



Human Rights Council
Working Group on Arbitrary Detention**Opinions adopted by the Working Group on Arbitrary Detention at its eighty-fifth session, 12–16 August 2019****Opinion No. 41/2018 concerning Pedro Jaimes Criollo (Bolivarian Republic of Venezuela)**

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights. In its resolution 1997/50, the Commission extended and clarified the mandate of the Working Group. Pursuant to General Assembly resolution 60/251 and Human Rights Council decision 1/102, the Council assumed the mandate of the Commission. The Council most recently extended the mandate of the Working Group for a three-year period in its resolution 33/30.

2. In accordance with its methods of work (A/HRC/36/38), on 12 February 2019, the Working Group transmitted to the Government of the Bolivarian Republic of Venezuela a communication concerning Pedro Jaimes Criollo. The Government requested an extension of the deadline for response, which was granted, and responded to the communication on 14 May 2019. The State is a party to the International Covenant on Civil and Political Rights.

3. The Working Group regards deprivation of liberty as arbitrary in the following cases:

(a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his or her sentence or despite an amnesty law applicable to him or her) (category I);

(b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the Covenant (category II);

(c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III);

(d) When asylum seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);

(e) When the deprivation of liberty constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability, or any other status, that aims towards or can result in ignoring the equality of human beings (category V).



Submissions

Communication from the source

4. Mr. Jaimes Criollo is a Venezuelan national born in 1965 who lives in Miranda State. He manages the Twitter account @AereoMeteo, which he uses to share information about weather conditions and air traffic around the world.

5. According to the submission, on 3 May 2018, Mr. Jaimes Criollo shared the itinerary of the plane used by the President of the Bolivarian Republic of Venezuela, along with other air traffic data, such as location, height and speed, through his Twitter account. The submission states that this air traffic information is in the public domain and can easily be found on the Internet.

Detention

6. The source reports that the Mr. Jaimes Criollo was arrested in the morning of 10 May 2018 at his home in Los Teques, the capital of Miranda State, by officers apparently attached to the Bolivarian National Intelligence Service (SEBIN). Without being shown a warrant or any official identification, Mr. Jaimes Criollo was taken in for questioning against his will. His family was not officially told where he was being taken but heard that he might be going to El Helicoide prison in Caracas.

7. On the evening of 10 May 2018, Mr. Jaimes Criollo's family went to the El Helicoide building to attempt to find him, but the security officers on duty denied that he was being held there. The officers suggested that they went to the SEBIN building on Plaza Venezuela in Caracas to see whether he was being held there, but when his relatives arrived at this site the officers there also denied any knowledge of Mr. Jaimes Criollo's detention.

8. The source states that, after 11 hours during which Mr. Jaimes Criollo's whereabouts were unknown to his family, at around 8 p.m. he phoned to let them know that he would be spending the night in El Helicoide prison. He asked his relatives to go to the courthouse in Los Teques the next day as he was apparently going to be taken to court for his tweeting activities.

9. According to the source, no hearing took place on 11 May 2018. The next day, 12 May 2018, Mr. Jaimes Criollo was brought before Procedural Court of First Instance No. 3 of the criminal court circuit of Miranda State. At this hearing, the acting deputy prosecutor attached to the prosecution division responsible for in flagrante offences stated that Mr. Jaimes Criollo was arrested in flagrante delicto while tweeting, which, in the prosecutor's view, constituted an offence against national security. Specifically, he was charged with interfering in operational security (Civil Aeronautics Act, art. 134), disclosing political secrets (Criminal Code, art. 134) and cyberespionage (Special Act against Computer Crime, art. 11). In view of the arguments put forward by the prosecution, the judge approved the request that Mr. Jaimes Criollo be detained on remand, on the basis that there was a proven flight risk.

10. According to the record of the hearing, Procedural Court No. 3 ordered that Mr. Jaimes Criollo be detained on remand in Yare Metropolitan Detention Centre. However, the source reports that Mr. Jaimes Criollo was never taken to this detention facility.

Disappearance

11. The source reports that, after the hearing on 12 May 2018, SEBIN moved Mr. Jaimes Criollo to an unknown location. From this date until 15 June 2018, Mr. Jaimes Criollo was disappeared. During these 33 days, his family and lawyers were unable to obtain information or news about his whereabouts.

12. On 22 May 2018, the lawyers attempted to locate Mr. Jaimes Criollo at the SEBIN headquarters in the El Helicoide building, without success; the officers there stated that Mr. Jaimes Criollo was not being held at that location. On 27 May 2018, in the company of family members, the lawyers tried for a second time to locate Mr. Jaimes Criollo in El Helicoide building, against without success; SEBIN officers reiterated that Mr. Jaimes Criollo was not being held in that facility.

13. The source reports that, since Mr. Jaimes Criollo's detention was being denied, on 28 May 2018 his lawyers filed a writ of habeas corpus, requesting that his whereabouts be disclosed. However, on 4 June 2018, the writ was declared inadmissible by Procedural Court No. 3 on the grounds that the Court had satisfied the request three days previously, on 1 June 2018, after it had received information from SEBIN confirming that Mr. Jaimes Criollo was in fact being held in El Helicoide prison. However, the defence lawyers were not notified in a timely manner of either the information received from SEBIN or the decision to declare the writ of habeas corpus inadmissible. Notice of the final decision disallowing the writ of habeas corpus was issued only subsequently, by official order, on 21 June 2018.

14. The source states that it was not until 15 June 2018 that the family finally received news of Mr. Jaimes Criollo, through an informal phone call confirming that he was being held in El Helicoide prison. The source highlights that this information was not communicated officially by the Government and was imparted not by SEBIN agents, the prosecution service or members of the judiciary but through informal channels.

Torture and cruel, inhuman or degrading treatment or punishment

15. On 15 June 2018, relatives of Mr. Jaimes Criollo were informed through informal channels that he was being detained with another 10 inmates in a cell measuring approximately four by five metres square. He did not have access to natural light, was receiving little food and was enduring poor sanitary conditions.

