

Bolivarian Republic of Venezuela  
Report for the Universal Periodic Review Second Cycle of Venezuela, during the 26<sup>th</sup> Session of the  
United Nations Human Rights Council



**Executive Summary:** Transparencia Venezuela, a national chapter of Transparency International, is a civil nonprofit, non-partisan, pluralistic association, with no political affiliation, founded in 2004 with a mission to work to bring about the necessary changes to turn Venezuela into a corruption-free country. This report addresses the impact of the lack of transparency and corruption on the fulfillment of the obligation of the Venezuelan State to ensure human rights, and compliance with the recommendations from the UPR first cycle, and other United Nations human rights bodies related to the right of access to information, accountability, but also equality and transparency in social programs and independence of the judiciary. The information presented herein derives from investigations carried out by the organization during the period 2012-2016.

## I. Scope of International Obligations

Venezuela has yet to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights

## II. Regulatory and institutional framework

### A. The fight against corruption

#### **Venezuela has no anti-corruption program**

The fight against corruption has been a frequent government slogan in times of political tension and electoral campaigns, but has not led to the implementation of a structured program backed by national institutions.

To date, no reforms favoring transparency, judicial autonomy, the fight against impunity, or the control and transparency of public spending have been approved, not even in the implementation of public policies on social programs.

#### **Vicious incentives created by the State**

There is a clear environment for arbitrary and discretionary decision-making in large-scale investing and spending of state funds in social programs that create risks for corruption. The lack of standards, systems, procedures and criteria for design, execution, assignment of benefits, or officials who prevent, limit and punish these abuses leads to impunity in the breach and violation of rights.

The currency exchange control established since 2003, the price control, and the imports control have become incentives for corruption created by the State. This has led to cumbersome bureaucracy that discretionarily assigns foreign currency at a preferential rate. Since its creation, this system has had 35 exchange agreements<sup>1</sup> which, instead of containing the capital flight, have promoted corruption in the public sector. A prominent case is the complaints made by relevant ministers of the Chavez administration about the assignment of US\$25 billion to shell companies, for which no official has been prosecuted. On this, the then chairman of the Standing Committee on Finance of the National Assembly, for the United Socialist Party of Venezuela (PSUV), stated “(...) there was (...) a scam on the nation with imports by obtaining preferential foreign currency.

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<sup>1</sup> <http://www.bcv.org.ve/ley/convenio35.pdf>

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**Role of the General Prosecutor and the General Comptroller**

Official data on the number of reports, investigations and convictions are poor and incomplete. The General Prosecutor<sup>2</sup> has not reported the number of convictions in corruption cases investigated; it has only issued general figures:

- Of the total number of investigations initiated by the General Prosecutor's Office in 2015, only 0.9% are investigations on corruption. Source: General Prosecutor Report 2015., p. 119.
- Of the total number of people accused (115,094), only 2.7 % (3,119) were on corruption charges. Source: General Prosecutor Report 2015, p. 120.
- Of the total number of people indicted (267,799) only 1.3% (3,565) were for corruption. General Prosecutor Report 2015, p. 119
- Regarding prison sentences, there are no disaggregated data (27,127), which makes it impossible to know how many corruption cases were sentenced by Venezuelan courts. Source: General Prosecutor Report 2015<sup>3</sup>

The General Comptroller's Office only shows an overall outlook<sup>4</sup> of the cases received, without any details on initiated and concluded investigations.

The General Prosecutor has refused to investigate cases such as: the President of the Criminal Chamber of the Supreme Court of Justice, Justice Eladio Aponte Aponte, who gave detailed statements regarding his links to drug traffickers and operations that took place in Venezuela<sup>5</sup>; the former Minister of Planning, Jorge Giordani, who denounced deviations in the management of PDVSA, the state-owned oil company, and the Central Bank of Venezuela, as well as excessive spending and irregularities in government<sup>6</sup>; Lieutenant Commander Leamsy Salazar, who accused Diosdado Cabello of drug trafficking at the DEA in Washington<sup>7</sup>; the over 160,000 tons of rotten food stored in ports around the country, purchased with foreign currency at preferential rate.

