



BOLIVARIAN REPUBLIC OF VENEZUELA

IN HIS NAME

SUPREME COURT OF JUSTICE

CRIMINAL CHAMBER OF APPEAL

Years: 211° and 162°.

Rapporteur: Mgdo. PEDRO JOSE TROCONIS DA SILVA

File: SCP-2020-004

SUBJECT: Interpretation of current norms on terrorism and their adequacy to conducts deployed by members of the United Socialist Party of Venezuela in compliance with its statutes and programmatic thinking.

SOLICITANTS: By means of a brief presented on June 23, 2020, **Mariela Graciela Giménez Áñez**, a Venezuelan citizen, of legal age, holder of identity card No. 13.127.788; assisted by the legal professional **Edilberto Escalante Rojas**, a practicing attorney, registered with the Venezuelan Lawyer's Social Security Institute under No. 43.362; requests the interpretation of the norms contained in Articles XIV, XV and XVI of the Inter-American Convention Against Corruption, concatenated with Articles 2, 3, 4, 5, 6, 7, 8 and 9 of the Inter-American Convention Against Terrorism, for the purpose of pursuing the capital escaped as a result of the corrupt practices of the narco-terrorist regime prevailing in Venezuela, led by Nicolás Maduro Moros. This appeal was ordered to be **joined** to the request filed on June 18, 2020 by the citizen **Carlos Méndez Jiménez**, of legal age, Venezuelan, officer with the rank of Colonel retired from the Bolivarian National Guard of Venezuela, and request filed by the citizens **Brenda Stephens and Ricardo Troconis Troconis**, who act as President and Vice President, respectively, of the Venezuelan American Emerald Coast House, who adhere to the request filed by the citizen Calos Méndez Jiménez.

INTEGRATION OF THE COURT: The magistrates elected and sworn in by the National Assembly of the Bolivarian Republic of Venezuela (AN)¹, agreed on September 20, 2017, to integrate the Supreme Court of Justice (TSJ) and that its operation would be verified through its Chambers in accordance with Article 262 of the Constitution of the Bolivarian Republic of Venezuela; thus complying with the duty to guarantee it, as provided in its Article 333. The Criminal Cassation Chamber is composed of the following judges: Pedro José Troconis Da Silva (appointed by the plenary as President); Beatriz Ruiz Marín (appointed by the plenary as Vice President); Cruz Alejandro Graterol Roque and Milton Ladera Jiménez. Attorney Reynaldo Paredes Mena was also appointed as Accidental Secretary of the Chamber.

In consideration of the matter, it was decided to decide this case under the presidency of Judge Pedro José Troconis Da Silva. Next, this Criminal Cassation Chamber proceeds to rule in the following terms:

I
OF THE COMPETITION

Article 266 of the Constitution of the Republic sets out the powers of the Supreme Court of Justice, including paragraph 6 of the aforementioned article:

Article 266. The Supreme Court of Justice has the following powers:

6. To hear appeals for interpretation of the content and scope of legal texts, under the terms provided by law.

Now, the Criminal Cassation Chamber observes that the constitutional legislature did not assign exclusive knowledge of the matter to a particular Chamber, but rather extended such competence to any of the Chambers of the Supreme Court of Justice, as is evident from the final part of the aforementioned constitutional provision:

¹According to Ordinary Act No. 34-2017 and Special Act No. 5-2017, in sessions of July 21, 2017 by the National Assembly of the Bolivarian Republic of Venezuela.

"The powers set forth in paragraph 1 shall be exercised by the Constitutional Chamber; those set forth in paragraphs 2 and 3 by the Full Chamber; and those set forth in paragraphs 4 and 5 by the Political-Administrative Chamber. The other powers shall be exercised by the various Chambers in accordance with the provisions of this Constitution and the law."

By virtue of the foregoing considerations, this Criminal Cassation Chamber declares itself competent to hear appeals of interpretation on the content and scope of legal provisions, both of a substantive and adjective criminal nature. **It is so decided.**

II

CLAIM OF THE APPLICANTS

The request of the citizen **Mariela Graciela Giménez Añez**, assisted by attorney **Edilberto Escalante Rojas**, concerns:

“...To request this Supreme (sic) Court to rule on the norms contained in Articles XIV, XV and XVI of the INTER-AMERICAN CONVENTION AGAINST CORRUPTION, in conjunction with Articles 2, 3, 4, 5, 6, 7, 8 and 9 of the INTER-AMERICAN CONVENTION AGAINST TERRORISM, in order to prosecute the capital that has escaped as a result of the corrupt practices of the narco-terrorist regime, 8 and 9 of the INTER-AMERICAN CONVENTION AGAINST TERRORISM, for the purpose of pursuing the capital escaped as a result of the corrupt practices of the Narco-Terrorist regime prevailing in Venezuela, led by the fugitive from justice Nicolás Maduro Moros.

(...)

I believe that these Conventions, which have been signed by the Republic, can act as a mechanism to build the necessary capacities to confront the regime that usurps power in Venezuela, and to weaken the exercise of that usurpation, pursuing the escaped capital resulting from its terrorist and corrupt businesses...".

Carlos Méndez Jiménez, on the other hand, states in his request:

"The usurper Nicolás Maduro has been accused by the US Justice, in the voice of the Attorney General (sic) of the United States William Barr, presenting him with criminal charges of drug trafficking and money laundering or money laundering, which is in addition to other individual sanctions that have been imposed on him; He has described him as "an illegitimate ruler and dictator, considered the leader of a drug cartel (Cartel of the Suns) in collaboration with the former guerrilla of the Revolutionary Armed Forces of Colombia (FARC), with a "conspiracy for narco-terrorism". Prosecutor Barr has also expressed that "the regime led by PSUV leaders is infected by criminality and corruption". That is to say that they are accused of being terrorists, drug traffickers, with friendly ties to the FARC, the ELN, Hezbollah, drug cartels, turning Venezuela into a promoter of international terrorism.