16. According to the submission, members of Mr. Jaimes Criollo's family were also informed that he had been beaten on several occasions in an attempt to force him to disclose the passwords of his social media accounts. These beatings fractured his right rib. Mr. Jaimes Criollo allegedly requested medical attention on several occasions owing to the pain he was experiencing on the right side of this body. However, the SEBIN doctors at El Helicoide simply prescribed pain killers, and did not even supply him with the medicines they had prescribed. As a result, Mr. Jaimes Criollo suffers from fainting fits and severe pain and has difficulty sleeping. On 19 July 2018, Mr. Jaimes Criollo's family was informed that, although he was suffering from depression and had abscesses on his legs, cold sores on his lips and intense pain in his ribs, he had not even received medical attention to treat the injuries sustained on SEBIN premises.

17. The source recounts that visiting rights at SEBIN prison were suspended on 16 May 2018 but were reinstated, unofficially, in the week beginning 16 July 2018. However, when the lawyers attempted to visit Mr. Jaimes Criollo on Monday 16 and Thursday 19 July 2018, they were told by SEBIN officials that their names did not appear on the list they were handling and were therefore unable to meet with him.

Right to a fair trial, due process and judicial safeguards

18. According to the submission, between 1 June 2018 and 16 October 2018, lawyers were denied access to the case file. The official explanation for the denied access was that the lawyers had not been sworn in before court to act on Mr. Jaimes Criollo's behalf.

19. However, the source reports that Mr. Jaimes Criollo's family appointed the defence lawyers to act on his behalf on 1 June 2018 and points out that, in application of article 127.3 of the Organic Code of Criminal Procedure, such appointments take effect automatically. Despite these legal provisions, Procedural Court No. 3 insisted that Mr. Jaimes Criollo must confirm his lawyers' appointment in person before they could act on this behalf.

20. On 1, 7 and 13 June 2018, the family and the lawyers asked for Mr. Jaimes Criollo to be taken to court so that he could swear in his private defence team, but the requested transfers did not take place. The source indicates that, according to information from the court registry, SEBIN failed to execute the transfer request on each of these occasions.

21. On 15 June 2018, faced with SEBIN's refusal to transfer Mr. Jaimes Criollo, Procedural Court No. 3 agreed to send a team of officials to El Helicoide to ascertain Mr. Jaimes Criollo's situation. His lawyers visited the Court the same day and received confirmation that court officials would visit El Helicoide that afternoon. The lawyers waited at El Helicoide all afternoon, but the court judge never showed up. The source states

that it was not until the night of 15 June 2018 when the family finally got news of Mr. Jaimes Criollo, through a non-official phone call, as indicated above.

22. The source also indicates that the lawyers filed complaints on 7, 13, 20 and 28 June and 12 and 17 July 2018, affirming that, by arbitrarily denying them access to the case file, the court authorities were systematically violating Mr. Jaimes Criollo's right to a defence.

23. On 26 June 2018, the chief provisional prosecutor of the prosecution service of Miranda State laid charges. The source reports that the statement of charges was read during a hearing held in secret in the presence of a State-assigned public defender, without the lawyers appointed by the family being able to act on Mr. Jaimes Criollo's behalf and prevent the arraignment. Mr. Jaimes Criollo was identified as the perpetrator of the offences detailed in the statement of charges. The source indicates that the content of the statement is generic and vague, besides being predicated on a supposed "State secret" that does not in fact exist, and that Mr. Jaimes Criollo simply shared public information available on the Internet and is being punished for this reason. The statement of charges, according to the source, provides confirmation that Mr. Jaimes Criollo is being arbitrarily criminalized and prosecuted for lawfully exercising his right to free expression on the Internet. According to information provided by public defence lawyers assigned by the State, a preliminary hearing was scheduled for 25 July 2018.

24. According to the source, on 16 July 2018, the lawyers learned, through judicial sources, that a "judicial rotation" exercise had been initiated within the Los Teques criminal court circuit. The legal grounds for this exercise are not known. Several courts were left vacant, including Procedural Control No. 3, which was handling Mr. Jaimes Criollo's case. The source reports that, on 17 and 18 July 2018, services were suspended in the registry of Procedural Court No. 3 owing to the "judicial rotation" exercise.

25. It was not possible to verify whether another judge had in fact already been assigned to the Court on 25 July 2018, the date allegedly scheduled for the preliminary hearing. The criminal court circuit of Los Teques was closed, apparently for refurbishment work. There was no court activity on that day and the lawyers were not able to submit written statements.

26. The source states that, according to article 309 of the Organic Code of Criminal Procedure, when it is not possible to hold a preliminary hearing, the court is required to set a new date within 20 days. However, the lawyers did not have access to the information relevant to this issue.

27. On 30 July 2018, the lawyers appointed by the family to represent Mr. Jaimes Criollo went to the criminal court circuit building in Los Teques, which was closed apparently for refurbishment, for which reason they were unable to make written submissions. On 1 August 2018, they went to the Court again to apply for constitutional *amparo* against the entire proceedings owing to the violations of judicial safeguards. Although the application was received, the Court remained closed for refurbishment. Moreover, it was not possible to verify whether a judge, either with or without tenure, had been assigned to Procedural Court No. 3. It was also not possible to verify the new date for the preliminary hearing.

28. The source reports that, on 3 August 2018, the lawyers were notified by the criminal court circuit of Los Teques, by telephone, that the court could not admit the *amparo* application submitted on 1 August 2018 because the heading was allegedly incorrect. On 7 August 2018, the *amparo* application was resubmitted. The registry was open that day and the lawyers thus learned that a new judge had been assigned to the case, although they were not told his or his name. The registry was urged to swear in Mr. Jaimes Criollo's lawyers but refused on the grounds that the defendant must be brought to court by SEBIN so that he could personally confirm his defence team's appointment. The registry also indicated that the judge had not yet familiarized himself with the case, and that for this reason a new date for the preliminary hearing had not yet been set.

29. On 10 August 2018, the registry of Procedural Court No. 3 was not in service. Nevertheless, the lawyers submitted two documents, one attesting to the fact that they had been unable to consult the case file since 1 June, and a second, signed by Mr. Jaimes Criollo, in which he personally petitioned the court for his immediate unconditional release. On the same day, Mr. Jaimes Criollo's family submitted a written petition asking for his lawyers to be sworn in and for medical examinations that were actually followed up on to

be conducted, since, to date, the State had allegedly failed to provide any medical report about Mr. Jaimes Criollo's state of health.

30. According to the submission, on 14 August 2018, the court registry was not in service. The lawyers submitted a formal request to be sworn in. On 16 August they repeated this formality.