**Impunity**

Impunity in corruption cases has directly impacted the enjoyment and exercise of the rights of Venezuelans. Among many others, there is the case of i) 400,000 kilos of expired drugs abandoned from 2010 to 2014, which were never distributed to hospitals throughout the country; ii) irregularities in the School Food Program<sup>8</sup> managed by the Ministry of Education, which operated without minimum fiscal controls; iii) The complaint made by former Minister of Planning on the "disappearance" of US\$25 billion through the Foreign Currency Administration Commission (CADIVI)<sup>9</sup> and iv) Irregularities in government food purchases between 2007 and 2008 and the refusal of the General Prosecutor to act in this regard<sup>10</sup>.

**B. Biased Judiciary**

**Mechanism for appointment of Justices and high officials leads to partisan bias**

on December 23, 2015, after the election of new deputies to the National Assembly, but before they took office, the old parliament elected 13 chief justices of the Supreme Court (TSJ), including their alternates, violating the

<sup>2</sup> General Prosecutor, Annual Report to the General Assembly. 2015. Available at: <http://goo.gl/PAE980>

<sup>3</sup> [http://www.ministeriopublico.gob.ve/c/document\\_library/get\\_file?uuid=010ba734-247c-4da1-859f-1ae55772d7b5&groupId=10136](http://www.ministeriopublico.gob.ve/c/document_library/get_file?uuid=010ba734-247c-4da1-859f-1ae55772d7b5&groupId=10136)

<sup>4</sup> General Comptroller has not issued its Annual Report for 2015.

<sup>5</sup> <http://eltiempo.com.ve/venezuela/investigacion/ministerio-publico-descarta-investigar-denuncias-de-aponte/51100>

<sup>6</sup> <http://www.eluniversal.com/economia/140627/fiscalia-no-investiga-las-denuncias-hechas-por-giordani-en-su-carta>

<sup>7</sup> [http://www.el-nacional.com/politica/investigaran-Cabello-denuncias-medios\\_0\\_565143704.html](http://www.el-nacional.com/politica/investigaran-Cabello-denuncias-medios_0_565143704.html)

<sup>8</sup> Available at: <https://transparencia.org.ve/impunidad/>

<sup>9</sup> David González, *¿Y qué pasó con el caso Cadivi?*, Misión Impunidad – Transparencia Venezuela, 25 November 2015. Available at: <http://transparencia.org.ve/y-que-paso-con-el-caso-cadivi/>

<sup>10</sup> Fernando Tineo, *De PDVAL a Pudreal*, Misión Impunidad – Transparencia Venezuela, s.f. Available at: <http://transparencia.org.ve/wp-content/uploads/2015/03/PDVAL-Fernando-Tineo.pdf>

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appointment procedure established by law<sup>11</sup>. The appointees are people with ties to the ruling party, PSUV, and some held public office representing the party, such as current Justice Calixto Ortega, a deputy of the ruling party appointed Judge<sup>12</sup>, who voted for himself, through mechanisms that violated the Constitution and laws<sup>13</sup>.

### Consequences of weak judiciary institutions

The Supreme Court has ruled in favor of Executive Branch and Public Administration in 93% of cases<sup>14</sup>. Transparencia Venezuela systematized a total of 102 rulings, where the TSJ has: i. Declared states of emergency requested by the government, and extensions thereto, ii. Limited the powers of parliamentary control of the National Assembly, restricting it to the Executive Branch and exceptionally to the Judiciary, only with regard to prior scrutiny of the selection of judges<sup>15</sup>, iii. Denied the right of access to public information, iv. Endorsed refusal of national public agencies to account for their actions, including the Central Bank of Venezuela; the Ministry of Health, among others.

## C. Social Rights: Social Programs

### Decrees relating to Missions and their discretionary management

These are regulated by a law<sup>16</sup> and 22 legal instruments<sup>17</sup>, which generates dispersion in state responsibilities and in compliance with its accountability obligations.

There have been allegations of irregularities in the implementation of social missions such as: Increase in child malnutrition by 9% between 2014 and 2015<sup>18</sup>, according to a study by the Bengoa Foundation<sup>19</sup> in programs under the People's Ministry for Food and *Misión Alimentación*<sup>20</sup>; inconsistencies in the numbers of homes delivered<sup>21</sup>; conflicts of interest in the selection of beneficiaries of the housing mission; allegations of food misappropriation and corruption in 53 *Abastos Bicentenarios* establishments<sup>22</sup>, and inadequate infrastructure in the buildings built by the the housing mission<sup>23</sup>.