In addition to Maduro, other top leaders of that criminal organization have also been accused of corruption, drug trafficking, and money laundering; they are Diosdado Cabello Rondón, Vice President of the PSUV, Maikel Moreno, usurper president of the illegitimate TSJ (...) also accused of allegedly receiving tens of millions of dollars to "fix" multiple civil and criminal cases in Venezuela and General in Chief Vladimir Padrino López, usurper of the Ministry of Defense.

(...)

To these serious crimes committed by these characters, we should add countless high, middle and low "leaders", including the so-called communal power, who have committed a variety of outrages and crimes to the detriment of the Venezuelan people, with flagrant and frequent violations of human rights. The PSUV shelters and protects all kinds of criminals, from white collar to those convicted and prosecuted in the various prisons of the country, protecting organizations called "Collectives", which are nothing more than armed gangs without control by any authority.

(...)

Finally, I request, I respectfully demand that the Supreme Court of Justice Legítimo (sic), determine whether the PSUV is a criminal and terrorist organization, in

accordance with Venezuelan and international legislation in force, in order to legally proceed to sanction and dissolve that organization, for not being a political party, but a criminal grouping..."

Regarding the request presented by citizens **Brenda Stephens and Ricardo Troconis Troconis**, acting as legal representatives of **CASA VENEZOLANA AMERICANA EMERALD COAST**, civil association; it is about an adhesion to the request formulated by citizen Carlos Méndez Jiménez, under the same terms.

III

ADMISSIBILITY OF THE APPEAL

This Chamber considers that the necessary requirement for an appeal of interpretation to be admitted lies in the connection with a concrete case in order to determine the legitimacy of the appellant and that it motivates the study of the existence of reasonable doubts about the understanding of the norm, which justifies the activation of the apparatus of justice.

The appeal must also be precise as to the ambiguity or contradiction of the rule whose interpretation is sought; it must not have been previously decided by the Chamber, unless it is necessary to modify it; it must not be filed in substitution of other existing procedural appeals; and it must refer to a rule of legal rank.

Now, in the initial study of the instant case, it is verified that the requested interpretation is raised in isolation, without referring to a specific legal case, nor have the appellants demonstrated the legitimacy with which they are acting and make no mention of the existence of a prior criminal proceeding.

Likewise, the existence of a reasonable doubt on the application of the norms whose interpretation is sought is not verified and the existing doubts that have not been previously interpreted are not raised in a precise manner.

In view of the foregoing, this Chamber considers that in the absence of the essential requirements for the admissibility of the appeals of interpretation, the appeals that motivate the present case must necessarily be declared **INADMISSIBLE**. Thus it is declared.

IV
PRONOUNCEMENT
FOR JUSTICE
"IUSTITIA NEMINI NEGANDA EST".

The requests received and accumulated, coincide in the claim, that this Chamber declare and subsequently send to the international community and organizations, a request for the incorporation of government officials, as well as the political organization **United Socialist Party of Venezuela** (hereinafter PSUV), in the list of **terrorist persons and organizations**. Now, given our knowledge of the existence of reports by representatives of the United Nations, the Organization of American States, the Council of the European Union and the existing complaints before the Office of the Prosecutor of the International Criminal Court for alleged acts of violation of human rights, we deliberate that it is important to consider the activities of the members of that political organization and its governmental activities with events that internationally could be considered acts of terrorism.

For the Magistrates that make up this Chamber, it would be an infamy to overlook the arguments included in the requests that initiated the present case; manifestations that, together with the knowledge obtained through news sources, and the opinion of the High Commissioner for Human Rights before the United Nations, as well as the second report presented by the UN Independent International Mission on the Venezuela case. It is imperative to determine whether or not the constant violations of human rights in our

country are the result of a planning of the citizen Nicolás Maduro Moros together with the members that make up his patibular structure, dressed in legality under the political organization called PSUV, using as an instrument of execution, to instill terror in the Venezuelan people through security organs both civilian and military and irregular or parapolice groups, who are guaranteed impunity for their acts, because the criminal structure has the unconditional support of those who invade the headquarters of the Supreme Court of Justice in the city of Caracas, who have been entrusted with the mission of turning the Venezuelan Administration of Justice into a den of impunity and corruption; And in view of this situation, as the highest representatives of the Judiciary, we are obliged to impart justice to those who request it, "*iustitia nemini neganda est*", maintaining as a maxim, justice cannot be denied to anyone.

We must begin by saying that the Real Academia Española defines the word terrorism as: "*...Domination by terror. Succession of acts of violence executed to instill terror. Criminal action by organized gangs, which, repeatedly and usually in an indiscriminate manner, seeks to create social alarm for political purposes....*"²(*Underlining of the Chamber*).

However, the notion of terrorism at the international level presents difficulties in defining its scope and its subjection in the general legal framework, finding that the problem increases when we consider who executes it for the purpose of classifying conduct as terrorist, a difficulty that increases when the acts are committed by State officials against the civilian population, the latter case constituting what some call **State terrorism or terrorism from the State**.

The term **State terrorism or terrorism from the State** has been the subject of several studies, but there is still no clear definition in any international instrument; however, it is present at times when State security groups, whether civilian or military, or irregular or parapolice groups, following the instructions of rulers, make systematic or widespread use

² <https://dle.rae.es/terrorismo>

of violence against a population, such as the murder of Oscar Perez and his companions in Venezuela³.

The terrorism of the State or from the State, we will not find it defined in international conventions or pacts, or within our internal legislation, because it is incomprehensible that those who lead a State think of committing acts of terrorism against the same people they govern, being this inconceivable in a democratic State, Therefore, it would not be appropriate to submit for discussion and approval provisions that qualify or punish conducts that point to their rulers during the exercise of their functions as a terrorist act or group, because the essence of terrorism is to question through violent acts the decisions of the State. Nor will we find provisions that punish as terrorists, those who lead a State despite being authoritarian or dictatorial governments, whose rise or maintenance in power is through acts of violence. However, it is a reality that State agents commit crimes that instill terror in their own population, using terrorist methods to combat groups that demand rights violated by the government, using State security organs, whether civilian or military, or irregular groups founded to silence the voice of the people.

