7; Cyrus R. Vance Center for International Justice, [Criminalization of Justice Operators in Guatemala as a Strategy to Secure Impunity](#), December 2022, p. 23.

⁶⁷*La Hora*, “El artículo del New Yorker molesta a Porras: anuncia investigaciones,” May 5, 2022.

⁶⁸State of Guatemala, Response to the recommendations of the IACHR regarding Chapter IV. B of the *2021 Annual Report: measures of the State of Guatemala to comply with the recommendations of the IACHR Annual Report - Chapter IV. B*, Note NV-OEA-M4-299-2022, December 19, 2021, p. 4.

⁶⁹IACHR Court, *Gudiel Álvarez et al. (‘Diario Militar’) v. Guatemala. Provisional Measures and Monitoring of Compliance with Judgment*. Resolution of the IACHR Court of September 9, 2022, para. 34.

41. According to a report prepared by the Mission of Judges of the Latin American Federation of Judges and the International Union of Judges, the criminalization of justice operators is possible and, in fact, has worsened due to the absence of guarantees of independence of the Supreme Court of Justice and the courts of appeals. Since 2019, the Congress' unjustified delay in the process of selection and appointment of such courts has persisted and, as a result, the term of the current magistrates has been unduly extended for more than three years. According to the report, the Supreme Court of Justice arbitrarily appointed investigating judges in charge of hearing impeachment proceedings; furthermore, the current magistrates have rejected requests for impeachment against public officials accused of corruption, while they have admitted all requests for impeachment against independent judges.⁷⁰

42. In this regard, the State affirms that the Supreme Court of Justice, by mandate of law and as a superior court, observes the principle of due process of law and the right to defense, in view of which it is not conceivable to argue that such principles are violated, and rejects the idea that the impeachment proceedings are assigned to magistrates with direct interest in the matter, since the proceedings conducted within the impeachment trial shall be heard by the plenary of the Supreme Court of Justice as a collegiate body, and not individually as it is claimed, and shall be processed in accordance with the provisions of the law.⁷¹

43. In addition, the Commission notes that judicial actions and criminal complaints against justice operators have been promoted by different state and non-state actors linked to corruption cases.⁷² However, the Commission has consistently received information on the key role that the Foundation against Terrorism (FCT) has played in the criminalization strategy against justice operators through the filing of a large number of criminal complaints, requests for impeachment and in the perpetration of threats, intimidation, harassment and stigmatization campaigns promoted and driven by members of the same foundation, with the acquiescence and tolerance of the Office of the Public Prosecutor.⁷³

44. The Commission learned that on social media they publish photos of criminalized justice operators, placing an X on them and disseminating intimidating messages, for example: "This is how the legal snipers of the @FCTGuatemala work. One judicial shot, one civilian killed."⁷⁴ Furthermore, the information available indicates that different social media accounts linked to this foundation allegedly disseminate confidential or undisclosed information of criminal proceedings, and announce measures even before they are carried out.⁷⁵ According to public information, this foundation has filed complaints against 24 former members of the FECL, three attorneys from the former International Commission against Impunity in Guatemala, six judges and two former attorneys general.⁷⁶

⁷⁰According to a report by the mission of judges of the Latin American Federation of Judges and the International Union of Judges, the Supreme Court of Justice (CSJ) has even heard and rejected requests for impeachment against its own members. In June 2021, the FECL filed a request for impeachment against eight Supreme Court of Justice magistrates, one magistrate of the Constitutional Court, one magistrate of the Supreme Electoral Tribunal and 13 magistrates of the chambers of the Court of Appeals for having negotiated the candidacies of the high courts in the "2020 Parallel Commissions" case. However, the Supreme Court of Justice, instead of excusing itself from hearing the impeachment proceedings, rejected it *in limine*. Report of the mission of judges of the Latin American Federation of Judges and the International Union of Judges, [Ataques a la independencia judicial en Guatemala](#), October 2022, pp. 6 and ss.

⁷¹State of Guatemala, Response to the recommendations of the IACHR regarding Chapter IV. B of the 2021 Annual Report: measures of the State of Guatemala to comply with the recommendations of the IACHR Annual Report - Chapter IV. B, Note NV-OEA-M4-299-2022, December 19, 2021, p. 18.

⁷²For several years, the IACHR has documented the role of Guatemalan civil society organizations linked to former military personnel in denigrating, threatening and harassing justice operators and human rights defenders. In the case of the Foundation against Terrorism, the IACHR documented in its 2015 country report the role of this organization in the filing of criminal actions, and other facts aimed at hindering the investigation of cases linked to the internal armed conflict. For example, see: *Infobae*, "[Quién es Ricardo Méndez Ruiz, el empresario guatemalteco que está detrás de los arrestos de periodistas y fiscales anticorrupción](#)," August 20, 2022.

⁷³Report of the mission of judges of the Latin American Federation of Judges and the International Union of Judges, [Ataques a la independencia judicial en Guatemala](#), October 2022, p. 6; Cyrus R. Vance Center for International Justice, [Criminalization of Justice Operators in Guatemala as a Strategy to Secure Impunity](#), December 2022, pp. 44 and 45.

⁷⁴Twitter account of Ricardo Méndez Ruiz (@RMendezRuiz), [statement of November 1, 2022](#).

⁷⁵In this regard, see *Agencia Ocote*, "[Cómo mutaron los netcenters anti derechos y derechos humanos en Guatemala](#)," November 30, 2022; *Guatemala Leaks, Connectas*, "[El Francotirador de los Referentes de la Lucha Anticorrupción en Guatemala](#)," 2022.

⁷⁶*Guatemala Leaks, Connectas*, "[El Francotirador de los Referentes de la Lucha Anticorrupción en Guatemala](#)," 2022.

45. In this regard, in its comments on the draft of this report, the State of Guatemala indicated that the Office of the Public Prosecutor “cannot take responsibility for information that circulates on social media when the respective complaints have not been filed to launch the criminal investigations and move them forward objectively, as this would exceed its constitutional mandate.”⁷⁷

46. According to records of the Human Rights Defenders’ Protection Unit of Guatemala (UDEFEQUA), during the first half of the year, a total of 272 acts of aggression and threats against justice operators were recorded.⁷⁸ In this regard, the Inter-American Commission was informed of the lack of due diligence on the part of the Office of the Public Prosecutor to investigate these facts *ex officio*, as well as its failure to comply with its obligation to protect and guarantee the physical and emotional integrity of justice operators in Guatemala.⁷⁹

47. In its response to the draft of this report, the State of Guatemala indicated that the Prosecutor’s Office for Crimes against Justice Operators and Members of Trade Unions has not registered such a high number of complaints and highlighted that in May 2021-2022, a work group was created for criminally prosecuting crimes of obstruction and old cases to clear the prosecutorial backlog. Regarding the lack of due diligence, it indicated that the investigation being conducted is effective, good quality, and earnest, using general order 5-2018 issued by the Attorney General of the Office of the Public Prosecutor, the protocol for investigating crimes committed against human rights defenders.⁸⁰

48. For its part, the State informed the Commission that the Guatemalan legal system guarantees the independence of justice operators and, so as to ensure that such regulations are complied with – that is, that justice operators act without any obstacles –, it indicated that, in 2019, the Public Prosecutor’s Office for Crimes against Justice Operators and Members of Trade Unions was created, whose function is to be informed of, investigate and prosecute crimes committed against justice operators, among others. It also stated that the magistrates of the Supreme Court of Justice, in compliance with the law and the orders of the Constitutional Court, have carried out the following actions, among others: the National Assembly of Magistrates was convened for the election of the Judicial Career Council; the National Assembly of Justices of the Peace was convened for the election of the Judicial Career Council; the National Assembly of First Instance Judges was convened for the election of the Judicial Career Council; the 2022-2024 Judicial Career Council was integrated; and calls for the appointment of judges were issued; regulations for permits, promotions, transfers and exchanges were made.⁸¹

49. The Commission reminds the State of its duty to protect justice operators from attacks, acts of intimidation, threats, and harassment, to investigate those who commit violations of the rights of justice operators and effectively punish those who commit these violations. As it has been pointed out, if the State does not guarantee the security of its justice operators against all kinds of external pressures, including reprisals against them and their families, the exercise of the jurisdictional function may be seriously affected, frustrating

⁷⁷ Nota de la Misión Permanente de Guatemala ante la Organización de los Estados Americanos (OEA). OEA-M4-NV-042-2023, 24 de febrero de 2023. COPADEH. Informe del Estado sobre la vigencia de los derechos humanos en Guatemala 2022. Respuesta al contenido preliminar Capítulo IV.B del Informe Anual de la Comisión Interamericana de Derechos Humanos. p. 103.

⁷⁸ *Prensa Comunitaria*, “[Agresiones contra defensores de derechos humanos crecen exponencialmente en el gobierno de Giammattei](#),” August 24, 2022.

⁷⁹ IACHR, 184th regular period of sessions, thematic hearing “[Human rights defenders, justice operators and the Rule of Law in Guatemala](#),” June 22, 2022; IACHR, 185th regular period of sessions, thematic hearing “[The situation of freedom of expression in Guatemala](#),” October 24, 2022.

⁸⁰ Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 104.

⁸¹ State of Guatemala, Response to the recommendations of the IACHR regarding Chapter IV. B of the *2021 Annual Report: measures of the State of Guatemala to comply with the recommendations of the IACHR Annual Report - Chapter IV. B*, Note NV-OEA-M4-299-2022, December 19, 2021, pp. 14 and 15.

access to justice.⁸² In compliance with this obligation, the Commission reiterates what the Inter-American Court has stated regarding the fact that it is not appropriate that justice operators must file criminal complaints with regard to the intimidating acts or threats they face so that the State provides protection for their rights to life and integrity, especially in the face of fears related to the exercise of their work in the investigation of serious violations committed during the armed conflict.⁸³

1. Specific cases of criminalization⁸⁴

a. Criminalization of prosecutors and former collaborators of the International Commission against Impunity in Guatemala

50. The FECI, which was the result of a bilateral agreement signed between the Office of the Public Prosecutor and the former International Commission against Impunity in Guatemala, worked jointly with the latter in the prosecution of more than 120 cases of corruption, illicit electoral financing, organized crime and other serious crimes. In many of these cases, the CICIG and the FECI identified more than 70 highly complex criminal structures, indicted more than 1,540 people and obtained more than 400 convictions.⁸⁵ However, since 2017 and after the departure of the International Commission against Impunity in Guatemala, this entity has been gradually weakened, mainly through the criminalization of prosecutors and former competent career prosecutors. Likewise, the Commission recorded acts of criminalization against former members of the International Commission against Impunity in Guatemala.

51. In this regard, in its comments on the draft of this report, the State asked the IACHR to take into account the proper actions that the Opposite the Public Prosecutor has taken to strengthen the FECI. Additionally, it noted that this prosecutorial entity conducts criminal prosecutions in strict adherence to the law and the principle of objectivity.⁸⁶ The State repeatedly rejected "premature pronouncements with respect to ongoing judicial processes" and indicated to the IACHR that "such pronouncements can place external pressure on justice officials in the country handling the processes in question, thereby affecting judicial independence."⁸⁷

52. On February 10, 2022, the Commission learned of the detention of Attorney Leily Santizo, former president of the International Commission against Impunity in Guatemala, and on February 15, it also learned of the detention of Eva Siomara Sosa, former prosecutor of the FECI, after she voluntarily presented herself before the Third Criminal Court. The arrests were reportedly a form of retaliation for their work on high-impact and anti-corruption cases during the mandate of the International Commission against Impunity in Guatemala. Likewise, the arrest of Leily Santizo was also allegedly related to her work as an advocate for

⁸²IACHR, *Guarantees for the Independence of Justice Operators. Toward strengthening access to justice and the Rule of Law in the Americas*, OEA/Ser.L/V/II. Doc. 44, December 5, 2013. IACHR, *Second Report on the Situation of Human Rights Defenders in the Americas*, OEA/Ser.L/V/II. Doc. 66, December 31, 2011, para. 385.

⁸³IAHR Court, *Bámaca Velásquez, Maritza Urrutia, Masacre Plan de Sánchez, Chitay Nech et al., Río Negro Massacres, and Gudiel Álvarez et al. ('Diario Militar') v. Guatemala. Provisional Measures and Monitoring of Compliance with Judgment. Resolution of the IAHR Court of November 22, 2022*, para. 24.

⁸⁴ The State of Guatemala submitted relevant information on specific cases, asking the IACHR to "properly handle and keep custody of it" because it was confidential. This information has therefore not been included in this report. Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights.

⁸⁵CICIG, *Informe Final, el Legado de la Justicia en Guatemala*, 2019, pp. 51 and 52.

⁸⁶ Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 106.

⁸⁷ Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pgs. 107, 110.

justice operators facing criminalization.⁸⁸ From the moment of their arrest, these attorneys were reportedly not informed of the charges against them. The file was allegedly kept confidential, and the hearings were closed to the public.⁸⁹ On February 11, 2022, the UN Secretary General expressed his concern about these events and urged to guarantee the right to due process of law and to observe the independence of the judiciary.⁹⁰ With respect to the proceedings of Eva Siomara Sosa, for the crime of collusion, the State indicated that the due process of law has been guaranteed, and that Ms. Sosa has had access to all her lawfully available remedies, in addition to the fact that the Prosecutor's Office for Internal Affairs, in compliance with her right to defense, made the case file available to her and her representative at the prosecutor's office in a timely manner. It also informed that the confidentiality of the file of this investigation does not seek to hide information of the proceedings, but rather to guarantee a diligent and serious investigation to clarify the facts.⁹¹

53. On February 16, Willy Racanac López and Paola Mishelle Escobar Quiñónez, assistant prosecutors of the FECCI, were arrested for the alleged crime of abuse of authority. On the same day, the Commission learned of the detention order issued against Rudy Antonio Herrera Lemus, former prosecutor of the FECCI, and Aliss Noemi Moran, former assistant prosecutor, who was arrested on February 17 when she appeared before the Third Criminal Court. According to official information, these arrests are linked to the work carried out by the prosecutors in the "2020 Parallel Commissions" case.⁹²

54. On February 23, the Commission learned of the arrest of Virginia Laparra, chief prosecutor of the FECCI in Quetzaltenango, for the crimes of abuse of authority and usurpation of public functions, which was reportedly a reprisal for her work in the investigation of several corruption structures in the municipality of Quetzaltenango.⁹³ On February 24, 2022, then Prosecutor Virginia Laparra was transferred to the Mariscal Zavala Military Unit, where she was in preventive detention for nine months. On December 16, Eighth Sentencing Court for Criminal Matters, Drug Trafficking and Environmental Crimes of the department of Guatemala sentenced her to four years in prison, disqualified her for prosecution roles and declared her ineligible to hold public office for four years.⁹⁴ In this regard, the State informed that Laparra may appeal if she

⁸⁸*Prensa Comunitaria*, "[Casos contra exfiscales y fiscales se estancan y prolongan prisión provisional](#)," March 1, 2022.

⁸⁹According to official information, the grounds for keeping the file confidential are established in Article 314 of the Code of Criminal Procedure of Guatemala. Likewise, the State indicated that the holding of undisclosed hearings is due to the fact that the file under investigation is also kept confidential, as well as the file heard by High Risk Court D in relation to an investigation into money laundering. On March 7, the FECCI requested a substitute measure of house arrest, which was granted at a hearing. Response of the Presidential Commission for Peace and Human Rights (COPADEH) in response to Urgent Appeal No. AL GTM 1/2022 issued by Mr. Diego García Sayán, special rapporteur on the independence of judges and lawyers. Available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=36970>

⁹⁰The Secretary-General has learned with concern of the detention of at least two individuals who cooperated closely with the International Commission against Impunity in Guatemala, known as CICIG. The Commission operated for 12 years in the country, until 2019, based on an agreement between the United Nations and the Government of Guatemala. The Secretary-General recalls that judicial proceedings should fulfill the requirements of fair trial and due process, and that it is the duty of all national institutions to respect and observe the independence of the judiciary." [Statement attributable to the spokesperson of the Secretary-General - On Guatemala](#). February 11, 2022.

⁹¹State of Guatemala, Response to the recommendations of the IACHR regarding Chapter IV. B of the *2021 Annual Report*: measures of the State of Guatemala to comply with the recommendations of the IACHR *Annual Report* - Chapter IV. B, Note NV-OEA-M4-299-2022, December 19, 2021, pp. 4 and 5.

⁹²Office of the Public Prosecutor of Guatemala, [press release of February 16, 2022](#).

⁹³According to public information, The criminal proceedings against her began in 2018, after she reported a judge to the Disciplinary Board of the Judiciary for possible inappropriate behavior as a sitting judge, namely leaking confidential information about a case he was dealing with. In retaliation, this same judge filed two criminal complaints against her on the same grounds: the first in July 2018 in Quetzaltenango and the second in August 2019 in Guatemala City. Amnesty International, "[Guatemala: Amnesty International demands immediate and unconditional release of prisoner of conscience Virginia Laparra](#)," November 28, 2022.

⁹⁴Based on the evidence presented by the Internal Affairs Prosecutor's Office, the Eighth Sentencing Court for Criminal Matters, Drug Trafficking and Environmental Crimes of the department of Guatemala issued a conviction against Lilian Virginia Laparra Rivas for the crime of abuse of authority in a continuous manner, and sentenced her to four years in prison, disqualified her for prosecution roles and declared her ineligible to hold public office for four years." Twitter account of the Office of the Public Prosecutor of Guatemala (@MPGuatemala), [statement of December 16, 2022](#).

considers that the sentence is contrary to the law.⁹⁵ In this regard, the Commission was informed of violations of the due process of law, the excessive use of preventive detention, deplorable conditions of detention, and her particular situation of risk for being held in the same detention center as other people who had been investigated by her in the framework of her work as a prosecutor.⁹⁶

55. On May 5, Prosecutor Eduardo Pantaleón was arrested for the alleged crimes of breach of duty and hindering criminal prosecution. According to public information, Mr. Pantaleón investigated alleged acts of corruption and irregular hiring processes linked to officials at the Institute for the Assistance and Attention of Crime Victims, the Ministry of Communications, Infrastructure and Housing (CIV) and the Ministry of Culture and Sport.⁹⁷ On July 30, 2022, Prosecutor Samari Carolina Gómez Díaz of the FECl was arrested for the crime of disclosure of confidential information to *El Periódico* journalist and director José Rubén Zamora Marroquín.⁹⁸

56. On June 8, 2022, the National Office for the Prevention of Torture filed a criminal complaint against former Attorney General Claudia Paz y Paz, and Human Rights Prosecutor Elena Gregoria Sut Ren for the alleged crimes of abuse of power and abuse of authority, as a consequence of their work in the investigation of cases related to the internal armed conflict. According to public information, the complaint alleges that both former Attorney General Paz y Paz and Prosecutor Sut Ren initiated a selective criminal prosecution against former military officers accused of crimes against humanity during the internal armed conflict, and of crimes that did not exist in Guatemalan law at the time they were committed.⁹⁹

57. As discussed below, in relation to these facts, on July 11, 2022, the Inter-American Court ordered urgent measures of protection in favor of Elena Gregoria Sut Ren, a senior prosecutor in the Human Rights Prosecutor's Office, to avoid the irreparable harm to her rights to life and personal integrity, and to her independence in office, as well as the right of access to justice of the victims of six cases of the internal armed conflict. These measures were ratified on November 22, 2022.¹⁰⁰

58. Finally, the Commission received information on the persistence of judicial persecution and new arrest warrants against exiled justice operators. For example, in May 2022, the Office of the Public Prosecutor indicated in a public statement that, according to the records of the investigation control system of the Office of the Public Prosecutor, former Attorney General Thelma Aldana had more than 30 complaints against her under investigation; former Judge Erika Aifán, 29 complaints; former Prosecutor Juan Francisco

⁹⁵State of Guatemala, Response to the recommendations of the IACHR regarding Chapter IV. B of the *2021 Annual Report*: measures of the State of Guatemala to comply with the recommendations of the IACHR *Annual Report* - Chapter IV. B, Note NV-OEA-M4-299-2022, December 19, 2021, p. 4.

⁹⁶In this regard, civil society organizations have denounced the conditions of detention of Prosecutor Virginia Laparra, who is being held "in an isolation cell of approximately 15 square meters, with an internal bathroom, without windows and with an air intake grille. The access door to her cell is closed 23 hours a day; she is only allowed one hour of sunlight per day, and prison visits are made in the same cell." According to the information received, the decision of the prison system of placing her in an isolation cell is aimed at protecting her given the high number of cases she has investigated and the high number of convictions for corruption of high-ranking officials she has ordered; some of these officials are serving sentences in the same place. However, civil society organizations pointed out that "despite the fact that she is not in solitary confinement as a punitive measure, the restrictions inherent to solitary confinement do apply to her, that is, the closing of the door during her stay in the cell, which, given the conditions of the cell, amounts to cruel, inhuman or degrading treatment, if not torture." World Organization Against Torture (OMCT), "Guatemala: Arbitrary Detention of the Prosecutor against Impunity Virginia Laparra," April 11, 2022.