As part of the monitoring of social programs, we have found inconsistencies in the number of homes built. The National Government claims it has surpassed the one million mark<sup>24</sup>, but our own research data estimate the figure at 650,000 homes. As for health programs, by April 2016, 80% of primary health care centers called *Barrio Adentro* were inoperative after having a budget since 2003 amounting to \$34,661,251,312<sup>25</sup>. **In 11 years, the purchase of domestic food<sup>26</sup> dropped from 50.2 to 9.97%**<sup>27</sup> leading to a sharp shortage food, with no regular official figures<sup>28</sup>. Mission *A Toda Vida Venezuela*, in charge of security implemented the so-called People's

<sup>11</sup> Law of the Supreme Court of Justice, Article 38

<sup>12</sup> Christian Tyrone Zerpa, Electoral Court; Calixto Ortega, Constitutional Court.

<sup>13</sup> Final report of the Special Commission for the study of the appointment process of principal and alternate judges of the Supreme Court, National Assembly of Venezuela, 3 March 2016. Available at: <http://goo.gl/e8z11X>

<sup>14</sup> *El TSJ al servicio de la revolución. La toma, los números y los criterios del TSJ venezolano (2004-2013)*, Canova González A., Herrera Orellana L., Rodríguez Ortega R., Gratelol Stefanelli G., Editorial Galipan. 2014.

<sup>15</sup> With the information on the rulings, the project [www.supremainjusticia.org](http://www.supremainjusticia.org) was initiated, which organizes the rulings of the Court that have been criticized by civil society and national and international human rights bodies.

<sup>16</sup> Law on Missions and Major Mission

<sup>17</sup> Including laws, decrees and resolutions

<sup>18</sup> <https://transparencia.org.ve/carne-de-segunda-aceite-y-15-pasteles-de-hojaldre-recibe-semanalmente-un-comedor-escolar/>

<sup>19</sup> People's Ministry for Education. Citizen Service Office. Available at: <http://goo.gl/W95xvR>

<sup>20</sup> Transparencia Venezuela <https://goo.gl/kt8ixZ>

<sup>21</sup> Transparencia Venezuela <https://goo.gl/DRCduc>

<sup>22</sup> Transparencia Venezuela <https://goo.gl/cXFge3>

<sup>23</sup> <http://www.noticierodigital.com/2013/10/derriban-el-titanic-de-la-gmvv-en-petare-por-peligro-de-colapso/>

<sup>24</sup> <http://www.correodelorinoco.gob.ve/politica/gmvv-alcanza-hasta-fecha-1-001-627-viviendas-construidas/>

<sup>25</sup> [http://www.el-nacional.com/caracas/Barrio-Adentro-recursos-llegan-modulos\\_0\\_126588099.html](http://www.el-nacional.com/caracas/Barrio-Adentro-recursos-llegan-modulos_0_126588099.html)

<sup>26</sup> <https://transparencia.org.ve/en-11-anos-la-adquisicion-de-alimentos-nacionales-bajo-de-502-a-997/?platform=hootsuite>

<sup>27</sup> <http://noticiasvenezuela.org/2015/07/20/reportaje-especial-pudreval-2015-la-gran-estafapor-cheo070777/>

<sup>28</sup> <http://runrun.es/nacional/246448/protesta-por-ausencia-de-alimentos-en-mercal-colapso-a-los-teques.html>

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Liberation Operations (PLO) since July 15, 2015<sup>29</sup>, violating the human rights of the people in different parts of the country. More than 65 operations were carried out across the nation, there is still no data on number of people killed or arrested. While this was happening, 2015 closed with a homicide rate of 27,875 violent deaths<sup>30</sup>. Meanwhile, the General Public Prosecutor Luisa Ortega Diaz estimated the figure at 17,778 homicides<sup>31</sup>, which suggests that the mission had no impact on reducing crime rates in the country.