The people of Venezuela, has been involved in different attacks by civilian and/or military police bodies, as well as irregular or parapolice, all under the protection of the usurper government led by Nicolás Maduro Moros and the members that make up each position of its organizational chart or structural scheme; attacks, which have been reviewed by various international organizations such as the United Nations ⁴, and the Organization of American States⁵; But this issue is not easy to point out, because the existing opinions, reports and works on the situation in Venezuela are limited to pronouncements on human rights violations and the so-called international crimes, such as crimes against humanity, but there has not been a pronouncement that frames the abominable actions of the security organs and

³ <https://www.elmundo.es/internacional/2017/12/20/5a39b3a0268e3ec6428b45e7.html>
<https://www.youtube.com/watch?v=OS8pzFwFeCQ>

⁴ <https://news.un.org/es/story/2021/03/1489322>.

<https://www.hrw.org/es/news/2021/07/06/abusos-sistematicos-en-venezuela-ante-la-onu>.

⁵ https://www.oas.org/es/centro_noticias/comunicado_prensa.asp?sCodigo=AVI-156/20
https://www.oas.org/es/centro_noticias/comunicado_prensa.asp?sCodigo=C-058/19

irregular groups that act in Venezuela as acts of State terrorism. There are documented cases in our Republic, where officials, taking advantage of their power, have systematically or generally terrorized the people through the threat of violation of their fundamental rights, following direct orders from high-ranking agents of the government that is established in our country, without caring that the victims of these acts had no counterweight against the voracious force of a regime that raged without any justification, coupled with the non-existence in the country, of some internal instances where the victims can take refuge.

One position on this matter holds that terrorism would only be acceptable on the part of those groups that question the State and confront it, but not in relation to those who act from the State, however despicable their actions may be, and that for these cases there are domestic criminal laws and international criminal law⁶. However, another part of the doctrine considers that it is perfectly possible that violent acts carried out by groups protected by the State are considered terrorist acts that subvert the constitutional order, disrupting public peace and public safety through fear⁷, and that these acts are not only limited to violence committed by police officers, but also those carried out by prosecutors, the Public Prosecutor's Office and judges of the criminal jurisdiction, who, when investigating, accusing, imposing or executing decisions that are at odds with the Constitution and the laws, violate rights such as life, liberty, physical integrity, property, among others, thus instilling terror in the victims. This conspiracy, which in most cases is born among those who administer justice, is reflected in the Venezuelan courts, because the vast majority of its members carry out orders given by those who are part of the criminal structure that plans and executes specific acts with the aim of instilling terror in the population.

⁶ Thus, González Cussac (2006), pp. 75-76; Waldmann (1998), pp. 181 ff. indicates: "In this way, we consciously distance ourselves from those authors who also speak of state terrorism, at least in the sense of a direct coercive state strategy (influential state elites can establish a regime of terror, but cannot pursue a terrorist strategy against their own population). Terrorism is a certain violent way of proceeding against a political order".

⁷ Among others, Cancio Meliá (2010), pp. 190-191; Portilla Contreras (2001), pp. 501 ff; Bacigalupo Zapater (2001), p. 206; Llobet Anglí (2010), pp. 109 ff.; Gómez Martín (2010), pp. 47-48; Carbonell Mateu and Orts Berenguer (2005), p. 187; Asúa Batarrita (2002), pp. 84-85; Muñoz Conde (2013), p. 842; Campos Moreno (1997) pp. 30-31.

In Venezuela, the phenomenon of terrorism is covered by the Organic Law against Organised Crime and Financing of Terrorism⁸, a criminal law that merely mentions in Article 52 "*...acts of terrorism...*", *without determining precisely what constitutes terrorism, leaving it to the imagination of the investigating and judicial authorities to determine what criminal conduct may constitute these acts.*" without determining precisely the conducts that fall within the so-called acts of terrorism, leaving to the imagination of the officials of investigation and administration of justice, the criminal conduct that may constitute these acts, which requires the application of international standards such as Article 2 of the Inter-American Convention against Terrorism, approved at the first plenary session on June 3, 2002 in the Organization of American States⁹.

Now, the report on the results of the investigation of possible human rights violations in Venezuela, carried out between June 15 and July 3, 2020 by the High Commissioner for Human Rights of the United Nations, establishes a high number of murders by State security organs, crimes perpetrated by individuals who follow State policies and with the connivance of the State apparatus, which to date, does nothing to prevent these crimes from seriously affecting human rights. Crimes against humanity have awakened interest in the international community, since they can be prosecuted by the International Criminal Court, in application of the principle of complementarity, since neither the person in charge of the criminal investigation, nor the courts of the Republic, nor those who usurp power in Venezuela, do anything to judge these serious crimes, which obliges them to be judged in an international instance.

This Chamber considers that in Venezuela, crimes have been committed by the State, which can be perfectly appreciated as terrorist acts, since we believe that if the crimes against humanity contained in Article 7 of the Rome Statute¹⁰ are crimes whose execution corresponds mainly to State agents; it could also be thought that the execution of these crimes by State agents with the aim of instilling terror in the population, fall within acts of terrorism,

⁸ https://www.oas.org/juridico/pdfs/mesicic4_ven_ley_del_org_finan_terr.pdfs

⁹ https://www.oas.org/xxiiiga/espanol/documentos/docs_esp/agres1840_02.htm

¹⁰ [https://www.un.org/spanish/law/icc/statute/spanish/rome_statute\(s\).pdf](https://www.un.org/spanish/law/icc/statute/spanish/rome_statute(s).pdf)

because ultimately, in both crimes against humanity and crimes of terrorism the protected legal right are inherent rights of the human being. To that end, we transcribe paragraph 1 of the aforementioned article:

"For the purposes of this Statute, 'crime against humanity' means any of the following acts when committed as part of a widespread or systematic attack directed against a civilian population, with knowledge of the attack..." (Chamber's underlining)

From the content of the partially transcribed article, we find that we are in the presence of crimes against humanity when the conducts contained in the norm "*are committed as part of a widespread or systematic attack against a civilian population*". It then states in paragraph 2 that an attack against a civilian population shall be understood as follows:

"For the purposes of paragraph 1:

a) Attack against a civilian population" means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against a civilian population pursuant to or in furtherance of a policy of a State or an organization to commit such acts".