⁹⁷DW, "[Guatemala: capturan a fiscal anticorrupción Eduardo Pantaleón](#)," May 5, 2022; See also: "Guatemala: we are following, with great concern, the arrest of Assistant Prosecutor Eduardo Pantaleón who had investigated allegations of corruption against high-level government officials. It is not normal in a democracy that those who investigate corruption end up in prison." Twitter account of Juan Pappier, acting deputy director at Human Rights Watch, ([@JuanPappierHRW](#)), statement of May 5, 2022.

⁹⁸*República*, "Exfiscal de la FECl Samari Gómez es enviada a juicio," December 19, 2022; *Prensa Comunitaria*, "[La FECl contra la FECl: denuncia contra Samari Gómez 'es un artificio elaborado'](#)," August 9, 2022.

⁹⁹Center for Justice and International Law (CEJIL). "[CEJIL rechaza la criminalización de la ex Fiscal General de Guatemala Claudia Paz y Paz](#)," June 10, 2022; *Prensa Comunitaria*, "[Denuncia contra Claudia Paz y Paz y Elena Sut, un acto de intimidación sin sustento legal](#)," June 9, 2022.

¹⁰⁰IACHR Court, *Bámaca Velásquez, Maritza Urrutia, Masacre Plan de Sánchez, Chitay Nech et al., Río Negro Massacres, and Gudiel Álvarez et al. ('Diario Militar') v. Guatemala. Provisional Measures and Monitoring of Compliance with Judgment. Resolution of the IACHR Court of November 22, 2022.*

Sandoval, 58 complaints; and prosecutors Andrei Vladimir González and Rudy Herrera Lemus, 9 and 6 complaints against them, respectively. As indicated by the State, “it is the obligation of the Office of the Public Prosecutor to investigate such complaints and, in those cases where the progress of the investigations justifies it, to request judicial intervention to further investigate such proceedings.”¹⁰¹ In the case of former Judge Erika Aifan, according to civil society organizations, she has accumulated more than 100 proceedings against her, including reports, administrative complaints and requests for impeachment.¹⁰²

b. Criminalization of judges

59. During 2022, the Commission observed once again that strategies for the use and manipulation of criminal law against judges with high-risk jurisdiction were intensified through the filing of complaints and requests for impeachment with the aim of stripping them of their jurisdictional immunity. As indicated to the Commission, such impeachment proceedings are allegedly a response to resolutions they issued. In addition, according to what was reported, these proceedings do not follow the procedure established by law, among other reasons, because they are allegedly assigned to magistrates with direct interest in the matter, who proceed without the guarantees of due process of law and the right to defense. As it has been mentioned, the Supreme Court of Justice, the body responsible for the admission and processing of these proceedings, lacks guarantees of independence and impartiality, since it is composed of judges whose term of office expired more than three years ago.¹⁰³

60. High risk courts were created in Guatemala in 2009, under the support of the CICIG and due to its recommendation, to deal with crimes related to serious human rights violations, corruption and organized crime.¹⁰⁴ As documented by the Commission, since the CICIG left the country, judges who are members of these courts have been victims of acts of criminalization, threats and harassment because of their work, which is aimed at weakening this scaffolding to facilitate impunity.¹⁰⁵

61. For its part, in its comments on the draft of this report, the State of Guatemala indicated to the IACHR that “the high risk courts continue to operate with total independence, and because of the sensitive information and crimes prosecuted by it, the judges who have requested have been provided with all the human and technological resources to carry out their functions, including: a) security; b) armored vehicles; c) closed circuit television in the corridors, elevators, and stairwells in the Court Tower, where the largest number of High Risk Courts and Tribunals are located, as well as cameras in most of the hearing rooms. There are also security cameras in other judicial facilities (there are no cameras inside any court).”¹⁰⁶

62. Within this context, on February 8, the Commission learned of the decision of the Supreme Court of Justice to declare a request for impeachment admissible and to suspend from office Pablo Xitumul, who is a judge of the First Sentencing Court for Criminal Matters, Drug Trafficking and Environmental Crimes,

¹⁰¹Office of the Public Prosecutor of Guatemala, [press release](#) of May 5, 2022.

¹⁰²Report of the mission of judges of the Latin American Federation of Judges and the International Union of Judges, [Ataques a la independencia judicial en Guatemala](#), October 2022, pp. 6 and 7; Cyrus R. Vance Center for International Justice, [Criminalization of Justice Operators in Guatemala as a Strategy to Secure Impunity](#), December 2022, p. 23.

¹⁰³ IACHR, 181st ordinary period of sessions, public hearing “[Human rights situation of justice operators and judicial independence](#),” October 28, 2021; Report by the mission of judges of the Latin American Federation of Judges and the International Union of Judges, [Ataques a la independencia judicial en Guatemala](#), October 2022, pp. 6 and 7; Cyrus R. Vance Center for International Justice, [Criminalization of Justice Operators in Guatemala as a strategy to secure impunity](#),” December 2022, p. 23.

¹⁰⁴ In 2008, the CICIG presented a proposal to concentrate high-impact cases in courts located in the capital city. Months later, Decree No. 21-2009 (Law on Criminal Competence in High-Risk Proceedings), which was passed as a matter of national urgency by the Congress of the Republic on August 4, 2009, was published. See *No Ficción*, “[El andamiaje de la CICIG que develó un sistema criminal](#),” February 23, 2021. See also Centro de Investigaciones Económicas Nacionales (CIEN), “Juzgados de Mayor Riesgo: Análisis y Retos,” November 2019.

¹⁰⁵ See *No Ficción*, “[El andamiaje de la CICIG que develó un sistema criminal](#),” February 23, 2021.

¹⁰⁶ Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 113.

with competence to hear high-risk cases in group “C” and beneficiary of precautionary measures granted by the Commission. According to public information, then Judge Xitumul heard a genocide case against General Efraín Ríos Montt, the “Dos Erres” case, and the trial of five soldiers accused of the disappearance of Marco Antonio Molina Theissen.¹⁰⁷ Precisely in this regard, civil society organizations denounced at the public hearing on the *Monitoring of Compliance with Judgment in the case of Molina Theissen v. Guatemala* that the impeachment proceedings against Judge Xitumul constitutes one of the efforts aimed at perpetrating impunity in said case.¹⁰⁸

63. Likewise, in March, Judge Erika Aifán, assigned to High Risk Court D, was forced to resign from her position and leave the country as a result of the threats she received against her life and integrity, as well as the more than 70 complaints and at least three impeachment requests filed against her due to her work in high-impact corruption cases.¹⁰⁹ Particularly, in 2022, Judge Aifán was denounced by members of the Board of Directors of the Magistrates Institute of the Court of Appeals due to the authorization of certain investigation proceedings in the “2020 Parallel Commissions” case, regarding the election process of the same court of appeals. Among the irregularities denounced in this process, Judge Aifán pointed out that the inquiring judge in charge of the impeachment proceedings was a member of the Board of Directors of the same Institute that denounced her; therefore, since he was a judge and a complainant in the proceedings, there was a conflict of interests.¹¹⁰

64. In this regard, the State of Guatemala indicated that “in the case of Erika Aifán, it must be noted that she made the decision to resign from her position and leave the country even though she has for some time been a beneficiary of IACHR precautionary measure, as a result of which she enjoyed a security arrangement, a service that had to be suspended given that since the beneficiary is not in national territory, it is materially impossible for the State of Guatemala to implement the measures ordered by the IACHR, mainly those related to her personal safety.”¹¹¹

65. In November, Judge Miguel Ángel Gálvez, assigned to High Risk Court B, left the country due to the progress of the impeachment proceeding held against him and the intensification of the threats he received due to his work in the “Diario Militar” case.¹¹² In this regard, the Inter-American Court of Human Rights verified that the acts of harassment, threats, intimidation and surveillance suffered by Judge Gálvez increased as the criminal proceeding on the facts of the “Diario Militar” case progressed. In particular, on May 6, 2022, Judge Gálvez decided to bring nine former high-rank military and police commanders to trial, and five days after that decision, on May 11, 2022, a complaint was filed against him, which led to an impeachment request, which was admitted for processing by majority by the Supreme Court of Justice on June 15, 2022, within the high-risk context in which he carries out his work as a justice operator in Guatemala.¹¹³

¹⁰⁷ *Prensa Libre*, “[Pablo Xitumul es suspendido del Tribunal de Mayor Riesgo C mientras aclara su situación jurídica, resuelve la Corte Suprema de Justicia.](#)” March 22, 2022; RICIG, “[Continúa el ataque contra jueces independientes: suspenden al juez Xitumul.](#)” March 22, 2022; *Prensa Comunitaria*, “Aifán en el exilio y Xitumul suspendido, el secuestro del sistema judicial guatemalteco,” March 24, 2022.

¹⁰⁸ IACHR Court. [Public hearing on Monitoring of Compliance with Judgment in the case of Molina Theissen v. Guatemala](#), November 24, 2022.

¹⁰⁹ *Plaza Pública*, “[Jueza Erika Aifán: «Quien me denuncia, quien me juzga y quien investiga, son socios»](#),” March 16, 2022.

¹¹⁰ According to public information, at least 7 of the main magistrates of the Supreme Court of Justice are accused by the Office of the Public Prosecutor in the “2020 Parallel Commissions” case, so they have a direct interest in the matter. *No Ficción*, “[No sé hasta qué punto podrían garantizar mi integridad física.](#)” March 7, 2022; *Prensa Libre*, “[Erika Aifán presenta pruebas de descargo y señala conflicto de interés en el juez pesquisador.](#)” March 4, 2022.

¹¹¹ Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 49.

¹¹² On November 12, 2022, the IACHR expressed its concern regarding the progress of the impeachment hearing against Judge Miguel Ángel Gálvez and the threats against him, due to his judicial work in emblematic cases such as the “Diario Militar” case, among others. IACHR Twitter account (@CIDH), statement issued on November 12, 2022.

¹¹³ IACHR Court. *Gudiel Álvarez et al. (“Military Diary”) v. Guatemala*. Provisional measures and Monitoring compliance with judgment. Resolution of the Inter-American Court of Human Rights, September 09, 2022, paragraph 27.

66. Consequently, on September 9, 2022, the Inter-American Court ratified the granting of provisional measures in favor of the Judge Gálvez Aguilar and ordered the State of Guatemala to guarantee the right of access to justice for the victims of the *Gudiel Álvarez et al.* case ("Diario Militar"), as well as to adopt all appropriate measures to effectively protect the rights to life and to personal integrity of Judge Miguel Ángel Gálvez Aguilar and his immediate family, and to adopt the necessary measures to guarantee the judicial independence of Judge Gálvez Aguilar.¹¹⁴

67. With regard to the impeachment proceedings, the State of Guatemala has indicated that they are a prerogative established in the national legal system which guarantees that dignitaries and public officials are not detained or subjected to criminal proceedings before the corresponding jurisdictional bodies without a prior declaration from a competent authority determining the admissibility of the case, in accordance with the provisions established by law. Additionally, the State has indicated that as a democratic State, it cannot prevent its population from filing complaints when they consider that there are facts that may constitute a crime. The criminal complaint may be filed by any person who is aware of the commission of an act or fact constituting a crime by a dignitary or a public official, and not simply for spurious, political, or illegitimate reasons. The State has reported that when a person files a complaint, the goal is to determine whether or not to admit it in order to initiate criminal proceedings against judges or magistrates. In this sense, it has affirmed that a complaint represents the first step to access justice and, therefore, people cannot be deprived of the possibility of filing the complaints they deem appropriate. Impeachment requests that might be filed by any person against an official cannot be considered a way of intimidating or a means aimed at removing justice operators from office, but rather they derive from a right that people have to inform before competent bodies acts or omissions that they consider illegal, so that it is verified whether those public officials who enjoy said prerogative are acting in accordance with the law when exercising their mandate.¹¹⁵

68. In its comments on the draft of this report, the State of Guatemala reiterated to the IACHR that "launching a pretrial proceeding is not the same as beginning a criminal process, as this State has explained extensively on other occasions. The assignation of judges to conduct inquiries as part of these procedures is done pursuant to the provisions of articles 77 through 79 of the law cited above."¹¹⁶ Additionally, "the status of judge or magistrate does not grant immunity to a person when there is a possibility that criminal acts have been committed. Therefore, the pretrial procedure offers an opportunity to strike a balance between holding judges responsible and the role that they play, as prior to launching a criminal process, it must be determined whether there is enough evidence to carry it forward."¹¹⁷

69. Likewise, it recalled that "pursuant to the principle of subsidiarity, the Inter-American system acts only when the State's internal mechanisms have not guaranteed the protection of human rights. Consequently, to the extent that the IACHR is addressing the way in which the pretrial processes are being handled, the Commission is in violation of this principle."¹¹⁸ With respect to the pretrial requests "attempting to remove the immunity of the judges with High Risk jurisdiction," it indicated that the Supreme Court of Justice follows the principle of due process and the right to defense, and therefore, "any violations of these principles

¹¹⁴ IACHR Court. *Gudiel Álvarez et al. ("Military Diary") v. Guatemala*. Provisional measures and Monitoring compliance with judgment. Resolution of the Inter-American Court of Human Rights dated September 09, 2022. Operative paragraph 2.

¹¹⁵ State of Guatemala, Response to the recommendations of the IACHR regarding Chapter IV. B of the *2021 Annual Report: measures of the State of Guatemala to comply with the recommendations of the IACHR Annual Report - Chapter IV. B*, Note NV-OEA-M4-299-2022, December 19, 2021, pp. 16-17.

¹¹⁶ Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 48.

¹¹⁷ Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 48.

¹¹⁸ Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 48.

are inconceivable and rejected, along with the fact that the pretrial procedures are handled by the plenary of the Supreme Court Justice as a collegiate body, not individually, as portrayed.”¹¹⁹

70. In this regard, as the Commission has indicated, although impeachment proceedings constitute a guarantee favoring justice operators, considering the current context of Guatemala, said procedure has been used as a mechanism to control their work and as a means of intimidation, distraction and hindrance against them.¹²⁰ The foregoing is possible due to the lack of independence of the bodies in charge of the processing of impeachment proceedings, among them, the Office of the Public Prosecutor and the Supreme Court of Justice.¹²¹ In its report *Situation of Human Rights in Guatemala* published in 2015, the Inter-American Commission already warned that justice operators who carry out transitional justice or anti-corruption proceedings involving officials and authorities are the main victims of attacks. The Commission stated that according to the Human Rights Prosecutor in Guatemala, justice operators carrying out this type of proceedings have been attacked by the authorities or their peers through verbal attacks, insults and threats, the promotion of impeachment proceedings, the filing of complaints and even harassment against family members.¹²²

71. In this regard, the Commission recalls that the observance of rights and freedoms in a democratic system requires a legal and institutional order in which laws prevail over the will of rulers and individuals, where there is effective judicial control of the constitutionality and legality of the acts of the public power. For this reason, unlike other public officials, judges enjoy reinforced guarantees for the exercise of their jurisdictional power, especially the independence to exercise their mandate. This guarantee serves as a corollary of the right of access to justice all people should enjoy and is materialized in an adequate appointment process, tenure in office and the guarantee that judges will not face pressure.¹²³

72. The Inter-American Commission reminds the State of Guatemala that it is prohibited by international law to establish as grounds for disciplinary measures or, in this case, as grounds for impeachment, legal proceedings related to the legal criteria developed by justice operators in a decision, in the exercise of their jurisdictional function. For this reason, the Commission reiterates that one of the essential aspects to consider in the resolutions that establish sanctions for justice operators is that the investigations and disciplinary sanctions that are imposed can in no case be motivated by the legal criteria applied in their decisions.¹²⁴ Likewise, taking into account that the free removal of justice operators puts access to justice at risk, as well as the punitive nature of disciplinary processes, the acts aimed at penalizing them for reasons attributable to their conduct must observe the principle of legality and due process of law.¹²⁵

73. The Inter-American Commission urges Guatemala to take measures to prevent the improper use of criminal law and impeachment proceedings as a way of restricting the independence of justice operators

¹¹⁹ Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 50.

¹²⁰ See IACHR, Resolution 34/2017, Precautionary measure No. 431/2017, [Gloria Patricia Porras Escobar and family, Guatemala](#), August 29, 2017, para. 22.

¹²¹ In Chapter IV.B of its 2021 *Annual Report*, the IACHR indicated that the information received showed the lack of response from the Attorney General to requests made by high-risk judges to definitively close unsubstantiated complaints against them, some of which date back to 2012, but which nevertheless remain open with the purpose of maintaining a climate of fear and control in the performance of his jurisdictional work. See IACHR, 2021 *Annual Report*, Chapter IV.B on Guatemala, para. 74; IACHR, Press Release No. 37/22, “[IACHR Expresses Concern over New Violations of Judicial Independence in Guatemala](#),” February 22, 2022. See also IACHR, Resolution 34/2017, Precautionary Measure No. 431/2017, [Gloria Patricia Porras Escobar and family, Guatemala](#), August 29, 2017, para. 22.

¹²² IACHR, [Report on the Situation of Human Rights in Guatemala](#), December 31, 2015, para. 226.

¹²³ IACHR, [Guarantees for the Independence of Justice Operators: Towards strengthening access to justice and the rule of law in the Americas](#), OEA/Ser.L/V/II. Doc. 44, December 05, 2013, para. 24.

¹²⁴ IACHR, [Guarantees for the Independence of Justice Operators: Towards strengthening access to justice and the rule of law in the Americas](#), OEA/Ser.L/V/II. Doc. 44, December 05, 2013, para. 216.

¹²⁵ IACHR, [Guarantees for the Independence of Justice Operators: Towards strengthening access to justice and the rule of law in the Americas](#), OEA/Ser.L/V/II. Doc. 44, December 05, 2013, para. 216.

and, in particular, judges. Furthermore, it calls for an end to any interference against the independence of the judiciary in order to guarantee the independent and impartial justice that characterizes the Rule of Law.

c. Selection and appointment of the Attorney General for a new period

74. This year, the Inter-American Commission followed up on the selection and appointment process of the head of the Office of the Public Prosecutor and the Office of the Attorney General of the Republic for the period 2022-2026. In this regard, the Commission and the United Nations Special Rapporteur on the independence of judges and lawyers called on the Guatemalan State to guarantee international standards of independence and impartiality throughout this process.¹²⁶ On May 16, 2022, Consuelo Porras was elected for a new term as the head of the Office of the Public Prosecutor and the Office of the Attorney General of the Republic amidst a context of accusations and complaints for her participation in the criminalization of justice operators and human rights defenders, and the obstruction of investigations regarding corruption cases.¹²⁷

75. In relation to irregularities in the selection process, which began on January 31, 2022, civil society organizations questioned two resolutions of the Constitutional Court that apparently influenced the process in favor of the attorney general. In particular, on February 21, 2022, the Constitutional Court admitted a writ of *amparo* that prevented first instance judges, including Judge Miguel Ángel Gálvez and Judge Erika Aifán, from running.¹²⁸ On April 22, through a provisional ruling, it ordered the nominating commission to form the final list of candidates based solely on meritocratic criteria, which favored candidate Consuelo Porras, who until then had been excluded. According to public information, the resolution of the Constitutional Court was released by "net centers" even before the Constitutional Court itself had published it. This resulted in strong pressure for the deans of universities to change their vote in favor of said candidate.¹²⁹

76. In this regard, in its comments on the draft of this report, the State of Guatemala indicated that "it is inappropriate to rebuke the highest constitutional court"¹³⁰ that "has established the Selection Committee in adherence to meritocratic criteria for selection of the Attorney General. This is equivalent to presuming that application of these criteria in filling a crucial public office like Attorney General and Head of the Office of the Public Prosecutor would violate the standards of the inter-American system."¹³¹

77. Furthermore, the Commission received information on facts that eroded the nominating commission's independence to function due to external pressures against its members through the use of

¹²⁶ IACHR. Press Release No. 50/22, "[The IACHR and UN Special Rapporteur Urge Guatemala to Guarantee Independence and Impartiality in the Appointment of the Country's New Attorney General.](#)" Washington, D.C., March 9, 2022.

¹²⁷ See Alianza por las Reformas, forum "Desafíos en la elección de Fiscal General y Jefe o Jefa del Ministerio Público," January 27, 2022; WOLA, "[Guatemala's Attorney General Elections: Judicial Independence and Democracy at a Crossroads.](#)" April 18, 2022; Joint statement "[Urge cambio de Fiscal General.](#)" May 9, 2022; Right Livelihood, RIDH, CCPR, CIJ, WOLA, "[The re-appointment of María Consuelo Porras as Attorney General of Guatemala: a clear endorsement of impunity and corruption.](#)" May 17, 2022.