31. On 17 August 2018, the lawyers received a telephone call from the Appeal Court, informing them that the *amparo* application filed on 7 August 2018 had been declared inadmissible because the applicants had not been formally appointed to act on Mr. Jaimes Criollo's behalf. In the afternoon of the same day, the lawyers filed a second *amparo* application with the Appeal Court itself, in view of the failure of Procedural Court No. 3 to swear them as the defendant's counsels, which failure was preventing their official recognition as parties to the judicial proceedings. The second *amparo* application was declared inadmissible on 14 September 2018.

32. Mr. Jaimes Criollo's preliminary hearing was scheduled for 20 September 2018 at 11 a.m. However, the source reports that SEBIN failed to take him to court at any point during that day and that the hearing therefore had to be postponed.

33. The Inter-American Commission on Human Rights adopted precautionary measures in favour of Mr. Jaimes Criollo on 4 October 2018. Through these measures, the Inter-American Commission, considering him to be facing a situation of grave and urgent risk and irreparable harm, requested that the Bolivarian Republic of Venezuela:

“adopt any measures necessary to protect the rights to health, life and personal integrity of Pedro Patricio Jaimes Criollo, both by providing medical assistance that is appropriate for his current condition and by ensuring that his conditions of detention comply with applicable international standards”.¹

34. However, the source states that the State has failed to ensure appropriate medical assistance and decent conditions of detention for Mr. Jaimes Criollo. Owing to the fracture of one of his right ribs, caused by the beatings and torture to which he was subjected by SEBIN officers, Mr. Jaimes Criollo suffers constant pain, dizziness, diarrhoea and vomiting, besides being unable to sleep. The source also states that Mr. Jaimes Criollo has been poisoned by the food and water he receives in El Helicoide.

35. On 16 October 2018, the lawyers were officially recognized by the Court as Mr. Jaimes Criollo's private defence counsels. After various approaches to SEBIN officers, and although the *amparo* applications and other legal actions had been unsuccessful, the lawyers managed to get the Court to swear them in and allow them to consult the case file. However, the delays had allegedly already severely compromised Mr. Jaimes Criollo's defence, whose case had, until May 2018, been handled by a State-appointed public defender even though his family had appointed lawyers to act on his behalf.

36. The source indicates that Mr. Jaimes Criollo's preliminary hearing was rescheduled for 24 October 2018, but that, once again, it could not go ahead because SEBIN refused to bring the detainee to court. In the source's opinion, this confirms that pretrial detention was being used as a means to punish Mr. Jaimes Criollo and, at the same time, intimidate and censor all those who exercise their right to freedom of expression against the political interests of the Government.

37. On 13 November 2018, Mr. Jaimes Criollo's defence team resubmitted the first constitutional *amparo* application, which had been dismissed because they had supposedly not been officially recognized as his private defence counsels. For the source, it is a matter of concern that the Appeals Chamber which ruled on the first *amparo* application also considered this application, the Appeal Court being a single-chamber court. The source also highlights that in recent years the judiciary has never granted a constitutional *amparo* application in cases where the decision would effectively restore human rights violated as a result of decisions in which the executive branch and State agencies were involved. Meanwhile, the defence team continued to seek urgent medical assistance for Mr. Jaimes

¹ Inter-American Commission on Human Rights, resolution 78/2018, precautionary measure 688-18 (4 October 2018).

Criollo, although SEBIN officers still declined to take him to the necessary health-care facilities.

38. The hearing was rescheduled for 22 November 2018 but did not take place on this date either, because the Court did not sit. According to the source, the Court indicated that Mr. Jaimes Criollo was brought to the courthouse on this occasion but the hearing was suspended because apparently not all the parties were present. According to a report in the case file, the Court asked SEBIN to explain why it had failed to bring Mr. Jaimes Criollo to the courthouse. For the source, the increasingly commonplace practice whereby SEBIN refuses to transport detainees is worrying. The Court handling the case is doing nothing to guarantee a preliminary hearing for Mr. Jaimes Criollo, leaving him at the mercy of his jailers, in an uncertain situation and unable to mount a defence.

39. On 27 November 2018, the *amparo* application filed on 3 November 2018 was declared inadmissible because the applicants had allegedly failed “to attach the documents necessary to substantiate the violation reported”, the necessary documents being the record of the arraignment hearing and the statement of charges, both of which were in the judiciary’s possession. The source emphasizes that this is the third *amparo* application that has been refused Mr. Jaimes Criollo on official pretexts that prevent the merits of his case from being resolved. The source further recounts that, although human rights violations have been reported on several occasions, no investigation has been initiated, either ex officio or at the behest of one of the parties, to ascertain the truth of the allegations and the possible responsibility of the officials implicated.

40. On 29 November 2018, Mr. Jaimes Criollo finally received medical attention, although this was provided by officers attached to SEBIN. In the morning he was seen by a general medical practitioner and had a chest X-ray at the SEBIN medical facility. In the evening, he was taken back to this facility and seen by a traumatologist. After the medical examination, the doctor reported orally that Mr. Jaimes Criollo had suffered a right rib fracture that had healed irregularly; that his right rib was displaced; and that it was possible that the asthma attacks and constant pain he was suffering were caused by this displacement. Mr. Jaimes Criollo was also diagnosed with intercostal neuritis attributable to the lack of medical assistance in the period during which the fracture was healing. Anaesthetics were injected into his rib six times to ease the pain and he was prescribed medication, but he was not supplied with the medicines prescribed. The source indicates that Mr. Jaimes Criollo was told neither the name nor the title of the doctor who saw him; he was also denied access to the medical report drawn up during the consultations. It is claimed that SEBIN officials made video recordings while he was being treated. The source emphasizes that, in the meantime, Mr. Jaimes Criollo is being held in inadequate, overcrowded and unsanitary conditions; that he has still not been given medicine to alleviate his pain; and that he has no access to drinking water (according to the source, the water has an insanitary appearance, is light brown in colour and contains visible particles) and is not given sufficient food.

41. Mr. Jaimes Criollo’s preliminary hearing had been rescheduled for 29 November 2018 but he was not taken to court on this day either. SEBIN officials allegedly stated that they were going to check whether the transportation orders were authentic and had genuinely been issued by the Court. For the source, this attests to the disregard that SEBIN has for the authority of the judiciary, in this case Procedural Court No. 3, the “due process” court in Mr. Jaimes Criollo’s case.