As we can read, the multiple, generalized or systematic nature of the attack directed at the civilian population makes it evident that a method or procedure, planning or organization directed to such ends is followed, such as for example "*the persecution of a group or collectivity with its own identity based on political, racial, national, ethnic, cultural, religious, gender or other motives, racial, national, ethnic, cultural, religious, gender or other grounds*", or, in the crime of *apartheid*, where the perpetrator is required to have committed the crime in the context of an "*institutionalized regime of systematic oppression and domination of one racial group over one or more other racial groups*".

Now, it is important to establish whether those who make up the usurper regime established in Venezuela can be responsible for the widespread or systematic attacks directed against civil society at different times and scenarios, as well as the degree of participation they had in the execution of these acts; that is, the notion of plans or State policy. For this we must bring up the constant reports and news that emerge from the UN web portal on the case of Venezuela, where the assigned missions have determined the existence of constant human rights violations in the country, with the consent of the criminal structure of the regime of Nicolás Maduro Moros¹¹. Among the most outstanding information already to the attention of this Chamber:

"Venezuela: UN mission indicates authorities committed serious human rights violations"

(...)

The United Nations Independent International Fact-Finding Mission on Venezuela reported that the government, state agents and groups working with them have committed gross human rights violations in that country. The panel's report indicates that President Maduro and the Ministers of Interior and Defense had knowledge of the crimes.

(...)

The study identifies "highly coordinated patterns of violations and crimes in accordance with State policies" and adds that "part of a course of conduct both widespread and systematic, thus constituting crimes against humanity".

Those responsible for the analysis indicated that high-ranking state authorities "held and exercised power with the oversight of the security forces and intelligence agencies identified in the report as responsible for these violations".

It further states that both President Nicolás Maduro and the Ministers of Interior and Defense were aware and that they "gave orders, coordinated activities and provided resources in support of the plans and policies under which the crimes were committed."

"The Mission found reasonable grounds to believe that Venezuelan authorities and security forces have planned and carried out serious human rights violations since 2014, some of which - including arbitrary executions and the systematic use of torture - constitute crimes against humanity," said Marta Valiñas, the Mission's chairperson.

¹¹ <https://news.un.org/es/story/2020/09/1480562>

He added that "far from being isolated acts, these crimes were coordinated and committed in accordance with State policies, with the direct knowledge or support of commanders and senior government officials."

Equally important, the recent report submitted by the UN Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela dated 16 September 2021, among other things states, that the deficiencies of the justice system have gone hand in hand with a pattern of serious human rights violations and crimes under international law in the context of a State policy to silence, discourage and stifle government opposition since 2014¹². It also mentions that the latest investigation found reasonable grounds to believe that, under intensified political pressure, judges and prosecutors, through their acts and omissions, have played a significant role in serious violations and crimes against opponents committed by various State actors.

This means that there is sufficient evidence to demonstrate that officials from different State agencies, as well as criminal judges and prosecutors from the Public Ministry, have participated as criminal agents in the violation of human rights, and have acted in the commission of international crimes against identified groups within the Venezuelan population with the aim of imposing fear and terror; Thus, in the actions of these officials there is a prior presence of the criminal regime that reigns in Venezuela, who give the orders for the commission of the crimes enshrined in the Rome Statute, a malicious action, both of those who give the orders, as well as those who receive, obey, and execute them, having prior knowledge of the details of the plan or the State's policy that emanates from a complex criminal organization.

Given the foregoing, the widespread or systematic attacks carried out in Venezuela against the civilian population by the criminal structure headed by Nicolás Maduro Moros should not only be considered international crimes, but should also be considered acts of terrorism, as they are carried out by State agents or irregular groups under the protection of

¹² <https://www.ambito.com/mundo/venezuela/la-onu-denuncia-que-la-justicia-tiene-un-rol-clave-la-represion-n5280950>

the State; in other words, this Chamber considers it possible to apply the rules of international law to determine the existence of State terrorism or terrorism by the State, even though it is not conceptualized under international law. The acts of terror that have been carried out in Venezuela could fuel the existence of this figure, especially when the attacks on the civilian population do not have internal and independent instances to enforce their rights, simply because in our country the rule of law has disappeared, so that the victims can hardly expect a response from the Venezuelan institutions, given that the State plays an active role in the commission of the crimes or at least tolerates them. This last statement is endorsed in the second report of the UN Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela, which concludes that the Venezuelan criminal justice system has disappeared and its members have participated in the commission of crimes, which means that the Venezuelan situation acquires international relevance.

It is unquestionable that the knowledge of the crimes committed in Venezuela corresponds to international justice, since they have affected the fundamental bases for coexistence in the country, which is under the yoke of a criminal regime that in a methodological way, is killing the lives of its inhabitants. The international community not only has the duty, but also the right to judge the criminals who have maliciously acted against the Venezuelan people, especially when it is universally known that in Venezuela there is no justice for the victims of these crimes, sufficient justification for the application of the international justice system.

The issue of State terrorism in Venezuela, leads us to important questions that we must dissipate, as a search for solutions to legal hiding places in Venezuelan domestic law, and as a fundamental reason for the application of international jurisdiction, and among the questions arise: Can we consider the acts of State agents as crimes of State terrorism; Can the crimes committed in the regime of Nicolás Maduro Moros be considered crimes of terrorism; Can the crimes committed in the regime of Nicolás Maduro Moros be considered crimes of terrorism?