¹²⁸ In particular, the Constitutional Court considered that to be appointed attorney general, the applicants had to meet the same requirements as to be a magistrate of the Supreme Court of Justice (CSJ), that is, 10 years as an active lawyer or a period as an appeals courtroom magistrate. Therefore, first instance judges could not meet this requirement. *No Ficción*, "[La confabulación para elegir de nuevo a Consuelo Porras.](#)" May 9, 2022; Alianza por las Reformas, "[Un proceso de elección de fiscal general de la República de Guatemala hecho a la medida.](#)" April 28, 2022; *Plaza Pública*, "[Cómo, en dos «rounds», la CC hizo que Consuelo Porras repitiera gestión.](#)" May 17, 2022; Human Rights Watch, "[Guatemala: Attorney General's Reappointment Threatens Rights.](#)" May 19, 2022.

¹²⁹ *Plaza Pública*, "[Cómo, en dos «rounds», la CC hizo que Consuelo Porras repitiera gestión.](#)" May 17, 2022; *No Ficción*, "[La confabulación para elegir de nuevo a Consuelo Porras.](#)" May 9, 2022; Human Rights Watch, "[Guatemala: Attorney General's Reappointment Threatens Rights.](#)" May 19, 2022.

¹³⁰ Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 54.

¹³¹ Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 55.

criminal law.¹³² Among other events, on February 3, Luis David Gaitán, representative of the nominating commission as dean of the Faculty of Law of the Universidad da Vinci and former head of the CICIG, was forced to resign as a result of pressure, threats and the filing of a complaint by the Foundation against Terrorism, which was expeditiously processed by the Administrative Crimes Prosecutor's Office.¹³³

78. Subsequently, on March 29, the Foundation against Terrorism filed a complaint against the dean of the Faculty of Law of the Universidad, Rafael Landívar, and against Hugo Escobar Menaldo, a member of the nominating commission, accusing them of having ties to the Embassy of the United States and to persons related to activist Hellen Mack,¹³⁴ and of exerting pressure against other members of said nominating commission. On April 6, the attorney general reportedly warned the members of the nominating commission that they could suffer "administrative and legal actions" if they examined the information provided by a lawyer who accused Porras of having plagiarized her doctoral thesis.¹³⁵ On April 22, the Foundation against Terrorism filed a criminal complaint against the seven deans who had not voted for Consuelo Porras, alleging that they violated the Constitution by acting in "a political and not a technical manner, at the service of foreign interests, thus prostituting their functions."¹³⁶

79. On May 17, the President of the Republic elected Consuelo Porras for a new term, which has been severely questioned by the international community and national and international civil society organizations, particularly because her appointment would mean continuity of a policy of manipulation of criminal law and judicial persecution, as well as the dismantling of the institutional advances achieved years ago by the Office of the Public Prosecutor and the FECI with the support of the CICIG in the fight against corruption and impunity.¹³⁷

80. In its comments on the draft of the report, the State indicated that "Guatemalan law does not provide for any prohibition on reelection to the office of Attorney General of the Republic and head of the Opposite the Public Prosecutor, with the only *sine qua non* requirement being compliance with the legal requirements, which was fulfilled during the process."¹³⁸ In addition, "at no time has criminal law been used as an instrument of criminal persecution by this administration, in terms of dismantling institutional progress. It is irrefutable that this administration has strengthened the institution with serious criminal prosecutions supported by prosecutors who are committed to transparency, objectivity, and due respect for the human

¹³² IACHR. Press Release No. 50/22, "[The IACHR and UN Special Rapporteur Urge Guatemala to Guarantee Independence and Impartiality in the Appointment of the Country's New Attorney General.](#)" Washington, D.C., March 9, 2022. *No Ficción*, "[La confabulación para elegir de nuevo a Consuelo Porras.](#)" May 9, 2022.

¹³³ Prensa Comunitaria, "[Porras agiliza denuncia contra David Gaitán quien renuncia a Postuladora de Fiscal General.](#)" April 4, 2022.

¹³⁴ Red de Información del Combate a la Impunidad en Guatemala, "[Fracasa plan de Méndez Ruiz por allanar el camino a Consuelo Porras.](#)" April 5, 2022; "@FCTGuatemala presented to the nominating commission that will appoint the attorney general a copy of the complaint filed today against Commissioner Rolando Escobar Menaldo, for his relationship with Helen Mack and @usembassyguate, and the pressure he exerts on the other members of the commission." Twitter account of Ricardo Mendez Ruiz (@RMendezRuiz), [pronouncement of March 28, 2022.](#)

¹³⁵ *La Hora*, "[Porras en apuros: pide no revisar tesis y lanza amenaza.](#)" April 6, 2022; Human Rights Watch, "[Guatemala: High Stakes for Attorney General's Nomination.](#)" April 13, 2022.

¹³⁶ "#URGENT! Today @FCTGuatemala filed a criminal complaint against the seven commissioners (deans) who, violating the Constitution, are performing in a political and not a technical manner, at the service of foreign interests, thus prostituting their functions. Twitter account of Ricardo Mendez Ruiz (@RMendezRuiz), [pronouncement of April 22, 2022.](#)

¹³⁷ US Department of State, "[Designation of Attorney General Maria Consuelo Porras Argueta de Porres for Involvement in Significant Corruption and Consideration of Additional Designations.](#)" May 16, 2022; [House of Foreign Affairs Committee, Chairs Meeks and Sires Condemn Reappointment of Guatemalan Attorney General](#), press release. May 17, 2022; *Washington Post*, "[La fiscal general de Guatemala encubre no solo al presidente Giammattei.](#)" February 22, 2022; Human Rights Watch, "[Guatemala: Attorney General's Reappointment Threatens Rights](#)", May 19, 2022; Right Livelihood, RIDH, CCRP, CIJ, WOLA, "[The re-appointment of María Consuelo Porras as Attorney General of Guatemala: a clear endorsement of impunity and corruption.](#)" May 17, 2022.

¹³⁸ Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 127.

rights of the persons being processed, while avoiding unnecessary publicity that would destroy the dignity of the person subjected to the criminal proceeding and the presumption of innocence.”¹³⁹

81. The State of Guatemala reaffirmed that, as expressed in the framework of the thematic hearing entitled “The human rights situations of human rights defenders, justice officials, and the rule of law in Guatemala,” selection of the Attorney General and the Head of the Office of the Public prosecutor followed the constitutional law in force.¹⁴⁰ It additionally indicated that “what the proposed report states is false, as for 2023, the Office of the Public Prosecutor’s budget was increased by 12% compared to 2022. Also, the Victim Institute’s budget was increased. These actions are intended to strengthen the Office of the Public Prosecutor and enhance comprehensive care for victims of crime in Guatemala.”¹⁴¹

82. The Inter-American Commission recognizes that prosecutor’s offices can be institutions with a highly hierarchical structure in which the attorney general, as the highest authority, has the mandate to establish the institution’s criminal prosecution policy. Said power supposes establishing the crimes whose prosecution is going to be prioritized. At the same time, it also means determining how the resources of the institution are going to be applied strategically to achieve said goals, establishing objective guidelines for dismissal, applying opportunity criteria, and closing cases.¹⁴² In this regard, the Commission considers that the relationship of dependency that prosecutor’s offices may have with other bodies or actors, including individuals, may have an impact on their independence, on the effectiveness and momentum of investigations, on the decision to admit the criminal action or close the investigation, as well as on due process.¹⁴³

83. Finally, the Commission recalls that the functions of prosecutors – such as investigating crimes, supervising the legality of investigations and executing judicial rulings – are essential to eliminate impunity in cases of human rights violations.¹⁴⁴ In this sense, it expresses its concern about the progressive loss of independence of the Office of the Public Prosecutor and the Office of the Attorney General of Guatemala, as well as the effects that the appointment of its current incumbent for a new term has on the progressive weakening of the Rule of Law, among other effects.

d. Weakening of key units of the Office of the Public Prosecutor in charge of investigating cases of corruption and the armed conflict

84. In 2022, the Inter-American Commission received information on the continued weakening of key units of the Office of the Public Prosecutor due to the persistence of arbitrary transfers and dismissals of prosecutors and career justice operators who were involved in the investigation of cases of corruption and the internal armed conflict, especially the Human Rights Prosecutor’s Office and the FECCI.¹⁴⁵ In this regard, the

¹³⁹ Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 127.

¹⁴⁰ Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 55, 56, and 124.

¹⁴¹ Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 55 and 56.

¹⁴² Fundación para la Justicia y el Estado Democrático de Derecho, *Estándares Internacionales sobre la Autonomía de los Fiscales y las Fiscalías*, 2017, p. 17.

¹⁴³ IACHR, *Guarantees for the Independence of Justice Operators. Towards strengthening access to justice and the rule of law in the Americas*, 2008, para. 37.

¹⁴⁴ IACHR, *Guarantees for the Independence of Justice Operators. Towards strengthening access to justice and the rule of law in the Americas*, 2008, para. 17.

¹⁴⁵ See: Human Rights Watch, “[Guatemala: Attorney General Arbitrarily Fires Prosecutors](#),” June 14, 2022; *Plaza Pública*, “[Así fue como Consuelo Porras y Rafael Curruchiche desbarataron la antigua Feci](#),” March 24, 2022. In 2019, Attorney General Consuelo Porras turned it into a Section Prosecutor’s Office, which ensured that it would continue to function even if the CICIG ended its mandate in the

State reiterated its “rejection of all claims of any ongoing weakening of key units of the Office of the Public Prosecutor. On the contrary, it respectfully asks that the IACHR take into account its efforts to strengthen those units, including the FECI.”¹⁴⁶

85. In this regard, the Commission learned that the current head of the FECI was included in the Engel list prepared by the Department of State of the United States of America since he is accused of obstructing investigations of high-profile acts of corruption against government officials and of pursuing spurious complaints against former FECI prosecutors, private attorneys and former CICIG prosecutors.¹⁴⁷ Likewise, since his appointment, he reportedly led the dismantling of the FECI through the transfer and arbitrary removal of career prosecutors.¹⁴⁸ In particular, the information available to the Commission indicates that, in 2022, at least 11 members and former members of the FECI were arbitrarily deprived of their liberty; eight public officials were transferred from the FECI to other dependencies, and there are supposedly another 14 district attorneys or prosecutor assistants who have been removed.¹⁴⁹

86. Among other cases registered in 2022, the Commission learned of the resignation and forced exile of Prosecutor Carlos Vídez Navas, who denounced that the attorney general had made progress “in her plan to guarantee impunity for the criminal networks that she should be prosecuting” and that currently “investigations do not advance against certain people, but they are expedited against human rights defenders and independent justice operators, as it has been shown in recent weeks with the detention of several former colleagues, who fought with the sole purpose of investigating and finding out the truth in cases of corruption in the country.”¹⁵⁰ The former prosecutor investigated emblematic cases of corruption such as the “Construction and corruption” case and the discovery of 122 million Guatemalan quetzales in cash in a property in Antigua Guatemala which were allegedly linked to a former minister of Communications.¹⁵¹

87. On February 25, Lorenzo Alberto Bolaños Sánchez, a former FECI member, also announced his resignation and departure from Guatemala due to the threats he received against his life and integrity. Likewise, in a public statement, he denounced that he had been subjected to a series of transfers within the Prosecutor’s Office where he worked with the purpose of hindering his investigative work regarding

country. One of the main changes resulting from that decision was that Consuelo Porrás would decide which cases would be forwarded to this unit.

¹⁴⁶ Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 129.

¹⁴⁷ US Department of State, *Report to Congress on Foreign Persons Who Have Knowingly Engaged in Actions that Undermine Democratic Processes or Institutions, Significant Corruption, or Obstruction of Investigations Into Such Acts of Corruption in El Salvador, Guatemala, Honduras, and Nicaragua*, pursuant to Section 353(b) of the Department of State, Operations And Related Programs Appropriations Act, 2021 (Div. FF, P.L. 116-260, as amended) (Section 353).

¹⁴⁸ For example, in 2021, within the framework of the thematic hearing “Human rights situation of justice operators and judicial independence” held during the 181st ordinary period of sessions in October 2021, civil society organizations, the Human Rights Prosecutor and Guatemalan justice operators informed the Commission that, since the appointment of the current Attorney General Consuelo Porrás, the attacks and obstacles to the work of the FECI have intensified. Among other facts, they denounced the arbitrary transfer of personnel between departments; the incorporation of prosecutors with legal impediments to lead investigations, which allegedly hinder investigative work; and the transfer of investigations led by the FECI to other prosecutor’s offices in those cases that would involve the head of the Executive or people close to him. IACHR, 181st ordinary period of sessions, public hearing “[Human rights situation of justice operators and judicial independence](#),” October 28, 2021.

¹⁴⁹ See: Agencia Ocote, “[Al menos 86 jueces, fiscales, periodistas y ciudadanos perseguidos en Guatemala](#),” October 6, 2022; IACHR, 184th ordinary period of sessions, thematic hearing “[Human rights defenders, justice operators and the Rule of Law in Guatemala](#),” June 22, 2022.

¹⁵⁰ “The former prosecutor of the FECI, Carlos Videz, reported in a statement that he resigned from the Office of the Public Prosecutor and that he’s decided to leave the country.” Twitter account of *La Hora* newspaper (@lahoragt), [pronouncement of February 20, 2022](#).

¹⁵¹ “The former prosecutor of the FECI, Carlos Videz, reported in a statement that he resigned from the Office of the Public Prosecutor and that he’s decided to leave the country.” Twitter account of *La Hora* newspaper (@lahoragt), [pronouncement of February 20, 2022](#).

corruption cases.¹⁵² In the same way, he pointed out that the attorney general did not support his work, but rather "supported" his detractors by criminalizing, stigmatizing, delegitimizing his functions,¹⁵³ "thus creating a totally dysfunctional Prosecutor's Office, fearful of presenting new cases of corruption so as not to be persecuted."¹⁵⁴

88. For its part, through a communication dated December 19, 2022, the State of Guatemala indicated that the Office of the Public Prosecutor has implemented actions to strengthen the FECI, due to the fact that since 2019, it has been incorporated as a Section Prosecutor's Office in the organizational structure of the Office of the Public Prosecutor (it was not a part of it before then). In the same way, he indicated that the office's staff increased by 75 percent, from 80 people to 140 people, through the establishment of a technical support unit that added 60 more people, including 10 Guatemalan investigators (in the past, it only had the support of international analysts). The Office of the Public Prosecutor has municipal prosecutor's offices in all the municipalities of the Republic of Guatemala, as well as section prosecutor's offices specialized in investigative matters.¹⁵⁵

89. Below, the Inter-American Commission presents information on the situation of some FECI staff members as registered in 2022.

Facts recorded against FECI staff in 2022			
Carlos Antonio Navas Videz	Former prosecutor	In February 2022, he was forced to resign and leave the country. He denounced that the attorney general had hindered some investigations while expediting those against human rights defenders and justice operators.	Resignation and exile
Kevin Montes	Process server	Resigned in February 2022. At the time of his resignation, he was working at the Prosecutor's Office of Chuarrancho. He had worked at the FECI.	Resignation
Lorenzo Alberto Bolaños Sánchez	Former district attorney	Resigned in February 2022 and left Guatemala. In a statement, he denounced that the attorney general worked to guarantee impunity for the criminal networks that she should have prosecuted.	Resignation and exile
Gilma Nathaly Guerra	Former assistant prosecutor	Resigned in February 2022. She was in charge of cases such as "Influence peddling and UNE funding".	Resignation
Joselin Masell Pérez Gutiérrez	Former assistant prosecutor	Resigned in February 2022. She was in charge of cases such as "Influence peddling and UNE funding".	Resignation
Amy Lisette Girón Rodas	Former prosecutor	In March 2022, she submitted her resignation. The Office of the Public Prosecutor accused her of the alleged signing of collaboration agreements with irregularities in the Odebrecht case.	Bound over for trial
Virginia Laparra Rivas	Former head of the FECI of Quetzaltenango	In February 2022, she was arrested and brought to trial for abuse of authority and usurpation of public functions. In December, she was sentenced in the first instance.	Sentenced
Samari Gómez Díaz	FECI assistant prosecutor	In July 2022, she was arrested along with José Rubén Zamora, president of <i>El Periódico</i> . She has been bound over for trial for allegedly having revealed confidential information.	Arrested
José Daniel Mejía	Former prosecutor	In January 2022, he was transferred from the FECI to the municipal Prosecutor's Office of Palencia.	Transferred
Pablo Mazariegos	Former assistant prosecutor	In February 2022, he was transferred from the FECI to the Liquidating Prosecutor's Office.	Transferred

¹⁵² Lorenzo Alberto Bolaños Sánchez, former member of the FECI, announced that he has resigned from the Office of the Public Prosecutor and has also decided to leave the country. Twitter account of *La Hora* newspaper (@lahoragt), [pronouncement of February 25, 2022](#).

¹⁵³ Lorenzo Alberto Bolaños Sánchez, former member of the FECI, announced that he has resigned from the Office of the Public Prosecutor and has also decided to leave the country. Twitter account of *La Hora* newspaper (@lahoragt), [pronouncement of February 25, 2022](#).

¹⁵⁴ Lorenzo Alberto Bolaños Sánchez, former member of the FECI, announced that he has resigned from the Office of the Public Prosecutor and has also decided to leave the country. Twitter account of *La Hora* newspaper (@lahoragt), [pronouncement of February 25, 2022](#).

¹⁵⁵ Note OEA-M4-299-2022. "Acciones del Estado de Guatemala para el cumplimiento de las recomendaciones del Informe Anual de la CIDH-Capítulo IV.B," received by the IACHR on December 19, 2022, p. 186 *et seq.*

Paola Mishelle Escobar Quiñónez	FECI assistant prosecutor	In February 2022, the Office of the Public Prosecutor accused her of having participated in an irregular proceeding against a defendant in the “2020 Parallel Commissions” case.	Bound over for trial
Willy Roberto Recanac López	Assistant prosecutor	In February 2022, the Office of the Public Prosecutor accused him of having participated in an irregular proceeding against a defendant in the “2020 Parallel Commissions” case. He was bound over for trial for coercion.	Bound over for trial
Eva Siomara Sosa	Former prosecutor	In February 2022, she was arrested along with Leily Santizo, former CICIG official. The case has been kept confidential, and she was bound over for trial for the crime of collusion.	Bound over for trial
Rudy Herrera Lemus	Former prosecutor	The Office of the Public Prosecutor accused him of having participated in an irregular proceeding against a defendant in the “2020 Parallel Commissions” case. He left Guatemala in February 2022.	Resignation, exile and arrest warrant
Darwin Zepeda	Former assistant prosecutor	He resigned in January 2022. The Office of the Public Prosecutor assured that it was due to health problems. <i>La Hora</i> newspaper confirmed that it had been out of fear of being criminalized.	Resignation

90. The Inter-American Commission was also informed that another prosecutor’s office affected by the dismissal, transfer and intimidation of career justice operators is the Human Rights Prosecutor’s Office, in charge of cases of serious human rights violations that occurred in the context of the internal conflict.

91. On June 30, five women career prosecutors, who had a proven record within the Office of the Public Prosecutor in favor of the fight against corruption, were arbitrarily removed from their position. In particular, according to the information received, said dismissals are allegedly contrary to the national legislation and international standards on the matter, since the organic law of the Office of the Public Prosecutor establishes that the dismissal of career prosecutors should be adjusted to the established grounds and to a disciplinary procedure that should respect all the guarantees of due process of law.¹⁵⁶

92. Among other cases, the Commission learned of the dismissal of Hilda Pineda, who was in charge of the Human Rights Prosecutor’s Office for more than ten years. According to the information received, the prosecutor and her team were in charge of emblematic cases of serious human rights violations, such as the case of genocide against the Mayan Ixil people that resulted in the conviction of General Efraín Ríos Montt, head of State of Guatemala between 1982 and 1983.¹⁵⁷ As a result of her work, several complaints were filed against Prosecutor Hilda Pineda on multiple occasions at the Office of the Prosecutor for Internal Affairs and Administrative Crimes, most of the time by the Foundation against Terrorism.¹⁵⁸

93. Another of the career prosecutors arbitrarily removed from office was Sara Romero, head of the Unit of Contested Proceedings, although she had previously been in charge of the Human Rights Prosecutor’s Office, where she carried out relevant investigations such as the “Dos Erres” massacre.¹⁵⁹ Likewise, Prosecutor Wendy Ordóñez was dismissed as head of the Unit on Crimes against Usurpation. In 2019, Ordóñez was transferred as head of the Unit of Special Methods to another position. Said unit was created in

¹⁵⁶ “I reject the dismissal of Prosecutor Hilda Pineda, who carried out a courageous job when she directed the investigations on the armed conflict. The “free removal” of prosecutors of the @MPguatemala contradicts international standards on the independence of justice operators.” Twitter account of Juan Pappier, Acting Associate Director, Human Rights Watch Americas, (@JuanPappierHRW), statement of June 30, 2022; Convergencia por los Derechos Humanos, statement “[Denunciamos el Desmantelamiento de la Fiscalía de Derechos Humanos](#),” June 30, 2022; WOLA, “[ONG condenamos la destitución arbitraria de fiscales y el debilitamiento del Ministerio Público de Guatemala](#),” July 12, 2022.

