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Inter-American System

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V INTER-AMERICAN SYSTEM

CLAUDIA MARTIN*

1. INTRODUCTION

During the period covered by this report, the Inter-American Court on Human Rights (hereinafter the 'Court') issued several decisions on merits, including: *Tristan Donoso vs Panama*; *Rios et al. vs Venezuela*; *Perozo et al. vs Venezuela*; *Kawas Fernandez vs Honduras*; *Reveron Trujillo vs Venezuela*; *Acevedo Buendía et al. ('Discharged and Retired Employees of the Office of the Comptroller') vs Peru*; *Escher et al. vs Brazil*; *Anzualdo Castro vs Peru*; and *Dacosta Cadogan vs Barbados*. Also, the Court adopted interpretation judgements clarifying aspects of previous decisions on the merits in *Ticona Estrada et al. vs Bolivia* and *Valle Jaramillo et al. vs Colombia*.

The present report will analyse the Court's decisions in *Tristan Donoso vs Panama* and *Escher et al. vs Brazil*, regarding the protection of the right to privacy, honour and reputation. Also, the report will cover the Court's judgements in *Reveron Trujillo vs Venezuela* and *Perozo et al. vs Venezuela*, concerning the destitution of judges and the right to freedom of expression in the context of a polarised political situation in Venezuela.

The full text of the decisions mentioned in this report can be found in English on the website of the Court at: www.corteidh.or.cr.

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2. THE RIGHT TO PRIVACY, HONOUR AND REPUTATION: WIRETAPPING AND DISCLOSURE OF PRIVATE CONVERSATIONS

In two recent decisions in the cases *Escher et al. vs Brazil*¹ and *Tristan Donoso vs Panama*,² the Court for the first time defined the scope of the right to privacy, honour and reputation protected under Article 11 of the American Convention on Human Rights ('American Convention' or 'Convention') in regard to wiretapping and disclosure of private conversations.

In *Escher*, the alleged victims were members of the social organisations ADECON and COANA, which had a *de facto* relationship with the landless rural workers movement MST (*Movimento dos Trabalhadores Rurais Sem Terra*) and shared a common goal of advancing agrarian reform. The facts of this case occurred in a context of social conflict related to the agrarian reform in several Brazilian states, including the state of Parana where the organisations were based.

On 28 April 1999, the Chief of Staff of the Military Police, Colonel Kretschmer asked the Secretary of Public Security of the state of Parana, Candido Martins, to get authorisation from the District Court of Loanda ('Loanda Court') for the interception and monitoring of communications of the telephone lines of COANA. On 5 May 1999, Major Neves, head of the Águila Group of Military Police in Parana, filed before the Loanda Court, a special request to intercept and monitor the telephone line of COANA. The request was based on the alleged existence of evidence linking members of the organisation to illegal activities, including the diversion of funds and the murder of the brother of a MST leader. On that same day, Judge Khater, of Loanda Court, authorised the request without stating the grounds and without notifying her decision to the Prosecutor General's Office.

On 12 May 1999, a second request for telephone interception was requested by the Military Police Sergeant Silva. This time the request also included the telephone line installed in the offices of ADECON. The reason for the request was not given, but Judge Khater authorised the request without stating the grounds and without notifying her decision to the Prosecutor General's Office. On 25 May 1999, Major Neves, requested the interception and monitoring to cease because the desired effect had already been produced. Judge Khater responded on the same day and sent an official communication to the director of the telephone company to cancel the interception of COANA and ADECON lines.

On 7 June 1999, extracts of the recorded conversations appeared in a national television news programme that had one of the largest audiences in the country.

¹ Inter-American Court of Human Rights, *Escher et al. vs Brazil*, Preliminary Objections, Merits, Reparations and Costs, judgement of 6 July 2009, Series C, No. 200.

² Inter-American Court of Human Rights, *Tristan Donoso vs Panama*, Preliminary Objection, Merits, Reparations and Costs, judgement of 27 January 2009, Series C, No. 193.