42. The source emphasizes that, so far, no less than five preliminary hearings have been postponed for reasons attributable either to SEBIN or to the court hearing the case, while Mr. Jaimes Criollo remains in a legal limbo because of his unclear judicial status, being punished on a daily basis, despite not having been sentenced, for having lawfully exercised his freedom of expression. In the source’s opinion, this is one of the main objectives of criminal proceedings in the Bolivarian Republic of Venezuela, which use pretrial detention and alternative measures, without due process safeguards, to traumatize and intimidate victims who have exercised their right to freedom of expression.

43. On 10 December 2018, SEBIN officers informed the lawyers that the courts and prosecution service offices of Caracas and surrounding cities (including Los Teques) would be moved to the SEBIN facilities at El Helicoide until Wednesday, 12 December 2018 so that all pending hearings could be carried out. On this day, the lawyers were not permitted to visit Mr. Jaimes Criollo as they usually did on Mondays. Instead, they were denied entry and were given no update on the situation of the person they represent.

44. The team of defence lawyers petitioned the Court hearing the case to arrange an MRI scan for Mr. Jaimes Criollo in order to assess the intercostal neuritis diagnosed during the medical examination conducted by SEBIN at its Plaza Venezuela facility on 22 November 2018. On 12 December 2018, the Court granted the request and authorized Mr. Jaimes Criollo's transfer to the medical examiner's office closest to his place of detention.

45. On 20 December 2018, Procedural Court of First Instance No. 3 of the criminal court circuit of Miranda State determined that Mr. Jaimes Criollo's deprivation of liberty as a precautionary measure should be approved.

46. The source affirms that the ruling issued against Mr. Jaimes Criollo was neither fair, independent nor impartial, as required under article 14 of the Covenant, in view of the limits imposed on safeguards such as the right to adequate legal representation, the obstacles preventing contact and meetings with the detainee, the restrictions on access to his case file and information about the legal proceedings and the violations of his right to be tried without undue delay. Based on these arguments submitted by the source, his detention is arbitrary under category III.

Right to freedom of expression

47. The source alleges that, in the present case, the detention results from the peaceful exercise of freedom of expression via the Internet, a right that is protected under article 19 of the Covenant and that is also being violated as a consequence of his deprivation of liberty. Based on these arguments from the source, the detention of Mr. Jaimes Criollo is arbitrary under category II.

48. The source reports that information about the route of the presidential plane was publicly available on the Internet at the time it was tweeted by Mr. Jaimes Criollo and that all he did was share information already in the public domain. Using the Flightradar24 flight tracking website, simply by entering the code of the presidential plane, and provided the code is activated, as was the case, it is possible to ascertain, almost in real time, the location, route, altitude and speed of the plane and the weather conditions of the flight. This is information publicly accessible on the Internet.

49. The source argues that Mr. Jaimes Criollo obtained the information without breaching any security system and that it is neither possible nor lawful to classify certain public information ex post facto, to apply a confidentiality clause to Mr. Jaimes Criollo retroactively, and to prosecute him for reproducing or sharing a publicly known fact.

50. The source also contends that in the Bolivarian Republic of Venezuela there are officially no legal restrictions on information about the president's flight itinerary. Furthermore, if such restrictions were to be introduced, they would have to comply with the strict limitations established under international law and, in particular, to respect the right to freedom of expression and access to public information.

51. The source argues that the route of the presidential plane, insofar as it concerns a State official and State resources, constitutes information of public interest. Society has a legitimate interest in knowing how State resources are used and about Government activities. International law is predicated on the assumption that such information is publicly accessible and that the State must justify, in line with strict conditions, any legally imposed restrictions.

52. The source argues that Mr. Jaimes Criollo's prosecution and detention, allegedly for reasons of national security, have no legal basis. Rather they constitute arbitrary prosecution and detention in retaliation for the lawful exercise of his freedom of expression.

53. The source claims that the record of the arraignment hearing and the statement of charges prove the arbitrariness of his detention. Both are generic, purposeless documents devoid of concrete facts that might justify his detention and provide evidence of the discretionary power the State exercised in ordering pretrial detention as a means to criminalize and punish Mr. Jaimes Criollo for having lawfully exercised his freedom of expression.

54. As a subsidiary argument and irrespective of the foregoing, the source argues that Mr. Jaimes Criollo's pretrial detention in the present case is not justified pursuant to the

standards of international law, as it is not a measure necessary to ensure compliance with procedural requirements.

55. The source claims that Venezuelan criminal procedure law fails to take account of the State's international responsibility to explain why the adoption of a severe measures of last resort, such as pretrial detention, is justified in each specific case instead of imposing other less onerous measures that serve the same purpose. According to the source, the prosecution merely has to invoke offences that carry severe penalties in order for the judiciary to assume a flight risk and automatically order pretrial detention as the measure of first resort. The source observes that pretrial detention is used as a means of sentencing without conviction, or as a form of advance punishment, in the face of dissidence or the expression of ideas not to the Government's liking.

Response from the Government

56. On 12 February 2019, the Working Group transmitted the allegations from the source to the Government, requesting that it submit a response before 15 April 2019. The Government requested an extension of this deadline and was given until 15 May 2019 to reply. The Government submitted its response on 14 May 2019.

57. The Government claims that Mr. Jaimes Criollo was arrested in flagrante delicto on 10 May 2018 by SEBIN officials who duly identified themselves, because of his allegedly criminal activity. It states that Mr. Jaimes Criollo was immediately taken to the SEBIN headquarters in Caracas and was informed of his rights and the reasons for his arrest.

58. The Government states that on the day of his arrest a medical examination was conducted by a team of SEBIN officers who observed that Mr. Jaimes Criollo had been suffering from "intercostal neuritis on his right side" prior to his arrest, for which reason the allegations of torture and lack of medical assistance cannot be accurate.

59. On 12 May 2018, Mr. Jaimes Criollo was brought before Procedural Court of First Instance No. 3 of Miranda State, in accordance with article 44 of the Constitution and article 373 of the Organic Code of Criminal Procedure.

60. The Government claims that before the arraignment hearing Mr. Jaimes Criollo had the opportunity to appoint a trusted lawyer to defend him. However, the Government states that Mr. Jaimes Criollo decided not to avail himself of this right and that he was therefore assigned a public defender.