To answer the above concerns, we find that terrorism is the commission of serious crimes whose main objective is the destabilization of the democratic institutional order, to force public authorities or international organizations to execute or refrain from executing certain acts, through the alteration of public order, causing fear to the population whose fundamental rights are affected, but: Can the State subvert the constitutional order?

In the case of Venezuela, the use of chemical agents to disperse peaceful demonstrations; the use of lethal weapons to repress demonstrators; police and military excesses in the persecution of opposition leaders; imprisonment of innocent people for merely thinking differently; judges depriving young people of their freedom on instructions from high-ranking State officials; murders in prisons; murders simulating suicide in detention centers; forced disappearances; prison overcrowding; torture in detention centers; imprisonment in inappropriate places; the creation of irregular or para-police groups to instill terror in communities; are part of a list of attacks on the Venezuelan civilian population; torture inside detention centers; imprisonment in inadequate places; creation of irregular or parapolice groups to instill terror in the communities; are part of a list of attacks on the Venezuelan civilian population, which allow us to dispel doubts about terrorist attacks in Venezuela and that, in addition, are documented and illustrated not only by national and international non-governmental organizations, but also by international organizations.

What has happened and continues to happen in Venezuela in terms of attacks on the population should not be considered as police or military excesses, but of a whole planning from the State to combat dissent. In the country, the Venezuelan people have been attacked under the excuse of preserving democracy, employing terrorist techniques such as the use of chemical agents, lethal weapons, torture, imprisonment without legal grounds, assassinations, among others; acting for more than 20 years with the advice, training and collaboration of external agents. Cases such as Óscar Alberto Pérez, Daniel Enrique Soto Torres, Abraham Israel Agostini, José Alejandro Díaz Pimentel, Jairo Lugo Ramos, Abraham Lugo Ramos, Lisbeth Ramírez ¹³, Fernando Albán ¹⁴; Rafael Acosta Arévalo ¹⁵; and many

¹³ <https://impactovenezuela.com/masacre-tres-anos-de-la-ejecucion-de-oscar-perez-y-sus-companeros/>

¹⁴ <https://www.bbc.com/mundo/noticias-america-latina-45817059>

¹⁵ <https://www.bbc.com/mundo/noticias-america-latina-48824174>

others that we would like to mention, have been attacks by the regime that have gone unpunished, crimes committed by an organization that directs the Venezuelan State and that has flagrantly subverted the constitutional order in order to perpetuate itself in power, all of these actions falling under the crimes provided for in article 7 of the Rome Statute.

In spite of all that has been analyzed, it is worth asking: And is it that in Venezuela, the regime presided by Nicolás Maduro has not committed crimes of terrorism; and is it that the attacks perpetrated by officials, are not acts of terrorism from the State?

In the general report of the UN Secretary General "Unite against Terrorism" dated April 27, 2006¹⁶, we read in the first point of the introduction, the following:

"As Member States will recall, in 2004 the High-level Panel on Threats, Challenges and Change recommended in its report (A/59/565) that the Secretary-General promote a comprehensive global counter-terrorism strategy that would strengthen the capacity of responsible States to combat terrorism and promote the rule of law while protecting human rights. In March of the following year in Madrid, on the occasion of the first anniversary of the Atocha bombing, in which more than 1,600 innocent people were killed or injured, I took up the challenge and set out the elements of such a strategy. The strategy is based on five pillars: dissuading people from resorting to terrorism and supporting it; making it harder for terrorists to access the means to carry out their attacks; deterring States from supporting terrorists; building State capacity to defeat terrorism; and upholding human rights. That same month, in my report entitled "In larger freedom: towards development, security and human rights for all" (A/59/2005), I urged Member States to adopt a strategy along these lines". (Emphasis added)

The mission of the UN Secretary General (as it says in the report), was the planning of strategies and the support of the States parties to fight against terrorism and **the direct**

¹⁶ <https://www.un.org/spanish/unitingagainstterrorism/a60825.pdf>

consequence of its attacks (the violation of human rights); But he said nothing about the fight against usurper and dictatorial governments that, abusing their power, carry out attacks against the civilian population in a generalized or systematic way, either by murdering, disappearing, imprisoning or torturing, with the sole intention of instilling terror among their inhabitants, flagrantly transgressing the human rights of an entire people, committing crimes in a premeditated manner and tolerating that civilian, military, irregular or parapolice police agencies carry out the acts in their name.

In the absence of any mention by international organizations on the subject, this Chamber considers that there **is no legal impediment to affirm the existence of State terrorism or terrorism from the State** and, in turn, that it is possible to classify the actions of these State officials as crimes of terrorism that merit investigation, prosecution, and corresponding punishment by the respective national and international justice systems, requiring the cooperation of the United Nations and its States Parties, to place on the terrorist lists those responsible for the constant attacks on the Venezuelan civilian population.

We consider that in Venezuela there are circumstances to presume the existence of State terrorism or from the State, due to the widespread or systematic attacks with the aim of instilling fear and terror in the civilian population, which has caused a large number of victims as a result of the commission of international crimes, facts affirmed in multiple national and international documents, including the report of the former prosecutor before the International Criminal Court Fatou Bensouda, and statements such as those of the Secretary General of the OAS Dr. Luis Almagro, members of the Lima Group, Council of the European Union and various leaders of the international community, who have shown their concern at the estimated affectation of human rights in Venezuela. Luis Almagro, members of the Lima Group, the Council of the European Union and various leaders of the international community, who have shown their concern about the human rights violations in Venezuela.

We are sure that State terrorism is even more serious than the terrorism applied by those who fight against the State, due to the fact that the actions of State agents have no

proportion whatsoever, since they have the entire State apparatus in their favor, including all public powers, as there is no separation between them because they are humiliated and captive to the power of the supreme leader, to the leadership of the head of the governmental structure that reigns in Venezuela, unconstitutionally led by Nicolás Maduro Moros and his entourage of accomplices who are tinged with legality under the shadow of a political institution called PSUV. There is no doubt that in Venezuela, the rule of law has disappeared and that is why the victims of the regime can hardly expect an impartial response from its institutions.