¹⁵⁷ Likewise, she was in charge of the case regarding a series of rapes perpetrated inside the facilities of the Sepur Zarco post (Alta Verapaz) in 1982, the “Molina Theissen” case, the case involving the disappearance of boy Marco Antonio in October 1981, among others. *No ficción*, “[El Ministerio Público destituye a cinco fiscales mujeres en el Día del Ejército](#),” July 1, 2022.

¹⁵⁸ See: “#Statement | Due to the dismantling of the Human Rights Prosecutor’s Office of the @MPguatemala, at @ConvergenciaDe2 we express the following.” Twitter account of the Human Rights Defenders’ Protection Unit of Guatemala. All rights for all people (@UDEFEQUA), [pronouncement of June 30, 2022](#); DW, “[Ministerio Público de Guatemala despide a fiscal que enjuició a Ríos Montt](#),” June 30, 2022.

¹⁵⁹ *No ficción*, “[El Ministerio Público destituye a cinco fiscales mujeres en el Día del Ejército](#),” July 1, 2022; *El Periódico*, “[Jefa del MP destituye a otra fiscal que investigó crímenes durante el conflicto armado interno](#),” June 30, 2022.

2009 and included the Judicial Wiretapping Unit, which had been key in the high-impact cases led by the CICIG, including the investigations that uncovered the most relevant cases of macro-corruption in Guatemala, such as the “The Line” case or the “State Cooptation” case.¹⁶⁰

94. In this regard, the State of Guatemala indicated that the “collective bargaining agreement on workplace conditions of the Office of the Public Prosecutor establishes who the trusted personnel are and empowers the Attorney General of the Republic to remove those with such status as necessary. Additionally, the persons who believe they have been harmed by the decisions taken by the Office of the Public Prosecutor in the framework of Guatemalan law can make use of the legal actions available.”¹⁶¹

95. In addition, in July 2022, the Commission learned of the granting of provisional measures to Prosecutor Elena Gregoria Sut Ren and her family by the Inter-American Court, due to the risks they were facing as a result of the progress made in the criminal investigations related to the following cases: Bámaca Velázquez, Maritza Urrutia, Plan de Sánchez Massacre, Chitay Nech *et al.*, Río Negro Massacres, and Gudiel Álvarez *et al.* (“Diario Militar”). In particular, the Inter-American Court of Human Rights took into account the harassment, the threats and the surveillance to which the prosecutor was subjected to, as well as the announcement by the Office of the Public Prosecutor regarding her transfer to another prosecutor's office against her will, a measure that allegedly affected access to justice for the victims of the above-mentioned cases, as well as said prosecutor's independence in the exercise of her mandate.¹⁶²

96. Lastly, the Commission received information on the removal of other career prosecutors and public officials from the Office of the Public Prosecutor, as shown below.¹⁶³

Other allegedly arbitrary dismissals of staff members of the Office of the Public Prosecutor registered in 2022	
Dilma Nohely Samayoa Tenas	Former Second Undersecretary General
Edgar Orlando Munoz	Former Secretary of International Affairs
Liliam Antonieta Menendez de Carías	Former Director of Human Resources
Pedro Barán Tzay	Former Secretary of Indigenous Peoples
Rodemiro Encarnación García Miranda	Former member of the Criminal Policy Secretariat
Conrado Alejandro Catalán Franco	Former member of the Criminal Policy Secretariat
Ana Soledad Espada Chávez	Former member of the Criminal Policy Secretariat
Jennifer Sayonari Aguirre Carrillo	Former member of the Criminal Policy Secretariat
Wendy Vanessa López Orozco	Former member of the Criminal Policy Secretariat
Pedro Fuentes	Former member of the Criminal Policy Secretariat
Eleonora Nohemí Castillo Pinzó	Former head of the Sololá District Prosecutor's Office
Elka Lucrecia Huitz Recinos	Former District Prosecutor of San Marcos
Walter Romero Velásquez	Former head of the Quetzaltenango District Prosecutor's Office
Dagoberto Vásquez	Former Prosecutor of the Huehuetenango Prosecutor's Office
Mario David Aguilar Mijangos	Former District Attorney of Uspantán, Quiché
Sara Sandoval	Former Section Prosecutor

97. In relation to the transfer of justice operators, the Inter-American Commission has recognized that it may have a legitimate purpose and be necessary for the restructuring and efficient administration of the judiciary, prosecutor's offices, or public defenders' offices. However, when it is based on reasons of a

¹⁶⁰ See *No Ficción*, “[El andamiaje de la CICIG que develó un sistema criminal](#),” February 23, 2021.

¹⁶¹ Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 133.

¹⁶² IACHR Court. Bámaca Velázquez, Maritza Urrutia, Plan de Sánchez Massacre, Chitay Nech *et al.*, Río Negro Massacres, and Gudiel Álvarez *et al.* (“Diario Militar”) v. Guatemala. Adoption of urgent measures. Resolution of the President of the Inter-American Court of Human Rights dated July 11, 2022.

¹⁶³ *No ficción*, “[El Ministerio Público destituye a cinco fiscales mujeres en el Día del Ejército](#),” July 1, 2022; Agencia Ocote, “[Al menos 86 jueces, fiscales, periodistas y ciudadanos perseguidos en Guatemala](#),” October 6, 2022.

discretionary nature, the act of removing a justice operator from the cases they have been hearing to or from their place of work may be understood as a reprisal for their decisions, the threat of transfer also serving as intimidation for the independent performance of their duties.¹⁶⁴

98. In its comments on the draft of this report, the State expressed to the IACHR that "the few transfers made in the Office of the Public Prosecutor were carried out to strengthen the institution in the framework of its investigative capacity, and at no time were they discretionary, much less for reasons of repression. Rather, they were carried out under the law, in adherence to the Organic Law on the Office of the Public prosecutor."¹⁶⁵

99. For its part, the Inter-American Court has established that prosecutors perform the functions of justice operators and, as such, they need to enjoy job stability as an elementary condition of their independence for the due fulfillment of their procedural functions. Therefore, they are protected by the following guarantees: i) to an adequate appointment process; ii) to tenure in the position, and iii) guarantees against external pressures. Otherwise, the lack of these guarantees would jeopardize the independence and objectivity that are required of their function to ensure that the investigations conducted, and the claims filed before the jurisdictional bodies are addressed exclusively at achieving justice in a particular case, in keeping with Article 8 of the Convention.¹⁶⁶

100. The lack of the guarantee of irremovability of prosecutors makes them vulnerable to reprisals for the decisions they take and leads to a violation of the independence guaranteed in Article 8.1 of the Convention. The independence recognized to prosecutors ensures that they will not be subjected to political pressures or improper obstruction of their actions, nor to retaliation for the decisions they objectively make, which precisely requires a guarantee of stability, irremovability and a fixed term in the position.¹⁶⁷

D. Failure of the State to combat impunity in cases of serious human rights violations and corruption

101. As a consequence of the intensification of the acts of criminalization against justice operators, as well as the facts previously described in this report, during 2022, the Inter-American Commission was informed of severe setbacks and of the lack of progress regarding cases related to the internal armed conflict and large-scale corruption cases.

102. The information received by the Commission reveals that the cases with alleged setbacks reportedly have as common factors the involvement of high-profile public officials, including members of the current government, as well as the use of criminal law against the justice operators in charge of those cases.

103. Among the cases that illustrate this pattern are the following: the investigation of possible irregularities in the awarding of a contract for the building where the Victim's Institute operates; the "2020 Parallel Commissions" case and the investigation of irregularities in the election of magistrates of the Supreme Court of Justice and the Courts of Appeals of 2014 and 2020, which allegedly resulted in the criminalization of FECCI prosecutors, such as Willy Roberto Racanac López, Aliss Noemí Morán Mejía and Paola Mischelle Escobar Quiñonez for the alleged crime of abuse of authority; the complaints filed against the then prosecutor for

¹⁶⁴ IACHR, *Guarantees for the Independence of Justice Operators: Towards strengthening access to justice and the rule of law in the Americas*, OEA/Ser.L/V/II. Doc. 44, December 05, 2013, para. 24.

¹⁶⁵ Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 135.

¹⁶⁶ IACHR Court. *Bámaca Velásquez, Maritza Urrutia, Plan de Sánchez Massacre, Chitay Nech et al., Río Negro Massacres, and Gudiel Álvarez et al. ("Diario Militar") v. Guatemala*. Provisional measures and Monitoring compliance with judgment. Resolution of the Inter-American Court of Human Rights dated November 22, 2022, para. 39.

¹⁶⁷ IACHR Court. *Bámaca Velásquez, Maritza Urrutia, Plan de Sánchez Massacre, Chitay Nech et al., Río Negro Massacres, and Gudiel Álvarez et al. ("Diario Militar") v. Guatemala*. Provisional measures and Monitoring compliance with judgment. Resolution of the Inter-American Court of Human Rights dated November 22, 2022, paras. 39 and 40.

electoral crimes, Rafael Curruchiche, for leading the “FCN-Nación Funding” case; cases related to the transfer of ownership of assets that had been previously seized by the State, in which the investigations conducted by the FECCI were transferred to another prosecutor's office, so as to protect the assets of the accused; the “Odebrecht” case, due to persecution acts against prosecutors;¹⁶⁸ and the “Fénix” case, which involves a businessman who allegedly coordinated a network that embezzled public assets amounting to 50 million dollars that belonged to the Guatemalan Social Security Institute.¹⁶⁹

104. Likewise, as it has been previously indicated, the Inter-American Commission learned of acts of criminalization against judges due to their work in cases related to the internal armed conflict, which puts progress in these proceedings at evident risk, as it is shown below.

Corruption and internal armed conflict cases heard by criminalized judges in 2022	
Erika Aifán, assigned to High Risk Court D	In March, she was forced to resign and leave the country as a result of the threats and impeachment requests submitted against her. In 2022, members of the Board of Directors of the Magistrates Institute of the Court of Appeals denounced her, due to the fact that she authorized certain measures in the “2020 Parallel Commissions” case, which investigates the election process of the members of said court. Also, in February, newspaper <i>El Faro</i> published that, in one of the cases it was investigating, a witness accused the president of having financed his electoral campaign with 2.6 million US dollars he received from alleged bribes from construction companies. As a result, the Office of the Attorney General promoted seven impeachment proceedings against her. ¹⁷⁰
Pablo Xitumul, President of High Risk Court C	On February 8, the Supreme Court of Justice admitted a request for the impeachment and suspension of Judge Xitumul, who ruled in relevant cases involving transitional justice and corruption, such as the following: “Mayan Ixil Genocide”, “Molina Theissen”, and “Magical Water”, in which former Vice President Roxana Baldetti was convicted of corruption. Civil society organizations denounced that the impeachment request was a reprisal for his work. ¹⁷¹
Miguel Ángel Gálvez, assigned to High Risk Court B	On November 15, former Judge Miguel Ángel Gálvez resigned and announced his departure from the country after various threats and impeachment proceedings lodged against him, within the framework of his work in the “Diario Militar” case. This was later confirmed by the Inter-American Court (see <i>infra</i> para. 42).
Carlos Ruano, Ninth Sentencing Court for Criminal Matters	In November, the Supreme Court of Justice processed a request for impeachment against him filed by the Foundation against Terrorism, in response to a complaint filed years before by Judge Ruano against Judge Blanca Stalling for the crime of influence peddling. His complaint was dismissed, and Judge Stalling was reinstated in the Supreme Court of Justice. ¹⁷²

105. As noted above (see the section on the criminalization of judges), international human rights organizations publicly denounced serious setbacks in the “Diario Militar” criminal case, including the granting of benefits to two persons involved, and the persecution, to the point of forcing his exile, of one of the judges that prosecuted the persons responsible for said case.¹⁷³ These organizations expressed their “serious concern

¹⁶⁸ *The San Diego Union Tribune*, [Corte guatemalteca anula colaboración en caso Odebrecht](#), June 25, 2022; *Prensa Libre*, “[Caso Odebrecht: Sinibaldi y ex jefe de la FECCI cruzan señalamientos por anulación de acuerdo de colaboración eficaz](#),” June 27, 2022.

¹⁶⁹ In this regard, see: *El Periódico*, “[Los casos de presunta corrupción que el MP dejó en el olvido](#),” December 18, 2022.

¹⁷⁰ *El Faro*, “[Aifán, desde el exilio: “En Guatemala estaba en riesgo mi vida.”](#)” March 21, 2022; *Plaza Pública*, “[Jueza Erika Aifán: «Quien me denuncia, quien me juzga y quien investiga, son socios»](#),” March 16, 2022.

¹⁷¹ Civil society organizations denounced at the public hearing on the *Monitoring of Compliance with Judgment in the case of Molina Theissen v. Guatemala* that the impeachment proceeding against Judge Xitumul is one of the efforts made to perpetrate impunity in said case. See: WOLA, [Resúmenes de casos de graves violaciones a derechos humanos cometidas durante el conflicto armado interno ante los tribunales de Guatemala](#), updated to 2022.

¹⁷² According to public information, this complaint was filed because the magistrate summoned the judge to her office to present aspects of a case against her son Otto Fernando Molina Stalling and to advocate for him, since the judge would be hearing the case. As a result of this complaint, the magistrate was prosecuted for influence peddling, because the judge recorded their conversation to have proof of the fact that he had been summoned to said meeting and that at no time did he compromise his work, nor did he accept what she proposed to him. Report by the mission of the Latin American Federation of Judges and the International Union of Judges, [Ataques a la independencia judicial en Guatemala](#), October 2022, p. 9.

¹⁷³ Washington Office on Latin America (WOLA), Due Process of Law Foundation (DPLF), Latin America Working Group (LAWG), Roberto F. Kennedy Human Rights (RFKHR), Center for Justice and International Law (CEJIL), Protection International (Mesoamerica)

over the evident co-optation of the justice system in Guatemala and the attempts to dismantle transitional justice cases, such as the 'Diario Militar' case."¹⁷⁴

106. Within this serious context, the Inter-American Commission was also informed that, on November 23, in a plenary session of the Congress, it was decided to send to the Congress' Human Rights Commission Bill No. 6099, "Law on the Strengthening of Peace," which establishes an absolute amnesty for serious human rights violations committed during the internal armed conflict, which could lead to the fact that at least 10 active cases being heard by the country's courts remain unpunished; these cases include the following: Maya Ixil Genocide (1978 to 1982 and 1982 to 1983), "Dos Erres" massacre, "Diario Militar", Creompaz, Xamán massacre, Tululché massacre, "Aché Women", Tactic and Molina Theissen.¹⁷⁵

107. In particular, Article I of said initiative provides for: "the extinction of any criminal responsibility and the extinction of any sentences by means of an absolute and inclusive amnesty in favor of all persons who have incurred, by action or omission, as part of the exercise of their positions as members of the Guatemalan Army and other security forces of the State, and the members of subversive groups, in the alleged commission of political and related non-political acts, without exclusion of any types of crimes, during the period in which the internal armed conflict lasted, from November 13, 1960, until its end, with the signing of the Agreement on a Firm and Lasting Peace on December 29, 1996."¹⁷⁶ Likewise, it prohibits the prosecution of members of the Guatemalan Army and other State security forces due to actions or omissions incurred during the internal armed conflict, as well as of members of insurgent groups who committed actions that were not classified as crimes before their alleged perpetration. Article I also orders the immediate release of persons convicted for these crimes, among other aspects of concern.¹⁷⁷ The Commission reminds the State of Guatemala that the regulations intended to prevent the investigation and punishment of serious human rights violations are incompatible with inter-American human rights standards and urges the State of Guatemala to definitively archive Bill No. 6099.

108. Finally, the Inter-American Commission recalls that, within the inter-American system, the right of access to justice is enshrined in Articles 8 and 25 of the American Convention, from which derive a series of State obligations that must be guaranteed to the persons whose rights have been violated, so that they can seek justice in their respective cases. Additionally, among said State obligations, there are certain guarantees that States must provide to justice operators in order to guarantee their independent work, thus complying with its obligation to provide access to justice to individuals.¹⁷⁸

109. The Commission urges the State to reaffirm its political commitment to fighting against corruption and impunity by strengthening the justice system and respecting its independence, as well as through decisive measures to end the persecution and criminalization of justice operators, as well as through

Impunity Watch, Guatemalan Human Rights Commission (GHRC), "[Guatemala: Organizaciones internacionales denuncian graves retrocesos en el Caso Diario Militar](#)," October 30, 2022.

¹⁷⁴ Washington Office on Latin America (WOLA), Due Process of Law Foundation (DPLF), Latin America Working Group (LAWG), Roberto F. Kennedy Human Rights (RFKHR), Center for Justice and International Law (CEJIL), Protection International (Mesoamerica) Impunity Watch, Guatemalan Human Rights Commission (GHRC), "[Guatemala: Organizaciones internacionales denuncian graves retrocesos en el Caso Diario Militar](#)," October 30, 2022.

¹⁷⁵ FADS, "Análisis Jurídico de Iniciativas de Ley en Materia de Amnistía. Inconstitucionalidad a la luz de los estándares internacionales de derechos humanos," 2022, p. 4; see also: *Prensa Comunitaria*, "[Familia Molina Theissen ha sido revictimizada; atraso del Estado para cumplir sentencia. solo favorece impunidad](#)," November 24, 2022.

¹⁷⁶ Bill No. 6099 provides for the passing of the [Law on the Strengthening of Peace](#). Article 1. Initiative presented by deputies Javier Alfonso Hernández Franco, José Adolfo Quezada Valdez, Boris Roberto España Cáceres, Julio César Longo Maldonado, Juan Francisco Mérida Contreras, Manuel Eduardo Conde Orellana, José Alberto Sánchez Guzmán, Carlos Napoleón Rojas Alarcón, José Francisco Zamora Barillas, among others.

¹⁷⁷ Bill No. 6099 provides for the passing of the [Law on the Strengthening of Peace](#). Article 1. Initiative presented by deputies Javier Alfonso Hernández Franco, José Adolfo Quezada Valdez, Boris Roberto España Cáceres, Julio César Longo Maldonado, Juan Francisco Mérida Contreras, Manuel Eduardo Conde Orellana, José Alberto Sánchez Guzmán, Carlos Napoleón Rojas Alarcón, José Francisco Zamora Barillas, among others.

¹⁷⁸ IACHR, [Guarantees for the Independence of Justice Operators: Towards strengthening access to justice and the rule of law in the Americas](#). OEA/Ser.L/V/II. Doc. 44, December 5, 2013, para. 24.

the investigation and prosecution of any form of corruption that affects the full observance of human rights in Guatemala.

III. INSTITUTIONAL FRAMEWORK FOR PEACE AND HUMAN RIGHTS

110. With regard to the institutional framework for peace, the Commission has received consistent information about the lack of progress in compliance with the commitments assumed in the Peace Accords, the absolute inactivity of the National Reparations Program (PNR) and other setbacks, which are said to be affecting the rights of victims in Guatemala.