61. During the arraignment hearing, the public prosecutor charged Mr. Jaimes Criollo with the offences of interfering in operational security, disclosing political secrets and cyberespionage, as defined and punished in article 140 of the Civil Aeronautics Act, article 134 of the Criminal Code and article 11 of the Special Act against Computer Crime, respectively.

62. At the end of the hearing, the Court ordered that Mr. Jaimes Criollo be detained on remand, considering there to be sufficient grounds to assume a flight risk pursuant to articles 236 and 237 of the Organic Code of Criminal Procedure.

63. On 1 June 2018, relatives of Mr. Jaimes Criollo submitted a request to appoint private lawyers for the accused and asked for him to be brought to court so that the appointment could be formally confirmed. The Government states that Venezuelan law requires the appointment to be made by the defendant and then accepted by the lawyer in question.

64. On 20 June 2018, the public defender assigned to Mr. Jaimes Criollo asked for his pretrial detention to be reviewed.

65. On 25 June 2018, the public prosecutor charged Mr. Jaimes Criollo with the offences attributed to him at the arraignment hearing.

66. According to the Government, the investigation revealed that Mr. Jaimes Criollo used technological tools to interfere in the radio communications of aircraft and airports with a view to obtaining classified information that was subsequently shared on social networks and through cellular telephony services. In this connection, during a visit to his home, electronic equipment and other devices were seized which, the Government alleges, were used to interfere in aircraft and airport communications.

67. On 18 July 2018, the public defender assigned to Mr. Jaimes Criollo submitted a written objection to the charges on the grounds that there were divergences from the statement of charges drawn up by the Public Prosecutor's Office.

68. On 21 August 2018, the judge assigned to the Court formally assumed jurisdiction over the case, having apparently been assigned to it as a result of the rotation of the judges of the criminal court circuit. This meant rescheduling all of the court's activities, including the preliminary hearing of Mr. Jaimes Criollo's case.

69. On 15 October 2018, the appointment of Mr. Jaimes Criollo's new legal representatives became effective, when the private lawyers appointed completed the formalities by submitting a document signed by Mr. Jaimes Criollo that confirmed his choice.

70. On 31 January 2019, the preliminary hearing was held. The judge admitted the statement of charges and the evidence provided by the Public Prosecutor's Office, confirmed the detention order and ordered the trial to begin.

71. The Government contends that the conditions in which Mr. Jaimes Criollo is being held are in line with applicable international standards and include access to health facilities. It also states that access to health care has been guaranteed at all times.

72. The Government states that Mr. Jaimes Criollo's detention cannot be considered arbitrary under category I as he was arrested in flagrante delicto, pursuant to articles 234 and 373 of the Organic Code of Criminal Procedure.

73. It also states that his detention cannot be considered arbitrary under category II, as he was not arrested for having exercised rights and freedoms protected under international human rights law. The Government argues that his detention was the outcome of the investigation carried out, which revealed that the defendant used technological tools to interfere in communications and obtain classified information, which he subsequently shared. For the Government, these actions created a risk for the security of civil aviation operations in the Bolivarian Republic of Venezuela. It claims that the information was not in the public domain but was of a classified nature.

74. Lastly, the Government indicates that the arrest can also not be considered arbitrary under category III, since all due process safeguards were respected during the judicial proceedings carried out following the arrest. Mr. Jaimes Criollo had the support of a defence lawyer at all times and his legal representatives availed themselves of the appropriate remedies, including appeals, reviews of measures and special remedies.

Additional comments from the source

75. The Working Group transmitted the Government's response to the source on 22 March 2019. The source submitted final comments and observations on the Government's response on 21 July 2017.

76. In these final comments, the source notes that the Government has never questioned the fact that the information shared on Twitter by Mr. Jaimes Criollo was publicly available, disregarding the relevant norms applicable to the right to freedom of expression. The source reiterates that Mr. Jaimes Criollo shared information obtained through the Flightradar24 online flight tracker and highlights that the restriction on freedom of expression that the Government is attempting to impose in this case has never been expressly established in a law that could restrict access to information about the presidential plane and classify such information as confidential.

77. The source alleges that the provisions invoked by the Government, namely, article 140 of the Civil Aeronautics Act, article 134 of the Criminal Code and article 11 of the Special Act against Computer Crime, are not applicable to the present case, and that their meanings are being distorted in an attempt to justify their application.

78. The source also asserts that the Government failed to explain how the case might be considered a matter of national security or the imminent information risk potentially involved. It also failed to consider whether the information might be in the public interest and whether the benefits of sharing it outweighed the benefits that its classification might bring. For the source, information about the presidential plane is a matter of public interest.

79. The source recalls that Mr. Jaimes Criollo has reported having been subjected to torture, ill-treatment and beatings at the hands of SEBIN officers since his arraignment hearing. Although his defence lawyers have reiterated these claims, no investigation has been initiated. The source also reports that the court order establishing that he should be detained in Yare prison has never been complied with and that the prisoner was instead subjected to enforced disappearance following the aforementioned hearing.

80. The source also highlights that Mr. Jaimes Criollo's family made repeated but unsuccessful attempts to appoint a defence lawyer, in accordance with the provisions of article 127 (3) of the Organic Code of Criminal Procedure, and that the Government failed to respond to the complaints they made about this irregularity.

81. The source also emphasizes the lack of adequate medical assistance to treat his symptoms, the complaints made by Mr. Jaimes Criollo and his defence lawyers about his state of health and the physical and psychological suffering caused by his detention and the torture and ill-treatment he suffered at the SEBIN facility. Transfers, medical examinations and treatment appropriate to his fragile state of health were requested on various occasions but the requests were never duly acted upon by the authorities.

Discussion

82. The Working Group thanks the parties for their initial communication and subsequent contributions to the resolution of the present case.

83. The Working Group is mandated to investigate all cases of deprivation of liberty imposed arbitrarily that are brought to its attention. In the discharge of its mandate, it refers to the relevant international standards set forth in the Universal Declaration of Human Rights, the Covenant and other international instruments, in accordance with its methods of work.

84. The Working Group has in its jurisprudence established the ways in which it deals with evidentiary issues. If the source has established a prima facie case for breach of international requirements constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations. Mere assertions that lawful procedures have been followed will not be sufficient to rebut the source's allegations.²

85. Based on information provided by the source, which has not been contested by the Government, the Working Group notes that Mr. Jaimes Criollo manages a Twitter account used to share public information about weather conditions and air traffic around the world.