#### **D. Right to Access to Information:**

##### **Laws that legalize opacity**

Between 1999-2014, a total of 475 legal instruments were approved, and 60 of them violate or limit the access to public information. By the time of delivery of this report, Venezuela has still no law on access to information.

##### **Case law that favors opacity**

The Supreme Court has used the following arguments to limit access to information: a) **Lack of legitimacy of organizations to request information**<sup>32</sup>, i.e. they require proof of legitimate interest, contrary to the guarantee established in the law, b) **Disproportionality between the use of public information requested and the time and human resources invested by the state to “provide explanations”**<sup>33</sup>. c) **Lack of justification on the “control to be exercised”** or the use that will be given to said information<sup>34</sup>. **D) The Supreme Court banned the use of actions for constitutional protection as a defense mechanism of the right of Access to Public Information**<sup>35</sup>, e) **Referral to more cumbersome processes that limit the right of access to information**<sup>36</sup>.

#### **Recommendations**

We recommend the Venezuelan State:

##### *On legislation:*

- I. To repeal regressive rules and practices that restrict the delivery of public information. Among others, Articles 40, 42 and 87 of Law of the Central Bank of Venezuela, 58, 60 and 61 of the Organic Law of Citizen Power, 33 paragraphs 4 and 6 of the Statute of the Civil Service, 79 of the Ombudsman Law, 120 of the Organic Law of Public Prosecution, 1, 13, 14, 15, 16 and 17 of the Rules of Classification and Processing of Public Administration Information, 126 of the Law on Drugs, 108 of the Law of Electric Service and System, 5 paragraph 3, 8 paragraph 2 and 5, 13 and 15 of the Law of Social Comptrolling, 16 and 66 the Internal and Debate Rules of the National Assembly, 3, 4, 5 and 8 the Law on defense of political sovereignty and national self-determination, 24 of the Organic Law on Emoluments, Pension and Retirement of Senior Public Officials, 47 of the Law on Telecommunications, 14 of the Law of Gaseous Hydrocarbons, 89 of the Organic Law of Railway Transport, 159 of the Law of Public Administration; 9 and 10 of the Establishment of Strategic Security and Protection Center of the Nation.
- II. Approval and implementation of the Law on Transparency, Disclosure and Access to Public Information.
- III. To reform the law against corruption to include control systems and sanctions for cases of nepotism; to prevent the “revolving door” between public and private positions, among other crimes.
- IV. To reform the Procurement Law, eliminating exclusions and reducing exceptions with regard to execution of works, procurement of goods and services.

<sup>29</sup> <http://caraotadigital.net/mision-imposible-olp-no-acabo-con-tiroteos-en-la-cota-905/>

<sup>30</sup> <http://images.eluniversal.com//2015/12/28/informe-del-observatorio-venez.pdf>

<sup>31</sup> <http://www.2001.com.ve/en-la-agenda/123048/luisa-ortega-diaz--en-2015-se-registraron-17-mil-778-homicidios-.html>

<sup>32</sup> Judgment No. 2015-0784 of the Second Administrative Court, dated 12/08/15, available at: <http://goo.gl/icPOJE>

<sup>33</sup> Judgment of the Administrative Court No. 1736 of 17/12/14. Available at: <http://goo.gl/s8Tfm7>

<sup>34</sup> Judgment of the Administrative Court No. 01636 of 03/12/14. Available at: <http://goo.gl/MCNWPj>

<sup>35</sup> Judgment of the Constitutional Court No. 805 of 18 June 2012. Available at: <http://goo.gl/8UswOj>

<sup>36</sup> Judgment of the Constitutional Court No. 679 of 23 May 2012. Available at: <http://goo.gl/G2n2hO>

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- V. To reform the Law of the Comptroller General to strengthen the prevention system; the comptrolling obligation on the entire structure of the state; to ensure the independence of fiscal control entities; to harmonize with the laws of Public Auditing and Financial Management of the Public Sector.

*On the justice and comptrolling system*

- VI. To apply the mechanisms and best practices to ensure the autonomy and independence of the judiciary from any other political, economic, ideological, cultural power.
- VII. To ensure autonomous and independent judges who meet constitutional requirements.
- VIII. To implement an urgent plan to reduce impunity.
- IX. To accept the visit to Venezuela of representatives of international and regional organizations for protection of human rights, and particularly the rapporteurs responsible for monitoring the right to freedom of expression and information.
- X. To regulate an effective system of prevention of conflicts of interest and to publish sworn statements of assets and interests.