The Criminal Cassation Chamber of the Supreme Court of Justice considers, that the figure of terrorism must be assessed from a different point of view when they are committed by agents of the State and/or irregular groups with the support of the same, since stating that officials cannot be punished as terrorists because the State cannot be an insubordinate to its own constitutional order, would be like accepting that the regime of Nicolás Maduro Moros keeps unscathed the separation of public powers in Venezuela and that all its acts have been executed within the existing constitutional and legal regulations; to think that would be to completely ignore the internal problem of our country, to forget the constant violations of human rights, political prisoners, health and famine, among other reprehensible facts; that is why we conclude that all attacks perpetrated against the Venezuelan population by the agents and their abnormal groups, **are an attack against the democratic state through the violation of human rights**, which ultimately constitutes crimes of state terrorism.

The United Nations Counter-Terrorism Office has said:

"Human rights and the rule of law

The United Nations Global Counter-Terrorism Strategy and various General Assembly and Security Council resolutions underscore the human rights obligations of Member States under international law. In particular, international human rights law, refugee law and humanitarian law require the promotion and protection of human rights and fundamental freedoms in the fight against

terrorism while countering and preventing violent extremism that leads to terrorism."¹⁷*(Emphasis added)*

It means, that the result of terrorist acts is the violation of human rights, which the UN State Parties have the obligation to protect.

The members and groups that make up the criminal organization established in Venezuela, must necessarily be considered terrorists and grouped in a terrorist association, which must be included in all the lists of the different countries of the world, as well as in the records of the multiple existing international organizations; because it is a notorious fact that **Nicolás Maduro Moros and the people who make up the structure of the PSUV** have ordered and executed in a systematic and widespread manner, the commission of abominable attacks against the Venezuelan civilian population, without to date, these acts have been investigated and judged by any court, thus seriously altering the public order, the constitutional order.

Based on the foregoing, this Criminal Cassation Chamber of the Supreme Court of Justice of the Bolivarian Republic of Venezuela (now in exile), considers it an act of justice that the following citizens be **included** in the lists of persons and terrorist groups held by international organizations and the international community in general: **Nicolás Maduro Moros**, of legal age, Identity Card No. **5.892.464**; **Diosdado Cabello Rondón**, of legal age, identity card No. **8.370.825**; **Adán Chávez Frías**, of legal age, holder of identity card No. **3.915.103**; **Carmen Teresa Meléndez Rivas**, of legal age, holder of identity card No. **8.146.803**; **Cilia Adán Chávez Frías**, of legal age, holder of identity card No. **8.146.803**; **Cilia Adela Flores de Maduro**, of legal age, holder of Identity Card No. **5.315.632**; **Delcy Eloína Rodríguez Gómez**, of legal age, holder of Identity Card No. **10.353.667**; **Jorge Jesús Rodríguez Gómez**, of legal age, holder of Identity Card No. **6.823.952**; **Elías José Jaua Milano**, of legal age, holder of Identity Card No. **10.096.662**; **José Gregorio Vielma Mora**,

¹⁷ <https://www.un.org/counterterrorism/es/human-rights>

of legal age, holder of Identity Card No. **6.206.038**; **Freddy Alvarado, of legal age, holder of Identity Card No. 6.206.038**; **Freddy Alvarado, of legal age, holder of Identity Card No. 5.315.632.206.038**; **Freddy Alirio Bernal Rosales, of legal age**, holder of Identity Card No. **5.665.018**; **Héctor Vicente Rodríguez Castro, of legal age**, holder of Identity Card No. **16.451.697**; **Pedro Miguel Carreño Escobar**, of legal age, holder of Identity Card No. **8,142,392**; **Rodolfo Clemente Marco Torres**, of legal age, holder of Identity Card No. **8,812,571**; **Tareck Zaidan El Aissami Maddah, of legal age**, holder of Identity Card No. **12.354.211**; **María Iris Valera Rangel**, of legal age, holder of Identity Card No. **9.242.760**; **Ramón Emilio Rodríguez Chacín**, of legal age, holder of Identity Card No. **3.169.119**; who in concert with officials in charge of the organs of repression in Venezuela: the Bolivarian Intelligence Service, the Bolivarian National Police and its dependent Special Actions Forces, the Bolivarian National Guard and the General Directorate of Military Counterintelligence; have been the executors of the violent acts, beginning with the mention of those who occupied and occupy the position of the Ministry of Popular Power of the Interior, Justice and Peace, citizens **Néstor Luis Reverol Torres**, of legal age, holder of Identity Card No. **7.844.507**; **Miguel Rodríguez Torres**, of legal age, holder of Identity Card No. **6.368.196**; **Carmen Teresa Meléndez Rivas**, already identified; who gave instructions to all the directors of the police agencies under their command, for the Bolivarian Intelligence Service, **Manuel Gregorio Bernal Martínez**, of legal age, holder of Identity Card No. **6.976.131**; **Gustavo Enrique Meléndez Rivas**, already identified; who gave instructions to all the directors of the police agencies under their command, for the Bolivarian Intelligence Service, **Manuel Gregorio Bernal Martínez**, of legal age, holder of Identity Card No. **6.976.131**; **Gustavo Enrique González López, of legal age**, holder of Identity Card No. **5.726.284**; **Manuel Ricardo Cristopher Figuera**, of legal age, holder of Identity Card No. **8.375.799**. The same situation occurred and is occurring with the Bolivarian National Police, its directors **Luis Fernández Fernández Fernández**, of legal age, holder of Identity Card No. unknown; **Luis Karabín Virgüez**, of legal age, holder of Identity Card No. **7.403.754**; **Manuel Pérez Urdaneta, of legal age**, holder of Identity Card No. **6.357.038**; **Juan Francisco Romero Figueroa**, of legal age, holder of Identity Card No. **4.796.112**; **Franklin García Duque**, of legal age, holder of Identity Card No. **9.125.430**; **Carlos Alfredo Pérez**

Ampueda, of legal age, holder of identity card No. **9.871.452**; **Elio Ramón Estrada Paredes, of legal age**, holder of identity card No. **6.857.541**.