Category I

86. The Working Group has indicated that any person who is arrested must be informed, at the time of their arrest, not only of the reasons for the arrest³ but also of the judicial avenues available for challenging its lawfulness.⁴ The reasons for the arrest must include not only the general legal basis but also factual specifics to indicate the substance of the complaint and the wrongful act committed. These reasons are understood to be the official basis for the arrest, not the subjective motivations of the arresting officer.⁵

87. In addition, for the Working Group persons deprived of their liberty are entitled to be informed by the authorities, at the time of their arrest, of their right to be assisted by a

² See A/HRC/19/57, para. 68.

³ Article 9 (2) of the Covenant.

⁴ United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court, principle 7 (right to be informed), A/HRC/30/37, para. 10.

⁵ Human Rights Committee, general comment No. 35 (2014) on liberty and security of person, para. 25.

lawyer of their own choosing.⁶ Persons who have been arrested also have the right to be informed promptly of the charges against them.⁷

88. In its jurisprudence, the Working Group has consistently held that a person is considered to have been arrested in flagrante delicto when the accused is deprived of liberty during or immediately after the commission of a crime or is arrested in pursuit moments after the crime has been committed.⁸

89. The Working Group notes that Mr. Jaimes Criollo was arrested in the morning of 10 May 2018 by SEBIN officers without an arrest warrant being shown. Mr. Jaimes Criollo had shared the itinerary of the presidential plane through his Twitter account on 3 May; in other words, a week passed between the day on which the acts that the Government is qualifying as an offence were allegedly carried out and the day of his arrest. The Working Group has not received convincing information that the arrest was carried out either while the offence was being committed, immediately afterwards or in pursuit.

90. The Working Group notes that Mr. Jaimes Criollo was arrested and taken against his will for questioning in a place that was never officially disclosed to his family; it was not until 11 hours later that the family found out where he was being held. Throughout this period Mr. Jaimes Criollo was also denied access to a lawyer of his choosing. His arraignment hearing did not take place until 12 May, after which he was detained on remand.

91. On the basis of the foregoing, the Working Group concludes that Mr. Jaimes Criollo was arrested without a warrant and without being informed of the reasons for his arrest. He was not arrested in flagrante delicto. Since the Venezuelan authorities were unable to invoke any legal basis to justify the initial arrest, it may be considered arbitrary under category I.

Category II

92. The Working Group is of the view that freedom of opinion and freedom of expression are indispensable prerequisites for the full development of the person and constitute the cornerstone of free and democratic societies.⁹

93. Everyone has the right to freedom of expression, which includes the right to impart information and ideas of all kinds, whether orally or in any other form. The exercise of these rights may be subject to restrictions, provided that these are expressly established by law and are necessary to ensure respect for the rights or reputations of others, or to protect national security, public order, or public health or morals.¹⁰

94. The Working Group has stated that:

“[t]he Internet is, in many respects, a mode of communication comparable to the diffusion or reception of information or ideas through any other means, such as books, newspapers, letters and other similar postal services, telephone, radio broadcasting or television. However, there also exist meaningful differences between the exercise of the freedom of expression via the Internet, and other, more traditional means of communication. Namely, the distribution and reception of information by the Internet is much wider and quicker. In addition, the Internet is more easily accessible to anyone. Even more significantly, the Internet is a mode of communication which operates not on a local but on a global scale, not depending on national territorial boundaries.”¹¹

⁶ Principle 9 (Assistance by legal counsel and access to legal aid), A/HRC/30/37, paras. 12–15.

⁷ Article 9 (2) of the Covenant. See also opinions No. 13/2018, para. 22; No. 9/2018, para. 38; No. 36/2017, para. 85; No. 53/2014, para. 42; No. 46/2012, para. 30; No. 67/2011, para. 30; and No. 61/2011, paras. 48 and 49. See also E/CN.4/2003/8/Add.3, paras. 39 and 72 (a).

⁸ *Ibid.*

⁹ Human Rights Committee, general comment No. 35 (2014) on liberty and security of person, para. 2.

¹⁰ Opinion No. 58/2017, para. 42.

¹¹ Deliberation No. 8 on deprivation of liberty linked to/resulting from the use of the Internet, E/CN.4/2006/7, para. 36.

95. The rights to freedom of expression and to seek, receive and impart information of all kinds, via the means of one's choice, including the Internet, and in particular social networks such as Twitter, carry with them special duties and responsibilities, and may be subject to restrictions established by law that are necessary, inter alia, to protect national security.¹²

96. The Human Rights Committee recalls that:

“[e]xtreme care must be taken by States parties to ensure that treason laws and similar provisions relating to national security, whether described as official secrets or sedition laws or otherwise, are crafted and applied in a manner that conforms to the strict requirements of paragraph 3. It is not compatible with paragraph 3, for instance, to invoke such laws to suppress or withhold from the public information of legitimate public interest that does not harm national security or to prosecute journalists, researchers, environmental activists, human rights defenders, or others, for having disseminated such information. Nor is it generally appropriate to include in the remit of such laws such categories of information as those relating to the commercial sector, banking and scientific progress.”¹³

97. When a State party invokes a legitimate ground for restriction of freedom of expression, it must demonstrate in specific and individualized fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, establishing a direct and immediate connection between the expression and the threat.¹⁴ The Working Group is convinced that, on 3 May 2018, Mr. Jaimes Criollo shared through his Twitter account the itinerary that the plane used by the President of the Bolivarian Republic of Venezuela would be taking, along with other air traffic information such as location, height and speed. It is also convinced that this air traffic information was drawn from sources in the public domain and can easily be found on the Internet.

98. The Working Group is also convinced that there is no law that clearly and precisely stipulates that the information cited as the grounds for detention is classified for reasons of national security. It also received no convincing information as to how sharing this information might constitute conduct that merits punishment under criminal law. The Government also failed to provide convincing information about the interference in communications in which he allegedly engaged in order to obtain the information shared on social networks, or to explain why this information is not of legitimate public interest and why its dissemination might compromise national security.