The following day, the Secretary of Security held a press conference where he gave explanations about the telephone interceptions, his opinion on the conversations disseminated and the measures that the Secretariat of Public Security would adopt. At this press conference, some recordings were played of the intercepted conversations and the journalists present received materials with extracts transcribed from the intercepted discussions of members from COANA and ADECON. Afterwards, fragments of the recordings were disseminated again by the television and written media. Some articles claimed that the landless workers were planning specific crimes and that the Secretary of Security had published new extracts from the tapes during the press conference.

On 1 July 1999, Major Neves filed an official communication with Judge Khater, making certain charges against the MST and gave the judge 123 tapes of the telephone conversations recorded during the interception of the two telephone lines. The first stage of the recordings took place from 14–26 May 1999, and the second stage occurred from 9–23 June 1999. Transcripts of the telephone interceptions were not submitted. Only summaries of the extracts the police considered relevant were submitted. In Major Neves' report he mentioned that a Military Police officer unlawfully gave the press and other individuals probative material because this officer was an agent clandestinely in the police force receiving favours and/or money to provide MST important information on police preparations and actions. The report mentioned that the Military Police were taking measures to investigate and punish this officer for disseminating the recorded material.

On 2 July 1999, the telephone company deactivated the technical equipment for monitoring the COANA and ADECON telephone lines. Almost a year later, on 30 May 2000, Judge Khater, sent the file of the monitoring petition to the Prosecutor General's Office for a first time analysis. On 8 September 2000, the Prosecutor General's Office requested the Loanda Court to declare that the interceptions were invalid, and that the recorded tapes should not be used. On 18 April 2002, Judge Khater rejected the opinion of the Prosecutor General's Office because it had not been proved that the interceptions were illegal, but ordered the tapes be incinerated, which was done on 23 April 2002.

MST and the CPT (*Comissão Pastoral da Terra* (Rural Land Commission)) filed a criminal complaint against: the Secretary of Security, Judge Khater, Colonel Kretschmer, Major Neves, and Sergeant Silva for the illegal interception of the telephone lines and other crimes, which eventually did not succeed. COANA, ADECON, and the victims – Arlei Escher, Celso Aghinoni and Avanilson Araújo – filed a *mandado de segurança* (constitutional remedy) against Judge Khater, requesting the suspension of the telephone wiretapping and the destruction of the recorded tapes, which did not succeed. An administrative complaint was filed against Judge Khater but it was also rejected. Arlei Escher and Luciano de Vargas, filed civil actions against the state of Parana for reparation of non-pecuniary damage. The final judgement had not been

handed down in these proceedings at the time the Court issued the decision under analysis.

The Court first asserted that telephone conversations fell within the sphere of protection of the right to privacy and were protected under Article 11 of the American Convention. Conversations held through a private telephone line or a business line, as well as those related to private or business matters were protected by that provision. Article 11, also protected the right to honour and reputation. The right to honour related to self-esteem and self-worth, while reputation referred to the opinion that other individuals had on the affected person.

Next, the Court concluded that the telephone conversations of the alleged victims were private and that they had not authorised their conversations to be disseminated; thus, the interception of the conversations by State agents constituted interference in their private life. To determine whether this interference was arbitrary or abusive or whether it conformed with the American Convention, the reason for the interference had to be: established by law, have a legitimate purpose, and be appropriate, necessary, and proportionate. The Court noted that there was an established Law No. 9,296/96, dealing with telephone interceptions requested by the police authority in a criminal investigation. Nonetheless, the Court determined that this law was not followed because: i) both requests for the telephone interceptions failed to establish that the interception was for the purpose of a criminal investigation or for the preliminary investigation in a criminal action; ii) none of the interception requests or decisions granting them gave reasonable indications of the participation of members of COANA and ADECON, on the criminal offense or the means to implement the requested interceptions, and they failed to prove that the mean used was the only one possible way to obtain the evidence; iii) the civil police was exclusively responsible for investigating the criminal acts not the Military Police as was the case here; iv) Judge Khater failed to give the grounds to justify the telephone interception order and maximum duration of the procedure; and v) the Prosecutor's Office was not advised of the interception until more than a year after the interception orders were issued. The transcripts of the recorded material were not provided to the case of the monitoring petition. Therefore, the Court concluded that Law No. 9,296/96 was violated and the requirement of legality was not established. In sum, the State violated the right to privacy established in Article 11, with the telephone interceptions and recordings.