Also included in the list of terrorists are the following persons who, according to the Venezuelan General Directorate of Military Counterintelligence, carried out acts of terrorism: **Rafael Ramón Blanco Marrero, of legal age**, holder of identity card No. **6.250.588**; **Carlos Ramón Enrique Carvallo Guevara**, of legal age, holder of identity card No. **10.132.041**; **Iván Rafael Hernández Dala, of legal age**, holder of Identity Card No. **6.961.149**; **Carlos Enrique Terán Hurtado, of legal age**, holder of Identity Card No. **8.042.567**; **Asdrúbal José Brito Hernández, of legal age**, holder of Identity Card No. **12.251.274**.

In the same situation of submission to the citizen Nicolás Maduro Moros and who should be added to the list of terrorism, for participating in the execution of terrorist acts from the National Bolivarian Armed Forces of Venezuela: **Vladimir Padrino López**, of legal age, holder of identity card No. **6.172. 963**; **Luis Alfredo Motta Domínguez**, of legal age, Venezuelan national, holder of identity card No. **4.423.539**; **Juvenal José Fernández López**, of legal age, holder of identity card No. **7.868.411**; **Fabio Enrique Zavarse Pabón**, of legal age, holder of Identity Card No. **6.967.914**; **Antonio José Benavides Torres, of legal age**, holder of Identity Card No. **6.371.374**; **Hugo Armando Carvajal Barrios, of legal age**, holder of Identity Card No. **8.352.301**; **Henry de Jesús Rangel Silva**, of legal age, holder of Identity Card No. **5.764.952**; **Miguel Alcides Vivas Ladino, of legal age**, holder of Identity Card No. **7.617.778**.

For participating in the Venezuelan judiciary, citizen: **Maikel José Moreno Pérez**, of legal age, holder of identity card No. **6.652.632**. This person, taking advantage of his position, gives instructions to judges to issue decisions in favor of members of the terrorist group and against the victims of the violence of their attacks, becoming double victims, since, in addition to being material objects of the attacks, they are the ones prosecuted in the country's criminal courts, to achieve the ends of having a terrorized population.

Based on the foregoing, it is ordered to send a certified copy of this decision to the: **President-in-Charge of the Bolivarian Republic of Venezuela engineer Juan Guaidó Márquez**; to the **Legitimate National Assembly of Venezuela**; to the **Security Council and the Counter-Terrorism Office of the United Nations Organization**; to the **Council of the European Union**; to the **Secretary General of the Organization of American States**; to the **Department of State of the United States**; the United States **Department of Justice**; the United States **Department of the Treasury**; the United States **Office of Foreign Assets Control (OFAC)**; so that all those mentioned in this decision, as well as the political organization called the **United Socialist Party of Venezuela**, may be added to their lists of terrorist persons and groups. *It is so decided.*

V

DECISION

For all the foregoing reasons of fact and law, this Criminal Cassation Chamber of the Supreme Court of Justice, administering justice in the name of the Republic and by authority of the law, declares:

FIRST: The request for interpretation of Articles XIV, XV and XVI of the Inter-American Convention Against Corruption and Articles 2, 3, 4, 5, 6, 7, 8 and 9 of the Inter-American Convention Against Terrorism, presented by **Mariela Graciela Giménez Áñez**, Venezuelan citizen, of legal age, of this domicile, holder of Identity Card No. 13.127.788; assisted by the legal professional Edilberto Escalante Rojas, practicing attorney, registered in the Instituto de Previsión Social del Abogado Venezolano (Venezuelan Lawyer's Social Security Institute) under No. 43.362; which extends to the requests accumulated to the aforementioned appeal for interpretation and which are included in the present case, presented by **Carlos Méndez Jiménez**, of legal age, Venezuelan, officer with the rank of Colonel in retired status of the Bolivarian National Guard of Venezuela, holder of Identity Card No. 5.615.102; and the adhesions presented by **Brenda Stephens and Ricardo Troconis**, who acted as President and Vice President of the Venezuelan American Emerald Coast House.

SECOND: That the persons mentioned in the following paragraph, who hold or have held relevant public positions in Venezuela within the governmental structure, some legitimately and others by usurpation of functions, who are accused and investigated of having committed crimes qualified by Article 7 of the Rome Statute as crimes against humanity, such "officials" and irregular or parapolice groups that have proceeded under the protection of the regime, their acts must and should be classified as **State terrorism or terrorism from the State**.

THIRD: Based on the foregoing, it is ordered to send a certified copy of this decision to the: **President-in-Charge of the Bolivarian Republic of Venezuela engineer Juan Gerardo Guaidó Márquez; to the Legitimate National Assembly of Venezuela; Security Council and the United Nations Counter-Terrorism Office; Council of the European Union; Secretary General of the Organization of American States; Department of State of the United States; Department of Justice of the United States; Department of the Treasury of the United States; Office of Foreign Assets Control of the United States (OFAC);** that under the considerations set forth in this decision, the following be considered for inclusion on their lists of terrorist groups and individuals: **Nicolás Maduro Moros**, of legal age, identity card No. **5,892,464**; **Diosdado Cabello Rondón**, of legal age, identity card No. **8,370,825**; **Adán Chávez Frías**, of legal age, holder of identity card No. **3,915.103**; **Carmen Teresa Meléndez Rivas**, of legal age, holder of Identity Card No. **8.146.803**; **Cilia Adela Flores de Maduro**, of legal age, holder of Identity Card No. **5.315.632**; **Delcy Eloína Rodríguez Gómez**, of legal age, holder of Identity Card No. **10.353,667**; **Jorge Jesús Rodríguez Gómez**, of legal age, holder of Identity Card No. **6,823,952**; **Elías José Jaua Milano**, of legal age, holder of Identity Card No. **10,096,662**; **José Gregorio Vielma Mora**, of legal age, holder of Identity Card No. **6.206.038**; **Freddy Alirio Bernal Rosales**, of legal age, holder of Identity Card No. **5.665.018**; **Héctor Vicente Rodríguez Castro**, of legal age, holder of Identity Card No. **16.451.697**; **Pedro Miguel Carreño Escobar**, of legal age, holder of Identity Card No. **8.142.392**; **Rodolfo Clemente Marco Torres**, of legal age, holder of Identity Card No. **8.812.571**; **Tareck Zaidan El Aissami Maddah**, of legal age, holder of Identity Card No. **12.354.211**; **María Iris Valera Rangel**, of legal age, holder of Identity Card No. **9.242.760**; **Ramón Emilio Rodríguez Chacín**, of legal age, holder of Identity Card No. **3.169.119**; **Néstor Luis Luis Rodríguez Chacín**, of legal age, holder of