111. In this respect, victims and survivors of the internal armed conflict denounced in December that, since the PNR was transferred to the MIDES in 2020, the program has ceased its operations, and not a single reparation has been awarded to the victims. This is in spite of the fact that the MIDES had a budget of more than 13 million quetzales in 2021 and 2022.¹⁷⁹ Similarly, they denounced that the case files containing the testimonies of victims were abandoned and were “piled in the bathrooms of the MIDES,” which they considered an act of negligence and an “insult to the dignity of the victims.” Likewise, they reiterated their concern regarding the expiration of the operating period of the PNR, which is expected to conclude on December 31, 2023, although not every victim has received all the reparations to which they are entitled.¹⁸⁰

112. According to the State, the above observation “lacks support,” as at the start of 2022, “a safe and adequate space [was established] for storing the case files on victims of the internal armed conflict, under the responsibility of the Social Development Fund Execution Unit. It was shown to the leaders of the internal armed conflict communities platform, demonstrating that the case files containing the testimony of the victims were never abandoned or thrown away, as claimed.”¹⁸¹ It added that “because the appropriate and approved structure is lacking, it has not been possible to begin execution of the Program’s budget.”¹⁸²

113. Additionally, in its comments on the draft of this report, the State of Guatemala indicated that “the current administration of the Executive Office of the FODES, in the awareness that the expiration of the Program is near, has made it a priority and at the end of the year instructed the Legal Office of the Social Development Fund to put together Draft Reform Agreement 258-2003 to continue execution of the National Reparations Program, thereby contributing to ensuring that truth, memory, and justice remain central to overcoming the past, confronting the present, and contributing to a democratic future, as well as ensuring that forgetting does not become impunity for all those who directly or indirectly suffered the injustices and harms of the internal armed conflict in Guatemala.”¹⁸³

114. In this same context, the organizations of victims of the internal armed conflict expressed that there is a generalized perception that the president “would rather compensate the former members of the military who were involved in human rights violations instead of providing reparations to the victims.”¹⁸⁴ In particular, on October 12, 2022, the Congress of the Republic approved Decree 51-2022, the Temporary Law

¹⁷⁹ The MIDES has reportedly requested a budget of 15 million quetzales for the PNR for 2023, which would be insufficient to comply with its legal obligations. National Platform of Organizations of Victims of the Internal Armed Conflict. Press release of December 9, 2022.

¹⁸⁰ National Platform of Organizations of Victims of the Internal Armed Conflict. Press release of December 9, 2022.

¹⁸¹ Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 140.

¹⁸² Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 140.

¹⁸³ Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 140.

¹⁸⁴ National Platform of Organizations of Victims of the Internal Armed Conflict and Impunity Watch, “25 years after the Peace Accords: balance of victims and survivors of the internal armed conflict,” December 2021.

for Integral Development, “which establishes the Integral Development Program, with the purpose of creating, implementing and executing environmental and development projects to the benefit of the State, with the involvement of retired members of the military who served during the internal armed conflict,”¹⁸⁵ which reportedly was a campaign promise of the president of the Republic.

115. For its part, the State of Guatemala indicated that, under Ministerial Order DS-27-202, dated March 2, 2021, amended on August 17, 2021, the Ministry for Social Development transferred the PNR to the Social Development Fund (“FODES”).¹⁸⁶ In compliance with the aforementioned legal orders, the Ministry of Social Development, MIDES, appointed the Receiving Committee for the National Reparations Program from SEPАЗ. For its part, the Executive Office of the Social Development Fund merged the National Committee for Receiving Case Files, Property, Rights and Obligations of the National Reparations Program (PNR), from SEPАЗ through the National Committee for Receiving MIDES.¹⁸⁷

116. In its comments on the draft report, the State indicated that as of December 31, 2021, it had finished receiving all the property, rights, and obligations from the MIDES Receiving Committee Program, including the records of the FODES audit. Subsequently, “upon receiving everything from the above-described committee program, the FODES Executing Unit did not have the proper organizational structure for incorporating the National Reparations Program in order to proceed with its execution. Following the changes necessary for its incorporation, it is in the final analysis stage prior to approval.”¹⁸⁸

117. According to the State, “this does not mean that progress has not been made to comply with the commitments in the Peace Accords. On the contrary, clarifying the administrative processes that must be followed for its proper and correct execution has been a priority. In 2022, administrative steps were taken to receive the case files that had not been turned over by the Secretary for Peace (SEPАЗ) from Rabinal, Baja Verapaz and Nenton, Huehuetenango. The FODES Executing Unit established a program lead and a working team with 12 technicians and professionals to conduct the case file analyses needed to grant the corresponding reparations; provide support to the victims whose processes need it; and carry out administrative follow-up on the program so that once the necessary legal framework is in place, budgetary execution can commence.”¹⁸⁹

118. In this regard, the Inter-American Commission urges the State to comply with the obligations assumed in accordance with both the Peace Accords and international human rights law regarding the rights to truth, reparations and access to justice. In particular, the Commission calls upon the State to extend the operating period of the PNR and to ensure that it can function to its fullest extent, by providing it with the material and human resources it needs to fulfill its mandate.

¹⁸⁵ Congress of the Republic, “[Ley Favorece al Ambiente y Dignifica a Ex Militares](#),” October 12, 2022.

¹⁸⁶ The decree establishes the following: Article 1. The Executing Unit of the Social Development Fund—FODES—under the Ministry of Social Development—MIDES—will be in charge of continuing with the execution of the National Reparations Program, known also as the Reparations Program or the PNR, in observance, for these purposes, of the provisions of Executive Order 258-2003 of the President of the Republic and its amendments. Article 3. The Director of the Executing Unit of the Social Development Fund under the Ministry of Social Development will be responsible for coordinating the administrative processes for issuing the corresponding policies and regulations for the proper intake and execution of the National Reparations Program. Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 58.

¹⁸⁷ Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 58.

¹⁸⁸ Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 139.

¹⁸⁹ Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 139.

119. Furthermore, the Inter-American Commission notes with concern that another of the challenges faced by the State of Guatemala regarding the institutional framework for peace and the fight against impunity is related to strengthening the Presidential Commission for Peace and Human Rights (COPADEH). In particular, this agency has a temporary mandate and therefore it does not have the budgetary and human resources, or the legal framework required to undertake the functions and responsibilities of the agencies it replaced upon its creation in 2020.¹⁹⁰

120. In this regard, during this year, the COPADEH publicly announced that it was not an intermediary between the government and the civil society to promote the design and implementation of the public policy for the protection of human rights defenders in accordance with the *Human Rights Defender v. Guatemala* judgment. Likewise, it stated that it has no power to implement said judgment since it is a temporary agency which cannot assume the commitments undertaken by previous administrations,¹⁹¹ a position that was condemned by civil society organizations, since that agency had allegedly stated earlier that it was already working on the aforementioned policy.¹⁹²

121. In its comments on the draft of this report, dated February 24, 2023, the State of Guatemala indicated to the IACHR that the claim to the effect that it does not have sufficient budgetary and human resources, nor an adequate legal framework to assume the functions and responsibilities of the entity it replaced “lacks support”¹⁹³ and “not a single piece of evidence backing it is presented.”¹⁹⁴ In this regard, it listed a set of COPADEH achievements from 2022.¹⁹⁵

122. For its part, by means of a communication dated December 19, 2022, the State highlighted the work carried out by the COPADEH. Among the actions taken by COPADEH in 2022, the State emphasized that it provided training to 8,500 public officials and citizens nationally in topics such as culture of peace, respect for human rights and dialogue mechanisms to transform conflicts. It also strengthened its presence at a national level with regional offices in 15 departments and 36 delegates.¹⁹⁶

123. Likewise, the State pointed out that, during fiscal year 2022, it “spent approximately 33,387,830.60 quetzales for the victims of cases in which the Inter-American Court has issued a judgment, a sum which includes economic compensations, the publication of judgments and payment to the Victims’ Legal

¹⁹⁰ On July 30, 2020, through Governmental Decisions 99-2020 and 100-2020, the executive branch ordered the closure of the COPREDEH and its replacement by the Presidential Commission for Peace and Human Rights (COPADEH). According to the decision establishing it, the COPADEH will be operating for four years and also takes over the functions of the Secretariat for Peace (SEPAZ) and the Secretariat for Agrarian Affairs (SSA). The COPADEH will be chaired by the Constitutional President of the Republic and will be composed by six Ministers, two Secretariats, and the Attorney General (PGN), as well as its Executive Director. According to the decision establishing it, the purpose of the COPADEH is “to advise and coordinate with the various offices of the Executive Branch the promotion of actions and mechanisms to ensure the effective exercise and protection of human rights and compliance with government commitments made under the Peace Accords and in connection with social conflicts in the country.” Ministry of the Interior, [Acuerdo Gubernativo No. 100-2020](#), Articles 3 and 4.

¹⁹¹ See UDEFEGUA, “El Gobierno de Giammattei desacata a la Corte Interamericana de Derechos Humanos,” November 8, 2022. Meeting held between civil society organizations and the IACHR on November 17, 2022.

¹⁹² See UDEFEGUA, “El Gobierno de Giammattei desacata a la Corte Interamericana de Derechos Humanos,” November 8, 2022; Meeting held between civil society organizations and the IACHR on November 17, 2022. In IACHR’s files.

¹⁹³ Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 58.

¹⁹⁴ Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pg. 58.

¹⁹⁵ Note from the Permanent Mission of Guatemala to the Organization of American States (OAS). OEA-M4-NV-042-2023, February 24, 2023. COPADEH. State Report on human rights enforcement in Guatemala 2022. Response to the content of the draft of Chapter IV.B of the Annual Report of the Inter-American Commission on Human Rights, pgs. 58 to 61.

¹⁹⁶ State of Guatemala, Response to the recommendations of the IACHR regarding Chapter IV. B of the *2021 Annual Report: measures of the State of Guatemala to comply with the recommendations of the IACHR Annual Report - Chapter IV. B*, Note NV-OEA-M4-299-2022, December 19, 2022, p. 18.

Assistance Fund of the Inter-American Court of Human Rights.”¹⁹⁷ The State also indicated that, as part of the actions taken to guarantee human rights, the regional offices of the COPADEH provide follow-up and attention to conflicts at a national level and coordinate workshops related to peace culture, human rights, dialogue, negotiation and Peace Accords follow-up actions with the relevant directorates.¹⁹⁸

124. With regard to the human rights institutional framework, in August, 2022, the Congress completed the election process to select a new human rights prosecutor (PDH) for 2022-2027 period, and it elected José Alejandro Córdova for this position.¹⁹⁹ In this regard, according to the information that the Inter-American Commission has at its disposal, his election has been strongly questioned as to his suitability and impartiality due to his alleged involvement in the “2020 Parallel Commissions” case.²⁰⁰ In addition, in the context of this election, Jordán Rodas, the former human rights prosecutor, left his position due to persistent threats he faced due to his work as head of the institution.²⁰¹

125. According to the information that the Inter-American Commission has at its disposal, the process for selecting and appointing the new human rights prosecutor was carried out in a rushed manner, and in that same act Mr. Córdova’s resignation to the position of permanent judge of the Court of Appeals was informed and approved by the Congress. In addition, it was announced that, since the new prosecutor was physically present at the legislative chamber, the Congress would proceed to swear him into office. Some reports have stated that the new human rights prosecutor is close to the current administration.²⁰²

126. The Commission reminds the State that national institutions for the protection and defense of human rights play an important role at a national level in the exercise and protection of human rights and democracy. Therefore, and in accordance with the Paris Principles, States must ensure the independence and autonomy of the offices of ombuds and institutions responsible for the defense and promotion of human rights.²⁰³

IV. THE RIGHT TO FREEDOM OF EXPRESSION

127. During 2022, the Office of the Special Rapporteur continued to receive information warning of the deterioration of the right to freedom of expression. According to the information reported, journalists and the media who investigate matters of public interest, especially those related to corruption, irregularities in the government and human rights violations, are often the target of harassment, intimidation, bullying campaigns on social media and criminal persecution. However, in its observations on the draft of this report, the State of Guatemala has argued that the right to freedom of expression is fully guaranteed, evidenced by the

¹⁹⁷ State of Guatemala, Response to the recommendations of the IACHR regarding Chapter IV. B of the *2021 Annual Report*: measures of the State of Guatemala to comply with the recommendations of the IACHR *Annual Report* - Chapter IV. B, Note NV-OEA-M4-299-2022, December 19, 2022, p. 18.

¹⁹⁸ State of Guatemala, Response to the recommendations of the IACHR regarding Chapter IV. B of the *2021 Annual Report*: measures of the State of Guatemala to comply with the recommendations of the IACHR *Annual Report* - Chapter IV. B, Note NV-OEA-M4-299-2022, December 19, 2022, p. 18.

¹⁹⁹ The Office of the Public Prosecutor (MP) informed that, on July 16, 2020, the FECI requested on its behalf the lifting of the immunity of 13 officers of the judiciary involved in the “2020 Parallel Commissions” case, including José Alejandro Córdova Herrera. The press release of the Office of the Public Prosecutor (MP) stated that, “[a]ccording to the position of the prosecution, the officials mentioned previously were involved in potentially unlawful negotiations with Gustavo Adolfo Alejos Cámara, who is currently under custody. Among these officials are commissioners tasked with reviewing applications, applicants for positions in high courts, individuals not involved in the process but with an interest in it, congresspersons.” *Prensa Libre*, “La CC confirma que aspirante a dirigir la PDH, José Alejandro Córdova, no puede ser investigado por el caso Comisiones Paralelas 2020”, July 7, 2022.

²⁰⁰ RICIG, “[La PDH se suma a las instituciones dirigidas por personas señaladas de delitos](#),” July 20, 2022.

²⁰¹ Information received during the meeting held with the then human rights prosecutor on June 14, 2022; *El País*, “[Los grandes empresarios se creen los dueños de la finca, le han hecho mucho daño a Guatemala](#),” August 5, 2022; *Local10*, [Procurador de DDHH, una voz crítica deja puesto en Guatemala](#), August 18, 2022.

²⁰² Movimiento Pro Justicia, [Elección del Procurador de los Derechos Humanos 2022-2027](#). Final report, July 2022, pp. 33 and 34.

²⁰³ *Paris Principles: Principles relating to the status and functioning of national institutions for the promotion and protection of human rights*, October 1991.

number and diversity of television, radio, print, and digital media outlets operating freely and independently in the country.²⁰⁴

128. In 2022, the Office of the Special Rapporteur for Freedom of Expression received numerous reports of attacks on freedom of expression in Guatemala, mainly those related to acts of aggression, intimidation, and judicial harassment with the alleged purpose of silencing the target of these actions. These reports indicate that these facts took place in a context of actions aimed at impairing judicial independence in Guatemala.

129. The persistent violence against journalists motivated by the exercise of their profession continues to be an obstacle to enforcing the guarantees of the right to freedom of expression in Guatemala. During this year, the Office of the Special Rapporteur received information about the murder of journalist Orlando Villanueva. According to the information available, on March 8, 2022, journalist Orlando Villanueva was the victim of an armed attack by unidentified individuals who reportedly shot him in a sports court located in Puerto Barrios, Department of Izabal.²⁰⁵ The information reported indicates that this journalist was covering matters of local interest, including the political agenda and alleged cases of corruption for *Noticias del Puerto*, a website that he founded and directed.²⁰⁶

130. The Office of the Human Rights Prosecutor (PDH) of Guatemala indicated that the journalist had reportedly filed a complaint before the Office of the Public Prosecutor concerning alleged acts of harassment and persecution committed by officials of the central government and local authorities, as well as by businesspersons with local interests.²⁰⁷ In addition, the same office learned that, on October 29, 2021, the journalist denounced during a live broadcast on social media that police officers and agents of the Office of the Public Prosecutor had reportedly tried to enter his home violently with the purpose of intimidating him.²⁰⁸ According to public information, these facts might have been related to the coverage of matters of public interest that he carried out as a journalist.²⁰⁹ The State has informed that this event is related to a proceeding carried out pursuant to a court order issued by the First Instance Multi-Judge Court for Criminal Matters, Drug Trafficking and Environmental Crimes of Izabal with the purpose of conducting investigative proceedings in an active case.²¹⁰ The State reported that as a result of the facts that took place, the Department of Risk Analysis and the Protection of Persons and Security Division (DPPS) performed a risk analysis for journalist Orlando Villanueva on December 17, 2021, and recommended that Precinct 61 implement perimeter security measures around his residence.²¹¹

²⁰⁴ Permanent mission of Guatemala to the OAS. February 24, 2023. NV-M4-NV-042-2023. State Report on human rights enforcement in Guatemala 2022. Responses to the preliminary content. Chapter IV.B Guatemala. Pg. 76.

²⁰⁵ Committee to Protect Journalists (CPJ), "[Guatemalan journalist Orlando Villanueva shot dead in Puerto Barrios](#)," March 28, 2022; *Prensa Comunitaria*, "[Asesinato de Villanueva demuestra vulnerabilidad de periodista departamental](#)," March 16, 2022.

²⁰⁶ Committee to Protect Journalists (CPJ), "[Guatemalan journalist Orlando Villanueva shot dead in Puerto Barrios](#)," March 28, 2022; *Prensa Comunitaria*, "[Asesinato de Villanueva demuestra vulnerabilidad de periodista departamental](#)," March 16, 2022.

²⁰⁷ Office of the Human Rights Prosecutor (PDH) of Guatemala, [Press Release 28/22](#), March 10, 2022.

²⁰⁸ IACHR, Office of the Special Rapporteur for Freedom of Expression. Press Release R73/22. "[La Relatoría Especial condena el asesinato del periodista Orlando Villanueva en Guatemala y llama al Estado a investigar los hechos y a determinar su vínculo con el ejercicio periodístico](#)," April 8, 2022; CPJ, "[Guatemalan journalist Orlando Villanueva shot dead in Puerto Barrios](#)," March 28, 2022; *Prensa Libre*, "[Caso de periodista asesinado en Izabal llega a la CIDH y exige al Gobierno esclarecer los hechos](#)," April 8, 2022; PDH of Guatemala, [Press Release 28/22](#), March 10, 2022.

²⁰⁹ IACHR, Office of the Special Rapporteur for Freedom of Expression, Press Release R73/22. "[La Relatoría Especial condena el asesinato del periodista Orlando Villanueva en Guatemala y llama al Estado a investigar los hechos y a determinar su vínculo con el ejercicio periodístico](#)," April 8, 2022; CPJ, "[Guatemalan journalist Orlando Villanueva shot dead in Puerto Barrios](#)," March 28, 2022; *Prensa Libre*, "[Caso de periodista asesinado en Izabal llega a la CIDH y exige al Gobierno esclarecer los hechos](#)," April 8, 2022; PDH of Guatemala, [Press Release 28/22](#), March 10, 2022.

²¹⁰ Permanent Mission of Guatemala to the OAS, NV-OEA-M4-No.091-2022. Observations of the State of Guatemala to the press release of the Office of the Special Rapporteur. Files of the Office of the Special Rapporteur, April 7, 2022.

²¹¹ Permanent mission of Guatemala to the OAS. February 24, 2023. NV-M4-NV-042-2023. State Report on human rights enforcement in Guatemala 2022. Responses to the preliminary content. Chapter IV.B Guatemala. Pg. 146.

131. According to the information available contributed by the Office of the Public Prosecutor for Crimes against Journalists, the case is in the investigation stage.²¹² In its comments on the draft of this report, the State also indicated that the investigation in progress had already identified the alleged perpetrator of the incident and launched a series of actions aimed at securing his detention.²¹³ It also indicated that based on the facts, the Police were providing perimeter security to the relatives of Orlando Villanueva²¹⁴. The authorities also expressed their commitment to establishing the truth surrounding the case and applying the corresponding punishments to those responsible.²¹⁵ Additionally, the PDH reported that the Izabal auxiliary office had opened a case file and would conduct follow-up on the case, in coordination with the Ombudsperson on Human Rights Defenders and Journalists.²¹⁶

132. In addition, the Office of the Special Rapporteur received information on attacks against the press for their informative work. In this regard, the Association of Journalists of Guatemala (APG) documented 29 attacks on its report on the situation of freedom of expression for the first quarter. According to this source, those attacks were mainly committed by public officials of different hierarchies and agents of the public security forces.²¹⁷ Regarding the facts documented by the APG, the State indicated they “are not backed by formal complaints.”²¹⁸

133. APG’s report warned that local officials continue to be identified as responsible for most of the attacks against the press in Guatemala, although the facts are not always publicly known or reported to the justice system for different reasons, including the fear of the victims to become the target of reprisals and the lack of confidence in the judiciary and in its capacity to investigate attacks against the press diligently.²¹⁹ According to APG, in 2022, three of the most notorious acts in which local authorities were involved occurred in San Marcos, Quetzaltenango and Suchitepéquez.²²⁰ In the first two cases, the aggrieved parties denounced that they were subjected to physical violence, while in the third case, the complainant reported that he received threats from a member of a municipal council.²²¹

134. In its comments on the draft of this report, the State indicated that the case in question took place in the municipality of Comitancillo, San Marcos department. It is under investigation, and steps are planned for launching a possible pre-trial proceeding against one of the suspects.²²²

135. Among other facts, the Office of the Special Rapporteur learned that Lesby Esmeralda Catún Cuz de Rosales, a journalist from the *Retenamit* magazine, was reportedly detained under intimidation by agents of the National Civil Police in San Pedro Carchá. The police agents asked for her documents while she was leaving her house, forced her to get out of her vehicle, took her purse and phone away, handcuffed her,

²¹² Permanent mission of Guatemala to the OAS. February 24, 2023. NV-M4-NV-042-2023. State Report on human rights enforcement in Guatemala 2022. Responses to the preliminary content. Chapter IV.B Guatemala. Pg. 146.