99. The Working Group must therefore inevitably conclude that Mr. Jaimes Criollo was detained for having exercised the right to freedom of expression by sharing, through the Twitter social network, information of legitimate public interest that was not prejudicial to national security. Consequently, his detention violates the provisions of articles 9 and 10 of the Universal Declaration of Human Rights and articles 9 and 14 of the Covenant, making it arbitrary under category II.

Category III

100. In the light of the findings made in relation to categories I and II, in which it concluded that the detention is the result of the exercise of the right to freedom of expression, the Working Group considers that there is no basis that justifies the trial. However, since a trial is taking place, and the complainant is facing possibly severe penalties, and in view of the claims made by the source and the Government's response, the Working Group will proceed to analyse whether, in the course of the judicial proceedings, the fundamental components of a fair, independent and impartial trial have been respected.

101. The Working Group determined that Mr. Jaimes Criollo was arrested by the authorities without a court order being shown and without being caught in flagrante delicto, in violation of the provisions of article 9 of the Covenant. It also found that a court ordered that he be detained on remand on the basis that there was a proven flight risk. The Working Group also verified that, on 26 June 2018, the prosecution service formally charged Mr.

¹² Article 19 (3) of the Covenant.

¹³ General comment No. 34, para. 30.

¹⁴ *Ibid.*, para. 35.

Jaimes Criollo of the offences detailed in the statement of charges, which related to use of the Twitter social network.

Adequate defence

102. The Working Group recalls that it is the right of all persons charged with a criminal offence to be informed promptly of the nature and cause of the charges against them, and to have adequate time and facilities for the preparation of their defence and to communicate with counsel of their own choosing.¹⁵ The Working Group wishes to stress that the accused person has the right to be assisted and defended by a lawyer of his own choosing.¹⁶

103. The Working Group considers that a person's right to be informed promptly of the nature and cause of the charges against him or her may be satisfied by stating the charges orally provided that they are later confirmed in a written document that indicates both the applicable law and the facts on which the charges are based.¹⁷

104. With regard to the right to defence counsel and to adequate time and facilities to mount a defence, the Working Group is of the opinion that accused persons should have adequate time and facilities for this purpose, which implies that they should have prompt access to lawyers, should be able to communicate with them in private, in conditions that fully respect the confidentiality of their communications,¹⁸ should have adequate time for the preparation of their defence¹⁹ and should be provided with access to the file containing all documents, evidence and other materials that the prosecution intends to submit to the court.²⁰

105. The Working Group also considers that:

“[t]he factual and legal basis for the detention shall be disclosed to the detainee and/or his or her representative without delay so as to provide adequate time to prepare a challenge. Disclosure includes a copy of the detention order, access to and a copy of the case file, in addition to the disclosure of any material in the possession of the authorities or to which they may gain access relating to the reasons for the deprivation of liberty.”²¹

106. The Working Group learned from the submission that, from the moment of his arrest, Mr. Jaimes Criollo was denied the right to appoint a lawyer of his choosing and that his lawyers were not given the opportunity to review his case file until 16 October 2018. In addition to the foregoing, the Working Group found that, from 12 May to 15 June 2018, Mr. Jaimes Criollo's family and lawyers had no knowledge of his whereabouts, despite pursuing various avenues, which affected his right to have adequate time and facilities for the preparation of his defence.

107. For the Working Group, the above situation constitutes a violation of the right of all persons to choose their lawyer, to have adequate time and facilities for the preparation of their defence and to communicate with counsel of his or her own choosing, as recognized in article 14 (3) (b) and (d) of the Covenant.

Right to be tried without undue delay

108. The Covenant also recognizes the right of all persons charged with a criminal offence to be tried without undue delay.²² The Working Group considers that delays in civil proceedings can be justified only by the complexity of the case or the behaviour of the parties: delays for any other reasons are incompatible with the Covenant and compromise

¹⁵ Article 14 (3) (a) and (b) of the Covenant.

¹⁶ *Ibid.*, article 14 (3) (d)

¹⁷ Human Rights Committee, general comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial, para. 31.

¹⁸ *Ibid.*, para. 34.

¹⁹ *Ibid.*, para. 32.

²⁰ *Ibid.*, para. 33.

²¹ Guideline 5 (right to be informed), A/HRC/30/37, para. 56.

²² Article 14 (3) (c) of the Covenant.

the impartiality of a trial.²³ In addition, the Human Rights Committee has stated that, when such delays are caused by a lack of resources, to the extent possible States should allocate sufficient budgetary resources.²⁴

109. The Working Group has previously stated that defendants have the right to be brought before a judge for trial without delay, and to have the legality of their detention reviewed.²⁵ The Working Group recognizes, as the Human Rights Committee has stated, that the physical presence of detainees is important to this review, and also serves as a safeguard for detainees' right to security of person and physical safety.²⁶

110. The Working Group received convincing information that five preliminary hearings were postponed in 2018 (on 25 July, 20 September, 24 October, 22 November and 29 November) for reasons attributable exclusively to the authorities. The Working Group received convincing information that the first hearing was postponed because the court was closed, while the other four were postponed because SEBIN officers failed to take Mr. Jaimes Criollo to court. In this context, the Working Group is not convinced that the delays were due to the complexity of the case, or that the delays were due to reasons attributable to Mr. Jaimes Criollo. Consequently, the Working Group considers that the postponements of the hearing are incompatible with the right to be tried without undue delay, in accordance with articles 10 and 11 (1) of the Universal Declaration of Human Rights and articles 9 (3) and 14 (3) (c) of the Covenant.

111. In the light of the partial non-observance of international norms on the right to a fair trial, as enshrined in articles 9, 10 and 11 of the Universal Declaration of Human Rights and articles 9 and 14 of the Covenant, the Working Group considers that Mr. Jaimes Criollo's detention is arbitrary under category III.

112. In recent years, the Working Group has repeatedly expressed views on multiple arbitrary arrests of political opponents of the Government or people who have exercised their rights to freedom of opinion, expression, association, assembly or political participation.²⁷ Such persecution, in the Working Group's view, is an attack or systematic practice engaged in by the Government to deprive political opponents of their physical freedom, particularly those who are seen as opponents of the regime, in violation of fundamental rules of international law, including the Universal Declaration of Human Rights and the Covenant. The Working Group recalls that, in some circumstances, imprisonment and other severe forms of deprivation of liberty that violate internationally accepted norms may constitute crimes against humanity.²⁸

²³ General comment No. 32, para. 27.