Identity Card No. **3.169.119**; **Néstor Luis Rodríguez Chacín, of legal age**, holder of Identity Card No. **8.812.392.169,119**; **Néstor Luis Reverol Torres, of legal age**, holder of Identity Card No. **7,844,507**; **Miguel Rodríguez Torres**, of legal age, holder of Identity Card No. **6,368,196**; **Manuel Gregorio Bernal Martínez, of legal age**, holder of Identity Card No. **6.976.131**; **Gustavo Enrique González López, of legal age**, holder of Identity Card No. **5.726.284**; **Manuel Ricardo Christopher Figuera**, of legal age, holder of Identity Card No. **8.375.799**; **Luis Fernández Fernández Fernández**, of legal age, holder of identity card No. unknown; **Luis Karabín Virgüez**, of legal age, holder of identity card No. **7.403.754**; **Manuel Pérez Urdaneta, of legal age**, holder of identity card No. **6.357.038**; **Juan Francisco Romero Figueroa, of legal age**, holder of Identity Card No. **4.796.112**; **Franklin García Duque**, of legal age, holder of Identity Card No. **9.125.430**; **Carlos Alfredo Pérez Ampueda, of legal age**, holder of Identity Card No. **9.871.452**; **Elio Pérez Ampueda, of legal age**, holder of Identity Card No. **9.871.452**; **Elio Pérez Ampueda, of legal age**, holder of Identity Card No. **7.403.754.871,452**; **Elio Ramón Estrada Paredes, of full age**, holder of Identity Card No. **6,857,541**; **Rafael Ramón Blanco Marrero, of full age**, holder of Identity Card No. **6,250.588**; **Carlos Ramón Enrique Carvallo Guevara**, of full age, holder of Identity Card No. **10.132.041**; **Iván Rafael Hernández Dala**, of full age, holder of Identity Card No. **6.961.149**; **Carlos Enrique Terán Hurtado, of full age**, holder of Identity Card No. **8.042.567**; **Asdrúbal José Brito Hernández, of legal age**, holder of Identity Card No. **12.251.274**; **Vladimir Padrino López**, of legal age, holder of Identity Card No. **6.172. 963**; **Luis Alfredo Motta Domínguez**, of legal age, Venezuelan, holder of Identity Card No. **4.423.539**; **Juvenal José Fernández López**, of legal age, holder of Identity Card No. **7.868.411**; **Fabio Enrique Zavarse Pabón**, of legal age, holder of Identity Card No. **6.967.914**; **Antonio José Benavides Torres, of legal age**, holder of identity card No. **6.371.374**; **Hugo Armando Carvajal Barrios**, of legal age, holder of identity card No. **8.352.301**; **Henry de Jesús Rangel Silva, of legal age**, holder of Identity Card No. **5.764.952**; **Miguel Alcides Vivas Ladino**, of legal age, holder of Identity Card No. **7.617.778**; **Maikel José Moreno Pérez, of legal age**, holder of Identity Card No. **6.652.632**. Likewise, the political organization **Partido Socialista Unido de Venezuela (United Socialist Party of Venezuela)** is added to the list of terrorist groups.

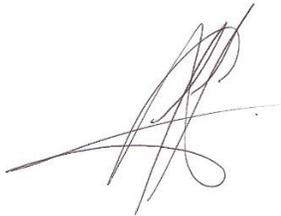
FOURTH: It is agreed to publish this decision in its entirety.

Publish and register.

Notify **Mariela Graciela Giménez Áñez, Edilberto Escalante Rojas, Carlos Méndez Jiménez, Brenda Stephens and Ricardo Troconis Troconis.** Likewise to the **President-in-Charge of the Bolivarian Republic of Venezuela engineer Juan Gerardo Guaidó Márquez; the Legitimate National Assembly of Venezuela; the Security Council and the United Nations Office to Combat Terrorism; the Council of the European Union; the Secretary General of the Organization of American States; the United States Department of State; the United States Department of Justice; the United States Department of the Treasury; the United States Office of Foreign Assets Control (OFAC).**

Comply with the order.

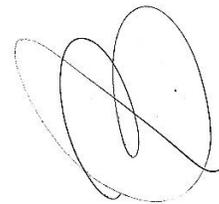
Given, signed and sealed at Doral on the twenty-eighth (28th) day of September, two thousand twenty-one (2021).



Pedro José Troconis Da Silva

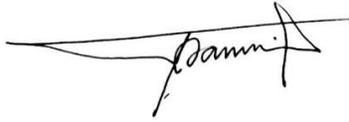
President

(Rapporteur)

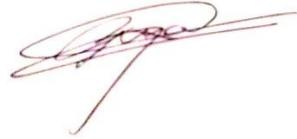


Mgda. Beatriz Ruiz Marin

Vice President



Cruz Alejandro Graterol Roque.



Milton Ramón Ladera Jiménez.



Dr. Reynaldo Paredes Mena
Accidental Secretary

File No. SCP-2020-004