*Equality in social programs*

- XI. To include funds allocated to missions and other social programs in the budget law each year, indicating source of funding.
- XII. To publish complete, verifiable and clear information on resources for the design and development of social programs, including selection criteria, the list of beneficiaries, contracts for utilities, construction work, and procurement.
- XIII. To publish public policies on social programs under standards of planning, control and accountability, according to compliance with defined goals.
- XIV. To reorganize the management structure of social programs promoting the monitoring, evaluation and uniqueness of accountability, eliminating areas of discretion and arbitrariness.
- XV. To conduct and publish a process audit and risk assessment for corruption and inefficiency in social programs.
- XVI. To invest planned and sufficient funds to ensure the implementation of social programs that demonstrate progressive development of rights.
- XVII. Publication of selection criteria for beneficiaries of social programs, means for receiving benefits, resources allocated to them, publication of contract templates.
- XVIII. To create a website with complete, updated and clear information on all public funds allocated to social programs in an open data format, which will allow citizens to know easily and promptly the available services in different states, with information concerning the budget, origin of funds, responsible for implementation, project goals, details of monthly execution by public body.

**Transparencia Venezuela**

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**Annex I**  
**Implementation of Recommendations**

**Follow-up on implementation of recommendations**

**A. Access to information**

**Law on Transparency, Disclosure and Access of Public Information**

In March 2015, the Law on Transparency, Disclosure and Access to Public Information passed in first debate at the National Assembly. The law binds public administration entities and, in general, individuals and organizations that manage public funds to the principle of maximum disclosure, with reservation and confidentiality as exceptions. The law also created a entity as enforcer of the law, in compliance with recommendation E/C.12/VEN/CO/3/Par.13.

**Information not disclosed by the State**

The Supreme Court has yet to issue its Annual Report, in contravention of recommendations E/C.12/VEN/CO/3/Par.7 and CCPR/C/VEN/CO/4/Par.5.

The National Assembly has not produced an Overall Management Report, which impedes the verification of compliance with recommendation E/C.12/VEN/CO/3/Par.12.

In breach of recommendation E/C.12/VEN/CO/3/Par.13:

The State has not followed through with its legal obligation to disclose:

- Treasury Accounts Report: Instrument that compiles fundamental information from the governing entities of the Treasury.
- Overall Report: Evaluates the execution of the budget law based on its results.

Likewise, the following indicators have not been disclosed in a timely manner or at all:

- Macroeconomic Indicators and Shortage Rates (Central Bank of Venezuela)
- Social and demographic data (National Statistics Institute)
- Financial performance and public expenditure (Ministry of Finance)
- Figures on fiscal-financial performance (Ministry of Finance)
- Periodical Reports on transactions and position of the treasury (National Treasury)
- Weekly Epidemiological Bulletin (Ministry of Health)

**Restrictive criteria**

The State applies restrictive criteria and conditions on the delivery of the public information requested by civil society organizations, in contravention of recommendation CCPR/C/VEN/CO/4/Par.19.

**Oversight of social programs**

Recommendation E/C.12/VEN/CO/3/Par.15 has not been followed. There is no systematized, quantitative and qualitative publication on social programs in a disaggregated manner. The official website shows no updated information. A National Information Service on Missions and Major Missions has been created but is not operational yet.

**a. Social Programs**

Regarding compliance with recommendations E/C.12/VEN/CO/3/Par.13, E/C.12/VEN/CO/3/Par.25, E/C.12/VEN/CO/3/Par.27, E/C.12/VEN/CO/3/Par.24 and E/C.12/VEN/CO/3/Par.26:

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Social Programs have not had an impact on guaranteeing the rights and the quality of life of the most vulnerable population. In the 1,500 communities classified as living in extreme poverty, these programs have been used as a political-electoral strategy and have not helped to reduce poverty rates. The information about the present situation of social programs is deficient, which prevents a proper analysis for design or tailoring of policies<sup>37</sup>.