Also, the dissemination of the telephone conversations affected the honour and reputation of the alleged victims under Article 11 of the Convention. The Court concluded that in the first dissemination the State did not provide a satisfactory explanation to how the recordings ended up in the media where it should have been available to only a limited number of police and judicial authorities; therefore, the State failed to comply with its obligation to protect the recordings adequately. Regarding the dissemination by the Secretary of Security, in allowing other persons to hear the recordings and by distributing printed portions of the conversations without legal

authorisation or a court order as required by Law No. 9,296/96, it too was unlawful. Therefore, by disseminating private conversations that were protected by judicial confidentiality, without obtaining the legal requirements, Brazil violated the victims' right to protection of their honour, and reputation under Article 11 of the American Convention.

In addition, the Court concluded that interception, monitoring, recording and dissemination of the victims' telephone communications violated their right to association under Article 16 of the Convention. Under this provision, individuals have the right to associate freely with others, without State interference. Also, Article 16 imposes upon States positive obligations to prevent attacks against associations, to protect those who participate in associations and to investigate any violations perpetrated against those individuals who exercise this right. In the case of human rights defenders, States have obligations to facilitate their mission, to protect them when they are threatened and to investigate any violations of rights perpetrated against them in their course of work.

The Court concluded that the telephone interceptions and recordings were more about investigating MST activities than the stated objectives, which were the alleged diversion of public funds and the death of the brother of a local activist. Therefore, the Court held that the monitoring of the telephone communications of the association, without respecting the legal requirements, with stated objectives that were not supported by the acts and the conduct of the police and judicial authorities, and then their dissemination caused fear and tensions and affected the image and credibility of the associations. Therefore, Brazil violated the right to freedom of association established in Article 16 of the Convention.

Finally, the Court concluded that some of the domestic remedies to which the victims resorted in the domestic jurisdiction for protection of their fundamental rights were not effective to ensure their rights to a remedy and to a fair trial protected under Articles 8 and 25 of the American Convention. In particular, the Court found that the lack of due diligence on the part of the State to conduct an adequate investigation on the recordings and dissemination of the conversations violated the victims' right to an effective remedy. Moreover, the State violated Articles 8 and 25, in the administrative proceedings against Judge Khater because the administrative body examining the petition failed to state the reason for finding no responsibility on the part of the judge.

In *Tristan Donoso vs Panama*, the victim's right to privacy was also affected as a result of a telephone interception and the subsequent dissemination of the contents of that conversation. Bishop Ariz requested Tristán Donoso, counsel for the Catholic Church, to render professional services to Walid Fayed and his family. Walid was in custody in the course of criminal proceedings for a money laundering offense. During custody, Walid was offered his liberty for money. Walid agreed to cooperate in the investigation against the extorters by recording the conversation he had with them.

On 7 July 1996, a newspaper article alleged that two companies that donated a check for the 1994 reelection campaign of the then Attorney General, were supposedly used by criminal organisations to launder money from narcotics trafficking. The following day, Donoso and Walid's father had a telephone conversation on the possible publication of a press report stating that, unlike Walid's company, the two companies that allegedly financed the Attorney General's reelection with drug trafficking money were not being investigated for money laundering. On 9 July 1996, the newspaper published that the check drawn to finance the reelection campaign was false.