²¹³ Permanent mission of Guatemala to the OAS. April 7, 2022. NV-OEA-M4-No.091-2022. Comments of the State of Guatemala on the press release of the Office of the Special Rapporteur. Archive of the Office of the Special Rapporteur.

²¹⁴ Permanent mission of Guatemala to the OAS. April 7, 2022. NV-OEA-M4-No.091-2022. Comments of the State of Guatemala on the press release of the Office of the Special Rapporteur. Archive of the Office of the Special Rapporteur.

²¹⁵ Permanent mission of Guatemala to the OAS. April 7, 2022. NV-OEA-M4-No.091-2022. Comments of the State of Guatemala on the press release of the Office of the Special Rapporteur. Archive of the Office of the Special Rapporteur.

²¹⁶ Office of the Human Rights Ombudsperson (PDH) of Guatemala. March 10, 2022. [Press release 28/22](#).

²¹⁷ Association of Journalists of Guatemala (APG), *Estado de Situación de la Libertad de Expresión en Guatemala, Primer Trimestre 2022*, May 2022.

²¹⁸ Permanent mission of Guatemala to the OAS. February 24, 2023. NV-M4-NV-042-2023. State Report on human rights enforcement in Guatemala 2022. Responses to the preliminary content. Chapter IV.B Guatemala. Pg. 79.

²¹⁹ Association of Journalists of Guatemala (APG), *Estado de Situación de la Libertad de Expresión en Guatemala, Primer Trimestre 2022*, May 2022.

²²⁰ Association of Journalists of Guatemala (APG), *Estado de Situación de la Libertad de Expresión en Guatemala, Primer Trimestre 2022*, May 2022.

²²¹ Association of Journalists of Guatemala (APG), *Estado de Situación de la Libertad de Expresión en Guatemala, Primer Trimestre 2022*, May 2022.

²²² Permanent mission of Guatemala to the OAS. February 24, 2023. NV-M4-NV-042-2023. State Report on human rights enforcement in Guatemala 2022. Responses to the preliminary content. Chapter IV.B Guatemala. Pg. 148.

forced her to get inside a patrol car and took her to a court.²²³ The journalist allegedly spent approximately two hours under police custody without being informed of the reasons for her arrest.²²⁴ According to the information received, the Prosecutor's Office for Crimes against Journalists of the Office of the Public Prosecutor dismissed the complaint for assault and abuse of authority filed by the journalist against three agents of the National Civil Police as a consequence of these facts. The decision of the Prosecutor's Office was based on the premise that it could not determine that the National Civil Police agents injured the journalist or that they committed an arbitrary and illegal act.²²⁵ The Office of the Human Rights Prosecutor of Guatemala informed that its regional office in Alta Verapaz opened a file for this case and would conduct follow-up activities in the corresponding institutional stages in coordination with the Office of the Ombudsman for Human Rights Defenders and Journalists.²²⁶

136. With respect to this case, in its comments on the draft of this report, the Office of the Public Prosecutor for Crimes against Journalists stated that "the investigative steps taken, including the collection of documents, testimony, and other elements, could not establish that a criminal offense had taken place to the detriment of Lesby Esmeralda Catún."²²⁷ According to the Office of the Public Prosecutor, the corresponding justice of the peace had also issued an order, which still stands, finding that the officers who arrested the journalist did not engage in any arbitrary or illegal act, and therefore proceeded with dismissing the complaint.²²⁸

137. The Office of the Special Rapporteur for Freedom of Expression (SRFOE) also learned that, on April 18, Irma Tzi, a journalist and correspondent of *Nuestro Diario*, was reportedly the victim of an armed attack by an unidentified individual in Cobán, Alta Verapaz, while she was on her way to cover an event.²²⁹ The journalist went to the scene after she received a fraudulent call in which she was warned about an alleged homicide. According to information provided by the Office of the Human Rights Prosecutor, after being attacked, Mr. Tzi was taken by firefighters to the emergency service of the Regional Hospital. In addition, the Office of the Special Rapporteur learned that the IFEX network had reported death threats against this journalist in 2013.²³⁰ The Office of the Public Prosecutor for Crimes against Journalists indicated that "despite the multiple investigative efforts made, this case is closed because those allegedly responsible were not identified."²³¹

138. On June 16, the National Civil Police reportedly assaulted Robinson Ortega, a reporter from *Relax Noticias*, and damaged his camera while he was recording a police operation during a public demonstration in the Las Palmas Siquinalá neighborhood, in Escuintla, where excessive actions by security

²²³ Prensa Comunitaria, "[Denuncian agresiones contra tres periodistas en Alta Verapaz y Quetzaltenango](#)," April 28, 2022; Red Rompe el Miedo Guatemala, "[La Red Rompe el Miedo Guatemala condena las agresiones a periodista en Alta Verapaz, a cargo de elementos de la PNC](#)," April 25, 2022; Prensa Libre, "[Día Mundial de la Libertad de Prensa: Periodismo bajo asedio digital y violencia, según Unesco y SIP](#)," May 3, 2022.

²²⁴ Prensa Comunitaria, "[Denuncian agresiones contra tres periodistas en Alta Verapaz y Quetzaltenango](#)," April 28, 2022; Red Rompe el Miedo Guatemala, "[La Red Rompe el Miedo Guatemala condena las agresiones a periodista en Alta Verapaz, a cargo de elementos de la PNC](#)," April 25, 2022; Prensa Libre, "[Día Mundial de la Libertad de Prensa: Periodismo bajo asedio digital y violencia, según Unesco y SIP](#)," May 3, 2022.

²²⁵ *La Hora*, "[APG rechaza desestimación de denuncia de periodista contra agente de la PNC](#)," November 9, 2022; Prensa Comunitaria, "[MP desestima agresión policial contra periodista Lesby Catún](#)," November 10, 2022.

²²⁶ PDH of Guatemala, [Press Release 38/22](#), April 20, 2022; Prensa Comunitaria, "[Denuncian agresiones contra tres periodistas en Alta Verapaz y Quetzaltenango](#)," April 28, 2022.

²²⁷ Permanent mission of Guatemala to the OAS. February 24, 2023. NV-M4-NV-042-2023. State Report on human rights enforcement in Guatemala 2022. Responses to the preliminary content. Chapter IV.B Guatemala. Pg. 149.

²²⁸ Permanent mission of Guatemala to the OAS. February 24, 2023. NV-M4-NV-042-2023. State Report on human rights enforcement in Guatemala 2022. Responses to the preliminary content. Chapter IV.B Guatemala. Pg. 149.

²²⁹ *Fundamedios*, "[Periodista guatemalteca fue atacada con arma blanca](#)," April 20, 2022.

²³⁰ IFEX, "[Dos periodistas sufren amenazas de muerte por su trabajo en Guatemala](#)," June 19, 2013.

²³¹ Permanent mission of Guatemala to the OAS. February 24, 2023. NV-M4-NV-042-2023. State Report on human rights enforcement in Guatemala 2022. Responses to the preliminary content. Chapter IV.B Guatemala. Pg. 150.

forces against a group of women demonstrators were reported.²³² Subsequently, the reporter was reportedly arrested by the police and, according to the information received, he was released on June 21, pursuant to an order of the First Instance Criminal Court of Santa Lucía Cotzumalguapa, Escuintla.²³³ The Quetzalteca Press Association condemned these facts and urged the general director of the National Civil Police and the minister of the Interior to “refrain from using the security forces as a tool of repression against the press” and to carry out the corresponding internal investigation.²³⁴ Likewise, the Guatemalan Chamber of Journalism stressed that “any action carried out by a public official or employee which limits that constitutional guarantee deserves the strongest rejection” and demanded the authorities of the Ministry of the Interior to “clarify the facts immediately and determine the administrative responsibilities of the agents involved, notwithstanding the investigation that the Office of the Public Prosecutor should carry out for the possible crimes committed.”²³⁵

139. Regarding this case, in its comments on the draft of this report, the Office of the Prosecutor for Crimes Against Journalists stated that the complaint was dismissed because after the corresponding investigation, a violent attack on journalist Robinson Ortega was ruled out.²³⁶

140. On June 21, 2022, Carlos Hernández Ovalle, a photojournalist from *Prensa Libre* and *Guatevisión*, was reportedly assaulted by police agents while he was covering a demonstration of students from the San Carlos de Guatemala University (USAC). Some of his photographic equipment was also damaged during the facts.²³⁷ The graphic reporter stated that he was fully identified as a member of the press and that he had his badge and a shirt identified with the logos of the media outlet he was working for.²³⁸ In its comments on the draft of this report, the State reported that, at that time, because of the allegedly violent actions of demonstrators, “control was asserted using less-lethal dissuasive measures (gas),” in keeping with basic principles on police action and guidelines on the use of force, proportionally.²³⁹ It also stated that police personal complied with the provisions of the Political Constitution of the Republic of Guatemala and international human rights treaties.²⁴⁰

141. In addition, the Office of the Human Rights Prosecutor informed about death threats against Ángel Palacios, a journalist from Coatepeque, Quetzaltenango.²⁴¹ According to the State, the case was dismissed “because it did not constitute a crime and because there was not enough evidence to prove the alleged incident.”²⁴²

²³² *CRN Noticias*, “[Escuintla: PNC captura a periodista cuando documentaba operativo policial](#),” June 16, 2022; *El Periódico*, “[Varias mujeres y un periodista detenidos durante manifestación](#),” June 16, 2022.

²³³ *Prensa Libre*, “[‘Solo hacía su trabajo’: juez libera a periodista Robinson Ortega, capturado cuando cubría una protesta en Escuintla](#),” June 22, 2022.

²³⁴ *El Periódico*, “[Varias mujeres y un periodista detenidos durante manifestación](#),” June 16, 2022.

²³⁵ Canal Antigua, “[Cámara Guatemalteca de Periodismo rechaza actuar de la PNC al detener a periodista](#),” June 18, 2022; *Prensa Libre*, “[CGP y APG condenan agresión contra periodistas por parte de agentes de la PNC y exigen pronta investigación](#),” June 16, 2022.

²³⁶ Permanent mission of Guatemala to the OAS. February 24, 2023. NV-M4-NV-042-2023. State Report on human rights enforcement in Guatemala 2022. Responses to the preliminary content. Chapter IV.B Guatemala. Pg. 151.

²³⁷ *La Hora*, “[La PNC suma otro ataque contra periodistas: ya van 38 en 172 días](#),” June 22, 2022; *Prensa Libre*, “[PNC agradece a periodista de Prensa Libre y Guatevisión que documentaba capturas durante manifestación en la Roosevelt](#),” June 21, 2022; Twitter account of Luis Assardo (@luisassardo), June 21, 2022.

²³⁸ *La Hora*, “[La PNC suma otro ataque contra periodistas: ya van 38 en 172 días](#),” June 22, 2022; *Prensa Libre*, “[PNC agradece a periodista de Prensa Libre y Guatevisión que documentaba capturas durante manifestación en la Roosevelt](#),” June 21, 2022; Twitter account of Luis Assardo (@luisassardo), June 21, 2022.

²³⁹ Permanent mission of Guatemala to the OAS. February 24, 2023. NV-M4-NV-042-2023. State Report on human rights enforcement in Guatemala 2022. Responses to the preliminary content. Chapter IV.B Guatemala. Pg. 152.

²⁴⁰ Permanent mission of Guatemala to the OAS. February 24, 2023. NV-M4-NV-042-2023. State Report on human rights enforcement in Guatemala 2022. Responses to the preliminary content. Chapter IV.B Guatemala. Pg. 152.

²⁴¹ PDH of Guatemala, [Press Release 38/22](#), April 20, 2022; *Prensa Comunitaria*, “[Denuncian agresiones contra tres periodistas en Alta Verapaz y Quetzaltenango](#),” April 28, 2022.

²⁴² Permanent mission of Guatemala to the OAS. February 24, 2023. NV-M4-NV-042-2023. State Report on human rights enforcement in Guatemala 2022. Responses to the preliminary content. Chapter IV.B Guatemala. Pg. 153.

142. The Association of Journalists of Guatemala and civil society organizations that focus on the freedom of the press have criticized the role of the Office of the Public Prosecutor and its Prosecutor's Office for Crimes against Journalists with regard to the complaints of assault filed by journalists.²⁴³ According to the information reported, in 2022, the Office of the Public Prosecutor dismissed numerous complaints about police assaults against journalists without sufficient explanation, including the cases of Robinson Ortega, Francisco Lucas, Carlos Choc and Lesby Catún.²⁴⁴ In this regard, in its comments on the draft of this report, the State indicated that all decisions made by the Office of the Public Prosecutor for Crimes against Journalists are duly substantiated by the investigations conducted and that dismissal or closure are mechanisms that employ substantiation.²⁴⁵ Regarding the cases of the aforementioned journalists, the State indicated that the complaint from Carlos Choc was closed, and following objection to the closure, a hearing is pending, scheduled for 2023.²⁴⁶ In addition, it indicated that it does not have complaints filed by reporter Francisco Lucas or initiated *ex officio*.²⁴⁷

143. In response to the facts set forth with respect to alleged attacks on and intimidation of the media, the State of Guatemala indicated that it respects freedom of expression and rejected all manner of aggression against journalists.²⁴⁸ It also specified that acts that violate freedom of expression must be reported to the Office of the Public Prosecutor, which, through its Special Office for Protecting Journalists, must investigate and resolve any situation that might place the integrity of journalists in jeopardy. Upon learning by any means of facts amounting to criminal offenses against freedom of expression, the Office of the Public Prosecutor launches the respective investigation, subsequently carrying out working groups and follow-up.²⁴⁹ The State highlighted that in order for the Office of the Public Prosecutor to act, the journalists allegedly harmed must file complaints, and in some cases they have not; in other cases, the prosecutor has the authority to launch *ex officio* investigations.²⁵⁰

144. With respect to the alleged aggressions against journalists, the State reported that during the first quarter of 2022, the Office of the Public Prosecutor for Crimes against Journalists received 18 such reports, some accusing public officials and other members of the National Civilian Police. The State indicated that the complaints also include incidents of "threats or general harassment on social media," and that all were duly investigated and resolved pursuant to the findings of the investigation. It also specified that the injured

²⁴³ Twitter account of the Association of Journalists of Guatemala (APG) (@APG_1947), October 17, 2022; *El Periódico*, "[APG rechaza que el MP desestime denuncia de supuesta agresión contra periodista](#)," November 9, 2022; *La Hora*, "[APG señala al MP de Consuelo Porras de desestimar denuncias de periodistas](#)," October 17, 2022; *Prensa Comunitaria*, "[Aumentan las agresiones policiales contra periodistas en Guatemala](#)," November 30, 2022; *Prensa Comunitaria*, "[Restricciones de información, acoso judicial e intimidaciones, las tres acciones contra el periodismo en Guatemala](#)," November 2, 2022.

²⁴⁴ Twitter account of the Association of Journalists of Guatemala (APG) (@APG_1947), October 17, 2022; *El Periódico*, "[APG rechaza que el MP desestime denuncia de supuesta agresión contra periodista](#)," November 9, 2022; *La Hora*, "[APG señala al MP de Consuelo Porras de desestimar denuncias de periodistas](#)," October 17, 2022; *Prensa Comunitaria*, "[Aumentan las agresiones policiales contra periodistas en Guatemala](#)," November 30, 2022; Resumen Latinoamericano, "[Guatemala. Ministerio Público desestima agresión policial contra periodista Lesby Catún](#)," November 30, 2022; Twitter account of journalist Simón A-Ramón (@simon_antun), January 7, 2022; *Prensa Comunitaria*, "[Restricciones de información, acoso judicial e intimidaciones, las tres acciones contra el periodismo en Guatemala](#)," November 2, 2022.

²⁴⁵ Permanent mission of Guatemala to the OAS. February 24, 2023. NV-M4-NV-042-2023. State Report on human rights enforcement in Guatemala 2022. Responses to the preliminary content. Chapter IV.B Guatemala. Pg. 153.

²⁴⁶ Permanent mission of Guatemala to the OAS. February 24, 2023. NV-M4-NV-042-2023. State Report on human rights enforcement in Guatemala 2022. Responses to the preliminary content. Chapter IV.B Guatemala. Pg. 154.

²⁴⁷ Permanent mission of Guatemala to the OAS. February 24, 2023. NV-M4-NV-042-2023. State Report on human rights enforcement in Guatemala 2022. Responses to the preliminary content. Chapter IV.B Guatemala. Pg. 154.

²⁴⁸ Permanent mission of Guatemala to the OAS. February 24, 2023. NV-M4-NV-042-2023. State Report on human rights enforcement in Guatemala 2022. Responses to the preliminary content. Chapter IV.B Guatemala. Pg. 78.

²⁴⁹ Permanent mission of Guatemala to the OAS. February 24, 2023. NV-M4-NV-042-2023. State Report on human rights enforcement in Guatemala 2022. Responses to the preliminary content. Chapter IV.B Guatemala. Pgs. 142 and 143.

²⁵⁰ Permanent mission of Guatemala to the OAS. February 24, 2023. NV-M4-NV-042-2023. State Report on human rights enforcement in Guatemala 2022. Responses to the preliminary content. Chapter IV.B Guatemala. Pg. 147.

parties—in this case, the journalists—were informed of the reasoning behind the decision and the possibility of appealing it before the competent jurisdictional body should they disagree with it.²⁵¹

145. The State further indicated that it is the duty of the Ministry for Interior Affairs, through the National Civilian Police, "to protect the physical integrity of any journalist needing State protection."²⁵² According to the information provided by the State, of the protection measures granted to journalists by the National Civilian Police in 2022, 20 were for perimeter security and 2 were for bodyguards.²⁵³ The Directorate of the National Police reported that "instructions have been issued on respecting constitutional guarantees, such as the work journalists do advocating for freedom of expression."²⁵⁴

146. Likewise, the Risk Analysis Department of the Division on Security and Personal Protection (DPPS) "is willing to perform the corresponding risk analysis whenever requested for journalists or media workers."²⁵⁵

147. Regarding the functions of the Office of the Public Prosecutor for Crimes against Journalists with respect to handling reports of attacks on freedom of expression, the State reported that the entity received a total of 54 reports between January and October 2022. According to the State, through its personnel, the Office of the Public Prosecutor launches the investigation quickly, and they are available 24 hours a day to advise on how to file complaints or provide support in flagrant cases that require it. Information is also constantly being produced on the progress of its investigations to ensure they are up to speed on developments and any potential outcomes of their cases.²⁵⁶ Likewise, in September 2022, the investigations of the public prosecutor within the Integrated Cases System were strengthened with an additionally agency comprised by a prosecutor, three auxiliaries, and one official. Once this agency finishes working through the prosecutorial backlog, it will form part of the team, benefiting and supporting it with more human resources for resolving the cases that come in and, logically, providing better support to victims and to the resolution of their cases.²⁵⁷

Criminalization

148. Furthermore, the Office of the Special Rapporteur for Freedom of Expression has received complaints about the increasing criminalization of journalists who investigate matters of public interest. According to reports, these events take place within a context of criminalization, criminal complaints and judicial persecution against different groups that play a relevant role in scrutinizing the public authorities in Guatemala, as the Inter-American Commission indicated in its *2021 Annual Report*. For its part, in its comments on the draft of this report, the State indicated that it was taking a series of actions to facilitate the work of journalists.²⁵⁸ It also indicated that the Office of the Public Prosecutor respects the work of journalists and in no way criminalizes it. To this end, the Office of the Public Prosecutor on Crimes against Journalists was created

²⁵¹ Permanent mission of Guatemala to the OAS. February 24, 2023. NV-M4-NV-042-2023. State Report on human rights enforcement in Guatemala 2022. Responses to the preliminary content. Chapter IV.B Guatemala. Pg. 147.

²⁵² Permanent mission of Guatemala to the OAS. February 24, 2023. NV-M4-NV-042-2023. State Report on human rights enforcement in Guatemala 2022. Responses to the preliminary content. Chapter IV.B Guatemala. Pgs. 78 and 79.

²⁵³ Permanent mission of Guatemala to the OAS. February 24, 2023. NV-M4-NV-042-2023. State Report on human rights enforcement in Guatemala 2022. Responses to the preliminary content. Chapter IV.B Guatemala. Pg. 147.

²⁵⁴ Permanent mission of Guatemala to the OAS. February 24, 2023. NV-M4-NV-042-2023. State Report on human rights enforcement in Guatemala 2022. Responses to the preliminary content. Chapter IV.B Guatemala. Pg. 143.

²⁵⁵ Permanent mission of Guatemala to the OAS. February 24, 2023. NV-M4-NV-042-2023. State Report on human rights enforcement in Guatemala 2022. Responses to the preliminary content. Chapter IV.B Guatemala. Pg. 143.