**Housing program (*Gran Misión Vivienda Venezuela*)**

**Assignment of homes to beneficiaries**

A real estate registry of the housing mission was created. However, the criteria for the selection of beneficiaries have not been published. This assignment is subject to political discrimination and is done in exchange of votes and political proselytism<sup>38</sup>.

**Progress on construction goals**

The government has never issued a list of homes built with their precise location that can be used to verify the information provided through the media<sup>39</sup>. The General Comptroller makes no reference in his reports in the last five years about having access to those lists, in spite of its legal obligation to verify the accounting data of the State institutions. Also, there is no one single list of beneficiaries, at least one that has been published by the different entities or bodies involved in the construction of homes. Details about the construction of housing, such as status, materials used, participating companies, budget per project, are unknown.

**Adequate housing conditions**

Standards for the enjoyment of housing in adequate conditions have not been adopted. There are cases of breach in terms of quality of construction, with infrastructure defects and risks. Examples are: Urbanismo El Morro<sup>40</sup>, Conjunto Brisas del Alba in Mérida and Ciudad Tavacare in Barinas<sup>41</sup>. Access to basic utilities is not guaranteed.

**Mission *Barrio Adentro* (health)**

Most of the healthcare modules do not meet minimum sanitary or accessibility requirements, for instance in Barrio Castillito in Bolívar, and Hospital Binacional de la Guajira, in Zulia.

Due to the shortage of medicines, there has been an sharp increase in diseases and overall deterioration of the hospital network, which is a clear sign that the government has failed to implement a proper health policy.

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<sup>37</sup> <http://transparencia.org.ve/wp-content/uploads/2014/11/Bolet%C3%ADn-OM-17.pdf>

<sup>38</sup> <http://transparencia.org.ve/wp-content/uploads/2014/11/Bolet%C3%ADn-trimestral-October-2015.pdf>

<sup>39</sup> <http://transparencia.org.ve/wp-content/uploads/2014/11/Misiones-Transparentes-N%C2%BA10-Gran-Misi%C3%B3n-Vivienda-Venezuela.pdf>

<sup>40</sup> <http://transparencia.org.ve/wp-content/uploads/2014/11/Bolet%C3%ADn-OM-18.pdf>

<sup>41</sup> <http://transparencia.org.ve/wp-content/uploads/2014/11/Bolet%C3%ADn-trimestral-October-2015.pdf>

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**Mission Alimentación (food)**

There are complaints of political bias in granting access to food through state-run establishments, as shown by the incidents at the PDVAL Type I of the *Club Militar Rivas Dávila* in Mérida<sup>42</sup>. There have been no policy adjustments or investments in the productive sector, which has built up dependence on imports.

The following conclusions have been drawn from the **analysis of the Annual Report of the Ministry of food**:

- 1) When comparing the information from the entities attached to the Ministry of Food, including the Annual Report and the Annual Operation Plan, it is clear that the **Ministry of Food only reached 38% of its goals**.
- 2) Regarding the use of funds, the *Corporación de Abastecimientos y Servicios Agrícolas (CASA)* **has increased its budget for operational expenses by 116% in 2015, allocating more than 7 billion bolivars for these purposes**. However, the **budget for projects was increased by merely 30% in 2015, although it was increased from 31 billion to 41 billion bolivars in additional appropriations**. There was a similar case with Mercal: **The budget for financing expenses rose 89% in 2015 while the budget for projects rose only by 1.31%**.
- 3) **The 25 projects started by the Ministry either did not meet their goal, or provide no information about their goals met, which shows the poor oversight by the Ministry of Food. Furthermore, 92% of those 25 projects were not carried out to the full extent of their budgets**.
- 4) The results mentioned in the annual report show that the **Mercal product supply plan only reached 53.06%, of the established goals**.
- 5) The household appliances marketing program *Mi Casa Bien Equipada* **was allocated Bs.1.9 billion for the production and commercialization of 598.350 household appliances, but only 7.227 were actually marketed on credit and 114.075 sold in cash, for a total of 121.302 appliances**.
- 6) **PDVAL reached only 65% of its goal even though its budget was increased by 20% via additional appropriations**. In the subject of commercialization, there was a 21.87% increase in budget, from Bs.1,607,402,752.00 to Bs.1,958,942,679.00 to reach the original target of distributing 465,101 tons of dairy products, juice, nectar, and other items of the standard basic food basket. However, **only 59.33% of their target was reached, as they distributed 275,975 tons in 2015**.
- 7) **Abastos Bicentenario distributed and commercialized 193,510 tons of food, of a goal of 348,108 tons established for the Food Supply Network**. Abastos Bicentenario makes an unrealistic assessment of the benefits of food distribution. In January 17,743 tons of food benefitted a total of 1,922,673 people, while in December 14,005 tons benefitted 2,379,208 people. Less food for more people. With these figures we can see how Abastos Bicentenario decreased the number of tons distributed in 2015. In the first quarter, the distribution rate was 8.73 kg per beneficiary, while in the fourth quarter it dropped to 5.58 kg per beneficiary.