As part of the extortion investigation started in connection to Walid, Prosecutor Prado, requested from the Attorney General to have the telephones at the Zayed family's residence recorded, and to authorise the police to record and film the conversations and meetings that Walid might have with his extorters, exempting his family and defense counsel. On 10 July 1996, Prado gave the Attorney General a cassette and videocassette that contained the conversations with the extorters, and one cassette with the telephone calls made from the Zayed family's residence. The cassettes were done without authorisation from the Office of the Public Attorneys.

On 12 July 1996, the Attorney General issued two orders to give Prado a permit to proceed as requested and another to the National Telecommunications Institute to tap the telephone at the Zayed family residence for a 15 day period. On 16 July 1996, the Archbishop of Panama received the cassette with the recorded conversation between Donoso and Walid's father. The Archbishop transmitted the cassette to Bishop Ariz, who in turn informed Donoso about the existence of the telephone recording. Bishop Ariz and Donoso went to request an explanation from the Attorney General, who only received Bishop Ariz. The Attorney General told Bishop Ariz that the cassette highlighted the scheme that Donoso was making against the Office of the Public Attorney. During a meeting with the Governing Board of the National Bar Association, the Attorney General disclosed Donoso's conversation and said it was a conspiracy by Donoso against him and the Office of the Public Attorney.

On 25 March 1999, Donoso held a press conference where he stated that the former Attorney General had recorded and disclosed his private conversation. During the time of this press conference, there was debate in Panama over the power of the Attorney General to wiretap telephone conversations. The Chief Justice of the Supreme Court and a civil judge participated in this debate and questioned the power of the Attorney General. Also, Donoso filed a criminal complaint against the former Attorney General for the recording and disclosure of his conversation. The complaint was ultimately rejected by the Supreme Court of Panama.

On 26 March 1999, the Attorney General filed a criminal complaint against Donoso for defamation. The Panama Superior Court of Justice convicted Donoso for defamation and sentenced him to imprisonment for 18 months and disqualified him to hold public office for an equal term. The imprisonment was substituted by a fine.

In relation to the right to privacy under Article 11, the Court stated that the right to privacy is not an absolute one, so it may be restricted by the States provided that the interference is not abusive or arbitrary. The Court found that there was not sufficient evidence to prove before the Court, the State's responsibility for recording the telephone conversation. Therefore, the State did not violate Article 11, in relation to the recording of the conversation.

Regarding the telephone conversation disclosure, the Court stated that in order to be in line with the American Convention, the ground for the disclosure had to be contemplated in legislation, serve a legitimate purpose, and be suitable, necessary, and proportionate. Panama argued that the disclosure of the conversation was lawful and served two purposes: one was to prevent a criminal conspiracy to defame the then Attorney General, the other was to inform the authorities of the National Bar Association on the breach of the professional ethics code. The Court found that the State's laws would have allowed the telephone conversation to be disclosed only to certain persons, who in this case would have had been a judge having competent jurisdiction and the Ethical Review Board of the National Bar Association. Since the Attorney General, disclosed it to certain members of the Board of the National Bar Association and to Catholic priests, the disclosure lacked statutory grounds. Moreover, the comments uttered by the Attorney General, during the disclosure to the members of the National Bar Association, indicating that it was a 'defamation plan' or a 'conspiracy' may be deemed to have affected the honour and reputation of Donoso. Therefore, the Court held that the disclosure of the recording along with the Attorney General's comments violated the rights to a private life and to the honour and reputation of Donoso under Article 11 of the Convention. Furthermore, the Court dismissed the argument that the State failed to guarantee private life through the criminal proceedings because there were no evidentiary items on the record that showed that the investigation carried out against the then Attorney General was hierarchically subordinated to his office.