²⁴ *Ibid.*, para. 27.

²⁵ Opinion No. 78/2018, paras. 75 and 76.

²⁶ General comment No. 35, paras. 34 and 42.

²⁷ Opinions Nos. 86/2018 (Aristides Manuel Moreno Méndez); 49/2018 (José Vicente García Ramírez); Opinion No. 41/2018 (Juan Pedro Lares Rangel); 32/2018 (Ángel Machado, Luis Aguirre, Alberto Cabrera, Wuilly Delgadillo, Romer Delgado, José Gregorio González, Dehlor De Jesús Lizardo, Nirso López, Pedro Marval, Antonio Medina, Arcilo Nava Suárez, Geovanny Nava Suárez, Kendry Parra, Jesled Rosales, Franklin Tovar, Ender Victa and Kiussnert Zara); 52/2017 (Gilbert Alexander Caro Alfonzo); 37/2017 (Braulio Jatar); 18/2017 (Yon Alexander Goicoechea Lara); 27/2015 (Antonio José Ledezma Díaz); 26/2015 (Gerardo Ernesto Carrero Delgado, Gerardo Rafael Resplandor Veracierta, Nixon Alfonzo Leal Toro, Carlos Pérez and Renzo David Prieto Ramírez); 7/2015 (Rosmit Mantilla); 1/2015 (Vincenzo Scarano Spisso); 51/2014 (Maikel Giovanni Rondón Romero and 316 others); 26/2014 (Leopoldo López); 29/2014 (Juan Carlos Nieto Quintero); 30/2014 (Daniel Omar Ceballos Morales); 47/2013 (Antonio José Rivero González); 56/2012 (César Daniel Camejo Blanco); 28/2012 (Raúl Leonardo Linares); 62/2011 (Sabino Romero Izarra); 65/2011 (Hernán José Sifontes Tovar, Ernesto Enrique Rangel Aguilera and Juan Carlos Carvallo Villegas); 27/2011 (Marcos Michel Siervo Sabarsky); 28/2011 (Miguel Eduardo Osío Zamora); 31/2010 (Santiago Giraldo Florez, Luis Carlos Cossio, Cruz Elba Giraldo Florez, Isabel Giraldo Celedón, Secundino Andrés Cadavid, Dimas Oreyanos Lizcano and Omar Alexander Rey Pérez); and 10/2009 (Eligio Cedeño).

²⁸ Opinions No. 37/2011, para. 15; No. 38/2011, para. 16; No. 39/2011, para. 17; No. 4/2012, para. 26; No. 4/2012, paras. 19 and 22; No. 34/2013, paras. 31, 33 and 35; No. 35/2013, paras. 33, 35 and 37; No. 36/2013, paras. 32, 34 and 36; No. 38/2012, para. 33; No. 48/2013, para. 14; No. 22/2014, para.

113. In the light of the recurrent pattern of arbitrary detention identified by this international human rights mechanism in recent years, the Government is urged to consider inviting the Working Group to make an official country visit. Such visits are an opportunity for the Working Group to engage in direct constructive dialogue with the Government and with representatives of civil society, with the aim of better understanding the situation of deprivation of liberty in the country and the underlying reasons for arbitrary detention.

114. Based on the information received about Mr. Jaimes Criollo's state of health, need for medicine, conditions of detention, and about torture and other cruel, inhuman or degrading treatment or punishment and enforced disappearance, the Working Group, in accordance with article 33 (a) of its working methods, refers the case to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and the Working Group on Enforced or Involuntary Disappearances.

Decision

115. In the light of the foregoing, the Working Group renders the following opinion:

The deprivation of liberty of Pedro Jaimes Criollo, being in contravention of articles 9, 10, 11 and 19 of the Universal Declaration of Human Rights and articles 9, 14 and 19 of the International Covenant on Civil and Political Rights, is arbitrary, falling within categories I, II and III.

116. The Working Group requests the Government of the Bolivarian Republic of Venezuela to take the steps necessary to remedy the situation of Mr. Jaimes Criollo without delay and bring it into conformity with the relevant international norms, including those set out in the Universal Declaration of Human Rights and the Covenant.

117. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to release Mr. Jaimes Criollo unconditionally and accord him an enforceable right to compensation and other reparations, in accordance with international law.

118. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty of Mr. Jaimes Criollo and to take appropriate measures against those responsible for the violation of his rights.

119. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the present case to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Working Group on Enforced or Involuntary Disappearances for appropriate action.

120. The Working Group requests the Government to disseminate the present opinion through all available means and as widely as possible.

Follow-up procedure

121. In accordance with paragraph 20 of its methods of work, the Working Group requests the source and the Government to provide it with information on action taken in follow-up to the recommendations made in the present opinion, including:

- (a) Whether Mr. Jaimes Criollo has been released and, if so, on what date;
- (b) Whether compensation or other reparations have been made to Mr. Jaimes Criollo;
- (c) Whether an investigation has been conducted into the violation of Mr. Jaimes Criollo's rights and, if so, the outcome of the investigation;

25; No. 27/2014, para. 32; No. 34/2014, para. 34; No. 35/2014, para. 19; No. 44/2016, para. 37; No. 32/2017, para. 40; No. 33/2017, para. 102; and No. 36/2017, para. 110.

(d) Whether any legislative amendments or changes in practice have been made to harmonize the laws and practices of the Bolivarian Republic of Venezuela with its international obligations in line with the present opinion;

(e) Whether any other action has been taken to implement the present opinion.

122. The Government is invited to inform the Working Group of any difficulties it may have encountered in implementing the recommendations made in the present opinion and whether further technical assistance is required, for example, through a visit by the Working Group.

123. The Working Group requests the source and the Government to provide the above-mentioned information within six months of the date of transmission of the present opinion. However, the Working Group reserves the right to take its own action in follow-up to the opinion if new concerns in relation to the case are brought to its attention. Such action would enable the Working Group to inform the Human Rights Council of progress made in implementing its recommendations, as well as any failure to take action.

124. The Working Group notes that the Human Rights Council has encouraged all States to cooperate with the Working Group and requested them to take account of its views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty, and to inform the Working Group of the steps they have taken.²⁹

[Adopted on 13 August 2019]

²⁹ Human Rights Council resolution 33/30, paras. 3 and 7.