²⁵⁶ Permanent mission of Guatemala to the OAS. February 24, 2023. NV-M4-NV-042-2023. State Report on human rights enforcement in Guatemala 2022. Responses to the preliminary content. Chapter IV.B Guatemala. Pg. 143.

²⁵⁷ State of Guatemala, Response to the Recommendations of the IACHR, regarding Chapter IV.B of the 2021 Annual Report: "Actions of the State of Guatemala to comply with the recommendations of the Annual Report of the IACHR-Chapter IV.B, Note NV- OEA-M4-299-2022, December 19, 2022, pg. 20.

²⁵⁸ Permanent mission of Guatemala to the OAS. February 24, 2023. NV-M4-NV-042-2023. State Report on human rights enforcement in Guatemala 2022. Responses to the preliminary content. Chapter IV.B Guatemala. Pg. 80.

and charged with investigating and prosecuting the crimes committed against journalists that were intended to limit their right to carry out their work.²⁵⁹

149. According to the information received, José Rubén Zamora and Flora Silva, president and financial director of media outlet *El Periódico*, respectively, have been judicially prosecuted by the Office of the Public Prosecutor.²⁶⁰ The Office of the Special Rapporteur for Freedom of Expression learned that agents of the Office of the Public Prosecutor and the National Civil Police reportedly raided the homes of José Rubén Zamora and Flora Silva on July 29 and August 19, respectively. Both of them were reportedly arrested for the alleged commission of crimes related to money laundering, among others.²⁶¹

150. According to public information, on December 8, the Seventh Criminal Court of Guatemala sent Mr. Zamora to trial for the alleged crimes of money laundering, blackmail and influence peddling after considering that the Office of the Public Prosecutor had provided consistent elements in the indictment phase, which should be debated in trial.²⁶² On the same day, Flora Silva Flores, former manager of *El Periódico*, was sentenced to six years in prison for the crimes of money laundering and to pay a fine of 150,000 quetzales (more than 38,000 US dollars) for the crime of money laundering, after she pleaded guilty in a summary proceeding.²⁶³ Since Flora Silva accepted her responsibility in the course of a special proceeding for guilty pleas, the court reduced her sentence to three years and granted her conditional release for the remainder of her sentence.²⁶⁴

151. The State informed that the complaints filed against journalists shall not be presumed to be filed as a reprisal for the activities that they carry out; said presumption should not be applicable. The State respects the right of its population to have access to justice, the exercise of which begins with the filing of a complaint. Therefore, the State cannot prevent persons from submitting a complaint if they consider that there are facts which may constitute a crime.²⁶⁵

152. The Office of the Special Rapporteur for Freedom of Expression notes that, throughout 2022, multiple civil society organizations have demanded the immediate release of the president of *El Periódico* and considered that the detention of Mr. Zamora is an act of judicial persecution and censorship against critical journalists and media outlets that investigate corruption cases in Guatemala.²⁶⁶ In this regard, during the public

²⁵⁹ Permanent mission of Guatemala to the OAS. February 24, 2023. NV-M4-NV-042-2023. State Report on human rights enforcement in Guatemala 2022. Responses to the preliminary content. Chapter IV.B Guatemala. Pg. 155.

²⁶⁰ CPI, "['Perseguir a toda voz crítica': el hijo del periodista guatemalteco encarcelado José Rubén Zamora habla sobre la detención de su padre](#)," October 12, 2022; Twitter account of *El Faro* (@elfaro), August 20, 2022; *New York Times*, "[In Widening Crackdown, Renowned Journalist Arrested in Guatemala](#)," July 30, 2022; *Prensa Comunitaria*, "[Claves para entender la persecución política contra José Rubén Zamora y la fiscal Samari Gómez](#)," August 5, 2022; *Voice of America*, "[Guatemalan Journalist Critical of President Arrested](#)," July 30, 2022; *Infobae*, "[Arrestaron a la directora financiera del diario El Periódico de Guatemala](#)," August 20, 2022; *El Periódico*, "[Detienen a directora financiera de El Periódico](#)," August 19, 2022.

²⁶¹ *El País*, "[La fiscalía de Guatemala allana la redacción de 'elPeriódico' y ordena el arresto de su director](#)," July 29, 2022; *Voice of America*, "[Guatemalan Journalist Critical of President Arrested](#)," July 30, 2022; *Infobae*, "[Arrestaron a la directora financiera del diario El Periódico de Guatemala](#)," August 20, 2022; *El Periódico*, "[Detienen a directora financiera de elPeriódico](#)," August 19, 2022.

²⁶² *CNN*, "[La justicia de Guatemala ordena que el periodista José Zamora vaya a juicio y condena a una colaboradora suya](#)," December 8, 2022; *El Periódico*, "[Juez envía a juicio a José Rubén Zamora por tres delitos](#)," December 8, 2022; *Infobae*, "[La Justicia de Guatemala ordenó enjuiciar al periodista José Rubén Zamora Marroquín](#)," December 8, 2022.

²⁶³ *El País*, "[La fiscalía de Guatemala allana la redacción de 'elPeriódico' y ordena el arresto de su director](#)," July 29, 2022; *Voice of America*, "[Guatemalan Journalist Critical of President Arrested](#)," July 30, 2022; *Infobae*, "[Arrestaron a la directora financiera del diario El Periódico de Guatemala](#)," August 20, 2022; *El Periódico*, "[Detienen a directora financiera de elPeriódico](#)," August 19, 2022.

²⁶⁴ *República*, "[Condenan a exgerente de elPeriódico Flora Silva en procedimiento de aceptación de cargos](#)," December 8, 2022; *CNN*, "[La justicia de Guatemala ordena que el periodista José Zamora vaya a juicio y condena a una colaboradora suya](#)," December 8, 2022.

²⁶⁵ State of Guatemala, Response to the recommendations of the IACHR regarding Chapter IV. B of the 2021 Annual Report: measures of the State of Guatemala to comply with the recommendations of the IACHR Annual Report - Chapter IV. B, Note NV-OEA-M4-299-2022, December 19, 2022, p. 21.

²⁶⁶ International Press Institute, "[Guatemala: IPI reiterates call for release of journalist José Rubén Zamora](#)," December 7, 2022; Pen International, "[Guatemala: Exigimos la libertad inmediata del director de elPeriódico José Zamora y de Flora Silva](#)," October 5, 2022; CEJIL, "[International organizations reject the criminalization of prominent journalist José Rubén Zamora and strongly denounce the persecution of critical voices in Guatemala](#)," August 3, 2022; CPI, "[CPI calls for immediate release of Guatemala journalist José Rubén Zamora](#)," August 3, 2022; Twitter account of the Association of Journalists of Guatemala (APG) (@APG_1947), July 29, 2022; *ABC News*, "[Guatemala's El Periódico newspaper stops print edition](#)," November 30, 2022.

hearing of the Inter-American Commission on the situation of the right to freedom of expression in Guatemala, held during the 185th regular period of sessions, civil society organizations denounced that the actions against Mr. Zamora were “a strong message to all journalists in Guatemala,” who are an obstacle for the government. Mr. Zamora’s case has been used as an example to intimidate and silence the press.²⁶⁷ Likewise, the Inter American Press Association (IAPA) denounced an increase in the criminalization of journalists and community media, as well as the frequent threats against reporters who denounce the progress of organized crime due to the alleged collusion of drug criminals.²⁶⁸

153. Journalist José Rubén Zamora has been a beneficiary of the precautionary measures granted by the Commission since 2003, when it considered that there was an imminent risk to his life and personal integrity as a consequence of a series of physical assaults and threats he received in the exercise of his profession, and due to the context of violence against the press in Guatemala.²⁶⁹ In accordance with the powers granted by the precautionary measures mechanism, in August 2022, the Inter-American Commission and the Office of the Special Rapporteur requested the State to authorize a working visit for the Commission to verify Mr. Zamora’s situation.²⁷⁰

154. State authorities have stated that those criminal cases are not related to journalistic activities and that the judicial proceedings in his case have been carried out in strict compliance with the legal and human rights framework.²⁷¹ In contrast, the information reported by numerous actors of the civil society to this office indicates that the judicial persecution of José Rubén Zamora and Flora Silva might be related to their work as journalists.²⁷² In this context, the Office of the Special Rapporteur notes that the freedom of press includes not only editorial activities, but also those related to the sustainability of the media.²⁷³

155. In this context, on July 29, the offices of Aldea Global S.A., a commercial entity that is in charge of the administrative management of *El Periódico* and shares its facilities with the latter, were reportedly raided.²⁷⁴ According to the information received, at least eight employees of the media outlet were detained for at least 16 hours on July 29.²⁷⁵

156. According to the information reported to this office, the pressure and persecution against the directors of *El Periódico* severely damaged its financial situation.²⁷⁶ In November, the media outlet announced

²⁶⁷ IACHR. 185th regular period of sessions, public hearing no. 1, “The Situation of Freedom of Expression in [Guatemala](#),” October 24, 2022.

²⁶⁸ IAPA, “[Preocupación a la SIP fragilidad institucional en Guatemala que conspira contra la libertad de prensa](#),” December 12, 2022.

²⁶⁹ IACHR, [Precautionary measures 2003. Precautionary measures granted by the Inter-American Commission](#). Undated.

²⁷⁰ IACHR, Office of the Special Rapporteur for Freedom of Expression, Press Release R196/22, “[State of Guatemala must fully and effectively guarantee the right to freedom of expression and freedom of the press](#),” September 2, 2022.

²⁷¹ Permanent Mission of Guatemala to the OAS. September 1, 2022. NV-OEA-M4-No.180-2022. Observations of the State of Guatemala to the press release of the Office of the Special Rapporteur: “The State of Guatemala must fully and effectively guarantee the right to freedom of expression and freedom of the press.” Files of the Office of the Special Rapporteur.

²⁷² CPJ, “[CPJ calls for immediate release of Guatemala journalist José Rubén Zamora](#),” August 3, 2022; *El País*, “[José Rubén Zamora: ‘Esta es una persecución de Giammattei, es un juicio político.’](#)” August 3, 2022; *El Faro*, “[El dudoso caso contra José Rubén Zamora se armó en 72 horas](#),” August 15, 2022; *Prensa Comunitaria*, “[Claves para entender la persecución política contra Jose Rubén Zamora y la fiscal Samari Gómez](#),” August 5, 2022; *Voice of America*, “[Guatemalan Journalist Critical of President Arrested](#),” July 30, 2022.

²⁷³ IACHR, Office of the Special Rapporteur for Freedom of Expression, Press Release R196/22, “[State of Guatemala must fully and effectively guarantee the right to freedom of expression and freedom of the press](#),” September 2, 2022.

²⁷⁴ *El Periódico*, “[Detienen al periodista Jose Rubén Zamora y allanan oficinas de ‘elPeriódico’](#),” July 30, 2022; *El Mundo*, “[La Fiscalía de Guatemala allana la sede de ‘El Periódico’ y detiene a su presidente, premio Rey de España, acusado de lavado de dinero](#),” July 30, 2022.

²⁷⁵ *Prensa Libre*, “[Ocho trabajadores fueron retenidos durante el allanamiento en las instalaciones de elPeriódico](#),” July 30, 2022; *El Periódico*, “[Empleados de ‘elPeriódico’ fueron retenidos por más de 16 horas](#),” July 31, 2022.

²⁷⁶ *Voice of America*, “[‘Nos transformamos para resistir’: elPeriódico de Guatemala cierra su edición impresa](#),” December 4, 2022; International Press Institute, “[Guatemala: IPI reiterates call for release of journalist José Rubén Zamora](#),” December 7, 2022; Democracy Now, “[Guatemalan Newspaper El Periódico Ceases Print Edition After Being Targeted by Government](#),” December 2, 2022.

that it was ending its print edition.²⁷⁷ According to the information received, by December 2022, the two main accounts of the newspaper remained frozen.²⁷⁸ In this regard, in its observations on the draft of this report, the State indicated that “the competent jurisdictional body is responsible, based on the evidence, for issuing the respective precautionary measures and ordering account embargoes, freezes, releases, etc.”²⁷⁹

157. In addition to these facts, the Office of the Special Rapporteur for Freedom of Expression has learned of other cases related to complaints (qualified as spurious) aimed at preventing the publication of research related to matters of public and political relevance. In 2022, the Office of the Special Rapporteur for Freedom of Expression received information about the complaint filed by a former minister of Communications against Juan Luis Font, a journalist and director of the news program *Con Criterio* for allegedly committing the crimes of criminal conspiracy and collusion.²⁸⁰ According to public information, the evidence of the alleged conspiracy reportedly include interviews that Font made to a former judge in his radio show, as well as tweets posted from his personal account, in which he made comments about alleged acts of harassment against said judge by “criminal groups.”²⁸¹ The reporter confirmed to the Office of the Special Rapporteur that he decided to leave the country and denounced harassment and reprisals related to his work, which dissuaded him from continuing to practice journalism in Guatemala.

158. In this regard, the State indicated that “the Office of the Public Prosecutor is an institution that pursues criminal prosecutions to investigate crimes codified by law and enforce strict compliance with the laws of the Republic of Guatemala.” It also indicated that the process is confidential and that the investigator is continuing its inquiries into whether or not the alleged acts were committed.²⁸² The authorities emphasized that the complaint indicated was filed by a third party and not by the Office of the Public Prosecutor, and that the State is not persecuting the journalist in connection with his reporting.²⁸³ As indicated previously, the State also indicated that “the injured party has the right to file the pertinent complaints with the Office of the Public Prosecutor, which would be handled by the specific prosecutor.”²⁸⁴

159. Likewise, according to the information available, the Seventh First Instance Criminal Court ordered an investigation against journalists of *Agencia Ocote* after they had interviewed a prosecutor who is under custody and produced a podcast focused on her case.²⁸⁵ In its comments on the draft of this report, through its Office of the Public Prosecutor on Crimes against Journalists, the State reported that the case had

²⁷⁷ ABC News, “[Guatemala's El Periodico newspaper stops print edition](#),” November 30, 2022; *Prensa Libre*, “[el Periódico pone fin a su edición impresa luego de que directivos señalaran presiones](#),” November 30, 2022; Deutsche Welle (DW), “[el Periódico dejará circulación impresa en Guatemala](#),” November 19, 2022.

²⁷⁸ International Press Institute, “[Guatemala: IPI reiterates call for release of journalist José Rubén Zamora](#),” December 7, 2022; *Prensa Libre*, “[Caso Jose Rubén Zamora: organizaciones de prensa de Perú entregan carta al canciller Mario Búcaro para pedir ‘liberación’ de periodista](#),” November 23, 2022; *Prensa Comunitaria*, “[Periodistas independientes denuncian ataques a la prensa en Guatemala](#),” December 5, 2022.

²⁷⁹ Permanent mission of Guatemala to the OAS. February 24, 2023. NV-M4-NV-042-2023. State Report on human rights enforcement in Guatemala 2022. Responses to the preliminary content. Chapter IV.B Guatemala. Pg. 160.

²⁸⁰ CPJ, “[Guatemalan journalist Juan Luis Font leaves the country after former official accuses him of ‘unlawful association’](#),” April 8, 2022; *Prensa Comunitaria*; “[Juan Luis Font: ‘A mí no me van a ver callarme excepto si ellos logran meterme a la cárcel.’](#)” March 25, 2022; *Prensa Comunitaria*, “[APG rechaza nuevo acto de acoso judicial en contra de Juan Luis Font](#),” March 23, 2022; Agencia Ocote, “[El Periodista J.L. Font sale de Guatemala y organizaciones alertan a la población](#),” April 4, 2022.

²⁸¹ CPJ, “[Guatemalan journalist Juan Luis Font leaves the country after former official accuses him of ‘unlawful association’](#),” April 8, 2022; *Prensa Libre*, “[Periodista Juan Luis Font es arraigado por petición del MP y él señala persecución por publicaciones](#),” December 6, 2021.

²⁸² Permanent mission of Guatemala to the OAS. September 1, 2022. NV-OEA-M4-No.180-2022. Comments of the State on the press release of the Office of the Special Rapporteur: “State of Guatemala must fully and effectively guarantee the right to freedom of expression and freedom of the press.” Archive of the Office of the Special Rapporteur.

²⁸³ Permanent mission of Guatemala to the OAS. September 1, 2022. NV-OEA-M4-No.180-2022. Comments of the State on the press release of the Office of the Special Rapporteur: “State of Guatemala must fully and effectively guarantee the right to freedom of expression and freedom of the press.” Archive of the Office of the Special Rapporteur.

²⁸⁴ Permanent mission of Guatemala to the OAS. February 24, 2023. NV-M4-NV-042-2023. State Report on human rights enforcement in Guatemala 2022. Responses to the preliminary content. Chapter IV.B Guatemala. Pg. 161.

²⁸⁵ *La Hora*, “[Agencia Ocote: entramos como periodistas y guardia vio la grabadora](#),” June 19, 2022; Association of Journalists of Guatemala (APG), “[Estado de situación de la libertad de expresión 2022: ‘terrorismo judicial acecha a la prensa’](#),” December 2022.

been closed because the acts alleged (threats) were carried out over social media and it was therefore not possible to identify those allegedly responsible.²⁸⁶

160. In addition, in 2021, the Office of the Special Rapporteur noted in its annual report the filing of criminal charges against journalists Sonny Figueroa and Marvin del Cid by government officials and former officials after they reportedly published investigative journalistic reports involving them.²⁸⁷ With regard to these facts, the State pointed out that "there is no particular persecution for their journalistic work, nor is there professional harassment against both journalists."²⁸⁸ The State added that "the criminal proceedings initiated against the agents of the National Civil Police for the aggressions denounced by both journalists is proof of the State's commitment to bringing justice to all."²⁸⁹

161. Proceedings against journalist Robinson Ortega of *Relax Noticias* were opened by order of the Court of Appeals with Jurisdiction over Multiple Matters of Escuintla after an agent of the National Civil Police filed a complaint against him for the crime of assault against an authority and after the Office of the Public Prosecutor appealed the order issued by a judge in June pursuant to which the case was dismissed for lack of merit.²⁹⁰ As mentioned previously in this report, on June 16, 2022, the reporter was arrested while he was covering a demonstration in Las Palmas Siquinalá, Escuintla, where he reportedly recorded alleged acts of abuse by security forces. As a result of these facts, a police complaint was filed against him accusing him of "hindering" the work of the security forces and insulting them. He was also accused of physically assaulting a woman police officer; however, according to civil society organizations, the allegations of the police officer are false.²⁹¹ This office learned that the hearing to review the coercive measures against journalist Robinson Ortega was originally scheduled for November 2022, but then was postponed to 2023.²⁹² The State reported that the case was being "duly prosecuted."²⁹³

162. The Office of the Special Rapporteur has also paid special attention to the cases of journalists Juan Bautista Xol, Baudilio Choc and Carlos Choc, who have publicly denounced judicial proceedings held against them and police operations at their residences after they covered a series of demonstrations by the Mayan Q'eqchi' population in El Estor, Izabal, and the use of public force to disperse them in October 2021.²⁹⁴ With respect to these facts, the Ministry of Governance reported that, according to the archives found in the police substations under Precinct 61 of Izabal, no complaint has been filed or registered regard a police

²⁸⁶ Permanent mission of Guatemala to the OAS. February 24, 2023. NV-M4-NV-042-2023. State Report on human rights enforcement in Guatemala 2022. Responses to the preliminary content. Chapter IV.B Guatemala. Pg. 162.

²⁸⁷ IACHR, *2021 Annual Report. Report of the Office of the Special Rapporteur for Freedom of Expression*. OEA/Ser.L/V/II Doc. 64 rev. 1. para 473, May 26, 2022.

²⁸⁸ Permanent Mission of Guatemala to the OAS. NV-OEA-M4-No.180-2022. Observations of the State of Guatemala to the press release of the Office of the Special Rapporteur: "The State of Guatemala must fully and effectively guarantee the right to freedom of expression and freedom of the press." Files of the Office of the Special Rapporteur, September 1, 2022.

²⁸⁹ Permanent Mission of Guatemala to the OAS. NV-OEA-M4-No.180-2022. Observations of the State of Guatemala to the press release of the Office of the Special Rapporteur: "The State of Guatemala must fully and effectively guarantee the right to freedom of expression and freedom of the press." Files of the Office of the Special Rapporteur, September 1, 2022.

²⁹⁰ Red Rompe el Miedo, "[La Red Rompe el Miedo Guatemala condena enérgicamente la criminalización del periodista Robinson Ortega](#)," November 10, 2022; *Prensa Comunitaria*, "[Sala anula resolución de juez y ordena ligar a proceso a periodista Robinson Ortega](#)," November 11, 2022; Fundamedios, *Informe Regional. 2022, año del éxodo periodístico*, December 23, 2022.