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<sup>42</sup> <http://transparencia.org.ve/wp-content/uploads/2014/11/Bolet%C3%ADn-misiones-24-09-2015.pdf>



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8) **Empresas Diana produced in 2015 a total of 73,406 tons of cooking fat and oil, which accounts for 61% of the budgeted goal. The 2015 production represents a 55% drop from 2014, where official figures place the production at 164,904 tons.**

9) **In 2015, Lácteos Los Andes produced 263,094 tons of dairy products, 12% less than in 2014 when – according to official data – it produced 298,045 tons.** Additionally, the company planned to receive 171,068 tons of raw materials for production at their plant, of which it received, according to the annual report, a total of 47,666 tons, i.e. less than 30% of the goal. Of these 47,666 tons, more than half are imports.

**b. Independence of the Judiciary**

In contravention to recommendations E/C.12/VEN/CO/3/Par.10, E/C.12/VEN/CO/3/Par.12, CCPR/C/VEN/CO/4/Par.22, CCPR/C/VEN/CO/4/Par.15, A/HRC/19/12/Par.96.22, A/HRC/19/12/Par.96.20, A/HRC/19/12/Par.96.16:

**Appointment of Judges**

The Supreme Court (TSJ) continues to appoint judges in a discretionary manner.<sup>43</sup> The 57 judges newly appointed by the Judiciary Commission are a relevant example<sup>44</sup>. Such practice is endorsed by the Constitutional Chamber<sup>45</sup>, which consents the possibility for a provisory judge to be removed without a due procedure, lessening the independence of the Venezuelan judiciary.

**Appointment of high officials**

Contrary to provisions of the Constitution, Supreme Court Justices (December 2015), the Attorney General and Prosecutor General have been appointed by simple majority at the National Assembly<sup>46</sup>

**Compliance with international rulings**

The Constitutional Chamber of the Supreme Court declared the ruling of the Inter-American Court of Human Rights inapplicable<sup>47</sup>. The decision compels the Venezuelan State to restore the concession of the TV network Radio Caracas Televisión. The Court argued: *“The IACHR has no jurisdiction to rule on the concession of the use of radio-electrical spectrum (...), because any decision on this matter is within the jurisdiction of the Venezuelan domestic law, which has in no case been exhausted.”*<sup>48</sup>

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<sup>43</sup> Section “Designaciones” on the Supreme Court website. <http://goo.gl/72Q1cj>

<sup>44</sup> <http://www.tsj.gob.ve/-/presidenta-del-tsj-juramento-a-57-juezas-y-jueces>

<sup>45</sup> The Court argued: *“(…) even while the Code of Ethics of the Venezuelan Judge is applicable to all judges –regardless of their condition- as ethical parameter of the jurisdictional function, the procedure for sanction provided for in said Code does not seem, (...) to be applicable to temporary, interim or provisional judges, because said process is a guarantee of security in a judicial career; and said tenure is obtain after being awarded a position through a public contest.”*

<sup>46</sup> <https://supremainjusticia.org/2016/01/24/tsj-permite-al-chavismo-renovar-el-poder-ciudadano-con-su-mayoria-simple/>

<sup>47</sup> of 22 June 2015, case Granier et al. (Radio Caracas Televisión) v. Venezuela,

<sup>48</sup> **TSJ declara inejecutable fallo de la CIDH sobre RCTV.** <http://goo.gl/OOztrc>