²⁹¹ Sala de Redacción / Facebook, [November 13, 2022](#); *Prensa Comunitaria*, "[Fiscalía de delitos contra periodistas pretende desestimar caso contra policías nacionales civiles acusados de agredir a periodista](#)," October 17, 2022.

²⁹² *Prensa Comunitaria*, "[Juez aplaza audiencia de periodista Robinson Ortega](#)," November 30, 2022; Twitter account of Red Rompe el Miedo Guatemala ([@RompeElMiedoGt](#)), [November 29, 2022](#).

²⁹³ Permanent mission of Guatemala to the OAS. February 24, 2023. NV-M4-NV-042-2023. State Report on human rights enforcement in Guatemala 2022. Responses to the preliminary content. Chapter IV.B Guatemala. Pg. 164.

²⁹⁴ IACHR, Office of the Special Rapporteur for Freedom of Expression, Press Release R286/21, "[The Office of the Special Rapporteur calls on the State of Guatemala to respect and guarantee the work of journalists in accordance with international human rights standards](#)," October 29, 2021; CPJ, "[Guatemalan journalist Carlos Choc faces criminal charges after covering protest](#)," April 4, 2022; Twitter account of the Association of Journalists of Guatemala (APG) ([@APG_1947](#)), March 31, 2022; *Prensa Comunitaria*, "[El Estado vuelve a criminalizar al periodista Carlos Choc y a Prensa Comunitaria por informar sobre las operaciones de la mina rusa en El Estor](#)," March 28, 2022.

operation (search) in the residences of an Baitista Xol, Baudilio Choc, or Carlos Choc.²⁹⁵ In addition, they indicated that "during October 2021, a total of 27 demonstrations were registered approximately at the department level, and mostly in the municipality of El Estor."²⁹⁶

163. Although this office was informed that there are two criminal proceedings in force against journalist Carlos Choc, the State reported on September 1, 2022, that there were no complaints filed against him, and it had not taken any action to impede his journalistic activity.²⁹⁷ Nevertheless, the Office of the Special Rapporteur learned that, on September 13, the First Instance Multi-Judge Criminal Court of Izabal, acting in the criminal proceedings related to the October 2021 demonstrations in El Estor, dismissed the case linked to the complaint accusing him of incitement to violence due to lack of merits.²⁹⁸ Thirteen agents of the National Civil Police had filed a complaint against the journalist accusing him of being responsible for physical assault during his journalistic coverage. The media outlet *Prensa Comunitaria* has warned that there is still another criminal proceeding opened against him.²⁹⁹

164. Within the context described above, the lack of regulations for community broadcasting and the criminal persecution against community radio stations is another challenge that must be addressed by the State of Guatemala to enforce the right to freedom of expression, as the IACHR noted in its most recent annual report.³⁰⁰ The Inter-American Court of Human Rights analyzed this issue in *Maya Kaqchikel Indigenous Peoples of Sumpango et al. v. Guatemala*. The judgment in this case was notified on December 17, 2021, and it declared that the State of Guatemala was internationally responsible for the violation of the rights to freedom of expression, equality before the law and to participate in cultural life, to the detriment of four indigenous communities which operated community radio stations.³⁰¹ Among the measures of reparation, the Court ordered the State to adapt internal regulations in order to recognize community radio stations as distinct means of communication, particularly indigenous community radio stations; to regulate their operation, establishing a simple procedure for obtaining licenses; and to refrain from criminally prosecuting the individuals who operate indigenous community radio stations, raiding said radio stations or seizing their broadcasting equipment.³⁰²

165. Following the decision of the Inter-American Court, on January 25, 2022, Bill No. 5965 to regulate community radio stations was introduced before the plenary of the Congress of Guatemala. This bill proposed amendments to the General Telecommunications Law with the purpose of regulating community radio stations in the country and was questioned by the civil society.³⁰³ The Movement of Community Radio

²⁹⁵ Permanent mission of Guatemala to the OAS. February 24, 2023. NV-M4-NV-042-2023. State Report on human rights enforcement in Guatemala 2022. Responses to the preliminary content. Chapter IV.B Guatemala. Pg. 165.

²⁹⁶ Permanent mission of Guatemala to the OAS. February 24, 2023. NV-M4-NV-042-2023. State Report on human rights enforcement in Guatemala 2022. Responses to the preliminary content. Chapter IV.B Guatemala. Pg. 165.

²⁹⁷ Permanent Mission of Guatemala to the OAS. NV-OEA-M4-No.180-2022. Observations of the State of Guatemala to the press release of the Office of the Special Rapporteur: "The State of Guatemala must fully and effectively guarantee the right to freedom of expression and freedom of the press." Files of the Office of the Special Rapporteur, September 1, 2022.

²⁹⁸ El Periódico, "[Liberan de cargos al periodista Carlos Choc.](#)" September 13, 2022; El Comercio, "[Guatemala: Liberan a periodista acusado de instigar a la violencia en 2021.](#)" September 13, 2022.; Prensa Comunitaria, "[El día en que el Estado de Guatemala se quedó sin argumentos contra el periodista Carlos Choc.](#)" September 14, 2022; TeleSUR, "[Liberan a periodista guatemalteco acusado de instigar a la violencia.](#)" September 14, 2022.

²⁹⁹ *Prensa Comunitaria*, "[Persiste persecución judicial contra periodista Carlos Choc y tres pescadores, a instancia de mineros.](#)" November 23, 2022.

³⁰⁰ *Prensa Comunitaria*, "[El periodismo guatemalteco intenta sobrevivir ante la criminalización y el acoso.](#)" September 6, 2022; *No Ficción*, "[Un nuevo inicio para las radios comunitarias.](#)" July 11, 2022; *Prensa Comunitaria*, "[Carlos Choc, periodista comunitario criminalizado por hacer su trabajo en El Estor.](#)" September 13, 2022; Agencia Ocote, "[Persecución a la prensa. Carlos Choc: firmo y nos vamos.](#)" May 17, 2022; *Marcha*, "[Guatemala: La mina espía y criminaliza para controlar El Estor.](#)" April 11, 2022; *Prensa Comunitaria*, "[Periodismo comunitario: la necesidad de seguir en medio de la persecución y el acoso.](#)" April 27, 2022.

³⁰¹ IACHR Court. Press Release 103/2021, "[Guatemala is responsible for violating the freedom of expression and cultural rights of four indigenous communities operating community radio stations.](#)" December 17, 2021.

³⁰² IACHR Court. Press Release 103/2021, "[Guatemala is responsible for violating the freedom of expression and cultural rights of four indigenous communities operating community radio stations.](#)" December 17, 2021.

³⁰³ Congress of the Republic, Department of Legislative Information. [Iniciativa No. 5965; LatAm Journalism Review, "Indigenous community radios in Guatemala are looking for the government to comply with an emblematic ruling by the Inter-American Court of](#)

Stations of Guatemala, composed by members of almost 60 community radio stations across the country and legally represented by association *Sobrevivencia Cultural*, rejected the bill, arguing that it does not comply with the order of the Inter-American Court.³⁰⁴ In this regard, they indicated that the State did not carry out any prior consultation with the communities identified as victims in the case before the Inter-American Court, or more broadly with indigenous communities in the country; that the proposed bill does not define indigenous community radio stations clearly, which is essential to achieve the differentiated recognition of these media pursuant to the order of the Court; that the procedures to obtain a license for indigenous community radio stations are ambiguous; and that the bill does not reserve part of the radio frequency spectrum for indigenous community radio stations.³⁰⁵ According to the information received by the Office of the Special Rapporteur for Freedom of Expression, the Congress held meetings during 2022 to discuss this bill, and the COPADEH has informed that they have held meetings with some congresspersons to discuss the bill in question.³⁰⁶

166. As the Inter-American Court emphasized, the States have the obligation to establish laws and public policies that democratize access to the media and guarantee media pluralism in the different areas of communication, such as, for example, the press, radio and television.³⁰⁷ In this context, the Inter-American Commission and the Office of the Special Rapporteur for Freedom of Expression consider it essential for the State of Guatemala to adopt the necessary measures to allow indigenous communities to operate their community radio stations freely, without interference or criminal prosecution, in accordance with the aforementioned judgment of the Inter-American Court.³⁰⁸

167. It is the Office of the Special Rapporteur's view that the facts presented in this report contributing to furthering the deterioration of guarantees for the exercise of journalism in Guatemala, a situation that this Office has addressed in press releases and in its latest annual report.³⁰⁹ In addition, the Office of the Special Rapporteur for Freedom of Expression has received complaints according to which the alleged actions of institutional harassment against journalists and the media are creating an environment of self-censorship in the press, especially among those who investigate matters of public relevance, such as corruption and the criminalization of justice operators.

168. The State indicated that "as guarantor of the rule of law, the Office of the Public Prosecutor strives to ensure the right to freedom of expression remains unwavering."³¹⁰ It also stressed that "the Ministry for Interior Affairs is committed to guaranteeing the work of journalists," and therefore, in June 2022, the head of the Ministry for Interior Affairs and the First Vice Minister for Interior Affairs met with high-ranking officers of the National Police with the purpose of "giving instructions on matters of national security and respect for constitutional guarantees, emphasizing the work of journalists and the freedom to express thought."³¹¹ Also,

[Human Rights](#)," March 29, 2022; *Observacom*, "[Exigen al Estado de Guatemala que cumpla con sentencia de la Corte IDH sobre las radios comunitarias indígenas](#)," February 16, 2022.

³⁰⁴ *Sobrevivencia Cultural*, "[A la opinión pública nacional e internacional sobre la Iniciativa de Ley 5965](#)," February 15, 2022.

³⁰⁵ *Sobrevivencia Cultural*, "[A la opinión pública nacional e internacional sobre la Iniciativa de Ley 5965](#)," February 15, 2022.

³⁰⁶ Congress of the Republic, "[Analizan iniciativa de ley que regula las radios comunitarias](#)," March 1, 2022; *Prensa Comunitaria*, "[Baja Verapaz: una radio comunitaria vuelve al aire diez años después](#)," November 23, 2022.

³⁰⁷ IACHR Court, *Maya Kaqchikel Indigenous Peoples of Sumpango et al. v. Guatemala*. Merits, reparations and costs. Judgment of October 6, 2021. Series C No. 440, para. 91.

³⁰⁸ IACHR Court, *Maya Kaqchikel Indigenous Peoples of Sumpango et al. v. Guatemala*. Merits, reparations and costs. Judgment of October 6, 2021. Series C No. 440, para. 184.

³⁰⁹ IACHR. Annual report for 2021. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). OEA/Ser.L/V/II Doc. 64 rev. 1. May 26, 2022; IACHR. Office of the Special Rapporteur for Freedom of Expression. October 29, 2021. Press Release R286/21. [The Office of the Special Rapporteur calls on the State of Guatemala to respect and guarantee the work of journalists in accordance with international human rights standards](#); IACHR. Office of the Special Rapporteur for Freedom of Expression. September 2, 2022. Press Release No. R196/22. [State of Guatemala must fully and effectively guarantee the right to freedom of expression and freedom of the press](#).

³¹⁰ Permanent mission of Guatemala to the OAS. February 24, 2023. NV-M4-NV-042-2023. State Report on human rights enforcement in Guatemala 2022. Responses to the preliminary content. Chapter IV.B Guatemala. Pg. 167.

³¹¹ Permanent mission of Guatemala to the OAS. February 24, 2023. NV-M4-NV-042-2023. State Report on human rights enforcement in Guatemala 2022. Responses to the preliminary content. Chapter IV.B Guatemala. Pg. 167.

“the highest consideration for the work of journalists, reporters, photojournalists, and correspondents throughout the country was ordered.”³¹²

169. During a public hearing on the situation of the right to freedom of expression in Guatemala held during the 185th regular period of sessions, the representatives of the State underscored that Guatemala is respectful of the right to freedom of expression and pointed out that different State entities are working proactively to promote measures and policies that protect journalists and the freedom of the press. Furthermore, they insisted that criminal proceedings are carried out in strict compliance with the legal and human rights framework. In addition, they stated that the legal actions brought against communicators are within the guaranteed constitutional rights, which allow individuals to initiate criminal proceedings in the event that they consider that their rights have been violated, and also provide the State with the power to initiate criminal proceedings in certain cases. The State stressed that criminal complaints on their own do not constitute a conviction whatsoever and that the pertinent judicial institutions are in charge of resolving disputes.³¹³

170. The Inter-American Commission and the Inter-American Court have emphasized that journalism is one of the most important manifestations of the right to freedom of expression and information in a democratic society since it keeps the society informed, a necessary condition for a robust public debate.³¹⁴ Likewise, the Commission has repeatedly stated that an independent and critical press is fundamental to ensuring respect for other liberties that form part of a democratic system of government and the rule of law.³¹⁵

171. This office considers that these facts must be analyzed in light of the human rights situation in Guatemala, which has been analyzed by the Commission under its mandate. In its *2021 Annual Report*, the Inter-American Commission reported an increase in the number of criminalization acts, reckless criminal complaints and judicial persecution against different groups of persons who play a relevant role of scrutiny and control of the authorities, such as journalists and human rights defenders. The Commission indicated that this type of criminal proceedings are a form of reprisal and intimidation for their work and are aimed at hindering it.

172. In this context, this office recalls that, in accordance with the *Declaration of Principles on Freedom of Expression of the Inter-American Commission*, the exercise of power and the use of public resources by the State with the intent to put pressure on social communicators and communications media and/or punish them because of the information they publish are a threat to freedom of expression.³¹⁶ The Office of the Special Rapporteur for Freedom of Expression has also emphasized that “the imposition of direct or indirect pressure aimed at silencing the informative work of social communicators impedes the full functioning of democracy, inasmuch as the consolidation of democracy in the hemisphere is intimately related to the free exchange of ideas, information and opinions among individuals.”³¹⁷

V. CONCLUSIONS AND RECOMMENDATIONS

173. The information received and analyzed during 2022 points to the fact that the situation identified in 2021 with regard to the obligation of the State to combat impunity and to respect and guarantee

³¹² Permanent mission of Guatemala to the OAS. February 24, 2023. NV-M4-NV-042-2023. State Report on human rights enforcement in Guatemala 2022. Responses to the preliminary content. Chapter IV.B Guatemala. Pg. 167.

³¹³ Permanent Mission of Guatemala to the OAS. NV-OEA-M4-No.180-2022. Observations of the State of Guatemala to the press release of the Office of the Special Rapporteur: “The State of Guatemala must fully and effectively guarantee the right to freedom of expression and freedom of the press.” Files of the Office of the Special Rapporteur, September 1, 2022.

³¹⁴ IACHR, [Background and Interpretation of the Declaration of Principles](#). Undated. IACHR Court, *Compulsory membership in an association prescribed by law for the practice of journalism (Arts. 13 and 29 American Convention on Human Rights)*. [Advisory Opinion OC-5/85](#), para. 36, November 13, 1985.

³¹⁵ IACHR, [Background and Interpretation of the Declaration of Principles](#). Undated.

³¹⁶ IACHR, [Background and Interpretation of the Declaration of Principles](#). Undated.

³¹⁷ IACHR, [Background and Interpretation of the Declaration of Principles](#). Undated.

judicial independence has deteriorated. The Commission notes an intensification of judicial persecution, criminalization, and abuse of the impeachment proceedings with the purpose of intimidating and removing from office justice operators tasked with investigating and rendering judgment on cases related to the internal armed conflict, including cases in which the Inter-American Court has delivered a judgment, and to high-impact or large-scale corruption cases. Among these individuals, there are prosecutors, former prosecutors, and judges with competence in Guatemala's high risk criminal courts who have in common that they pursued judicial proceedings for crimes such as genocide, forced disappearance, torture, organized crime and money laundering. The Inter-American Commission also cautioned about the ongoing context of serious risk to the work of journalists as a result of continuing acts of violence and cases of criminalization and judicial persecution.

174. In a context of reports about the lack of independence of the Office of the Public Prosecutor and its attorney general for their role in the judicial persecution aimed at favoring power structures and groups in the cases mentioned in the previous paragraph, the Commission notes that the FECCI and other units of the Office of the Public Prosecutor tasked with investigating corruption cases and with transitional justice proceedings have been weakened by the relocation, criminalization or arbitrary removal of their officials, including career prosecutors.

175. This environment of persecution and harassment against justice operators has led more than 30 justice operators to leave the country, impacting dozens of cases related to transitional justice or acts of corruption that involve high-ranking officials of the government, which reportedly have shown a lack of progress or severe setbacks. This has even led the Inter-American Court to adopt provisional measures in favor of justice operators in light of "an indication of the intention to intimidate the judge" and to guarantee the right of victims to justice. This occurs in the face of the weakening of the human rights institutional framework in the country, as mentioned in this report.

176. These facts call into question the commitment of the State to its obligation to combat impunity and corruption, and to guarantee the independence of the judiciary and, therefore, the very exercise of the human rights of the Guatemalan people.

177. In addition to this, the plenary of the Congress decided to send to its Human Rights Commission Bill No. 6099, the "Law on the Strengthening of Peace," which establishes an absolute amnesty for serious human rights violations committed during the internal armed conflict.

178. The Inter-American Commission reiterates to the State the importance of reaffirming the political commitment to fighting corruption and impunity by strengthening the justice system and the respect for its independence. In addition, it expresses its willingness to collaborate on a technical basis with the State of Guatemala, so that it can fulfill its international human rights obligations.

179. In accordance with the foregoing analysis, the Inter-American Commission reiterates its call on the State to comply with the recommendations made in Chapter IVB of its *2021 Annual Report* that are still pending compliance. The following are among those recommendations:

Fight against corruption and impunity

1. Reaffirm the importance of the fight against corruption in combating impunity by means of a strengthened, independent, and impartial justice system.
2. Implement the necessary mechanisms to prevent, investigate and punish any form of corruption that may affect the proper functioning of the justice system and the rule of law.

3. Withhold Bill No. 6099 definitely and reinforce actions to fight against impunity for human rights violations during the internal armed conflict.

Judicial independence and justice operators

4. Adopt measures to ensure that justice operators can carry out their duties impartially and independently, with respect for the principle of separation of powers and free of any threat or pressure.
5. Protect justice operators from attacks, acts of intimidation, threats, and harassment, investigating and imposing effective sanctions on those who violate their rights.
6. Refrain from promoting motions for impeachment proceedings based on the legal criteria of judges or as a means of reprisal for the work they are doing.

Institutional framework for peace and human rights

7. Strengthen the institutions responsible for issues related to peace, social conflict, and human rights by means of an adequate legal framework and the budgetary and human resources that enable agencies such as the COPADEH to take on the functions and responsibilities of the agencies it replaced.
8. Strengthening the institutional framework responsible for implementing the commitments undertaken in the Peace Accords, ensuring broad participation and effective dialogue with victims, relatives, civil society organizations and other relevant stakeholders.
9. Extend the operating period for the National Reparations Program and ensure that it can function to its fullest extent, providing it with the material and human resources it needs to fulfill its mandate.
10. Ensure that authorities or third parties do not manipulate the punitive power of the State and its justice institutions to harass human rights defenders and justice operators.

Freedom of expression

11. Refrain from exerting direct or indirect pressure against journalists and the media motivated by their news content or editorial line, in accordance with Principle 13 of the *Declaration of Principles on Freedom of Expression of the Inter-American Commission*. In this regard, refrain from using judicial proceedings, criminal and non-criminal, against journalists and/or the media arising from events related to their work, especially those who may negatively impact the discussion of information of public interest, in line with the Inter-American standards of suitability, necessity and strict proportionality. Likewise, refrain from prolonging the judicial proceedings against journalists indefinitely, especially in the case of criminal proceedings, in accordance with the judicial guarantees established in Article 8.1 of the American Convention on Human Rights.
12. Strengthen the prevention and timely protection mechanisms for journalists and social communicators with regard to cases of murder, assault, arrest, intimidation and threats related to their informative work. In addition, in the area of law enforcement, to fully, thoroughly and impartially investigate the complaints of journalists with regard to violations of their rights motivated by their work. In this regard, to redouble the efforts of the different judicial institutions, especially the Prosecutor's Office for Crimes against Journalists, to guarantee the administration of justice and refrain from dismissing the complaints filed by journalists without any reasoning.
13. Ensure that public office holders do not promote intolerance, discrimination, or disinformation with their speech and that they do not create, through their discourse, a climate of hostility against journalists, media

workers and media outlets. Rather, these authorities should rationally and diligently verify in a reinforced manner the facts on which they base their opinions and use their leadership positions to promote respect for diversity and provide fair access to information through official events, press conferences and interviews.

14. Implement measures for the legal recognition of community radio stations and regulate their operation in accordance with Inter-American standards on freedom of expression; and refrain from criminally prosecuting journalists and community media, and from ordering coercive measures such as raids and the seizure of their work equipment, in accordance with the guidelines established by the Inter-American Court of Human Rights.