Additionally, the Court found that the criminal conviction for the charge of defamation violated Article 13 of the Convention. The Court asserted that freedom of expression is not an absolute right, but that Article 13, gives States the power to restrict the exercise of this right by imposing subsequent liability in the event of abuse. For the restriction to be permissible it must be enacted by law, serve a legitimate purpose, and be adequate, necessary and commensurate. The Court found that the first two grounds were met because defamation was considered a crime in domestic legislation and because its aim was to safeguard the reputation of others, a right that public officials also enjoy. As to the necessity for the measure, the Court stated that State punitive power should be exercised only to the extent strictly necessary by analysing: the seriousness of the conduct of the individual who expressed the opinion, his actual malice, the unfair damage caused, and other information that shows absolute necessity to resort to criminal proceedings. The Court found that the criminal sanction was not necessary because there were facts that led Donoso to believe that

his accusations against the then Attorney General were not groundless. At the time of the press conference, the following facts supported that belief: the Attorney General was the only one able to authorise wiretappings; the former Attorney General was in possession of the tape containing the private conversation; the former Attorney General delivered the tape and a transcript of its contents to the Catholic Church; and the Attorney General played the tape to the authorities of the National Bar Association during a meeting in his office. Moreover, the criminal complaint filed against the then Attorney General was another element to consider, since it shows that Donoso was under the impression that there were sufficient grounds for his statements. Therefore, the Court held that the State's criminal punishment on Donoso violated his right to freedom of expression.

The Court dismissed the alleged violations to Articles 8 and 25, in relation to the investigation of the criminal complaint filed by Donoso against the Attorney General. Furthermore, the Court held that the State did not violate the right of due process of law in Article 8, in the investigation carried out against Donoso for the crime of defamation. The Court, however, found that Panama violated the right to a fair trial under Article 8 of the Convention for the lack of sufficient grounds in the Supreme Court's decision on the disclosure of the telephone conversation. The Court held that the Supreme Court should have provided the grounds for its decisions regarding the disclosure of the telephone conversation and if found that disclosure existed, should have given the reasons why the act was described or not in a criminal statute, possibly with the pertinent responsibilities.

3. HUMAN RIGHTS IN VENEZUELA: DESTITUTION OF JUDGES AND FREEDOM OF EXPRESSION

The *Reveron Trujillo Case*³ reflects the ongoing debate on the situation of provisional judges in Venezuela. Provisional judges have been appointed since the Constituent Assembly declared the reorganisation of the Judicial Branch and created a Judicial Emergency Commission in 1999. Depending on the years, the provisional judges have been appointed by different organs, including the Judicial Emergency Commission, the Judicial Commission of the Supreme Justice Tribunal or the full Supreme Justice Tribunal. According to Venezuelan officials and consolidated domestic case-law 'provisional judges are of free appointment and removal'.⁴ At the time the facts of this case transpired, the percentage of provisional judges reached about 80 percent;

³ Inter-American Court of Human Rights, *Reveron Trujillo vs Venezuela*, Preliminary Objection, Merits, Reparations and Costs, judgement of 30 June 2009, Series C, No. 197.

⁴ *Ibidem*, at para. 101.

by the end of 2008 it had decreased considerably, but still remained at approximately 44 percent.⁵

The issue of provisional judges in Venezuela was first addressed by the Court in *Aptiz Barbera et al. vs Venezuela*.⁶ The Court concluded that provisional judges should be ensured conditions to exercise their role independently; therefore, rules applicable to permanent tenured judges on promotion, transfer and distribution of cases, as well as suspension and/or removal from office should be equally applied to those provisionally appointed. The Court followed a similar approach in *Reveron Trujillo*.

Mrs Reveron Trujillo was appointed on 16 July 1999, a First Instance Criminal Judge under a provisional nature until 'the holding of the corresponding tenders'. In 2002, Mrs Reveron Trujillo, acted specifically as the Fourteenth First Instance Trial Judge of the Criminal Judicial Circuit of the Judicial District of the Metropolitan Area of Caracas. On 6 February 2002, Reveron Trujillo was dismissed from her position by the Commission for the Operation and Restructuring of the Judicial System (hereinafter CFRSJ), claiming that she had incurred in disciplinary offenses, according to the Organic Law of the Judiciary Council and the Law on the Judicial Career, including 'abuse or excessive use of authority' and the failure to comply with her obligation to 'exercise due attention and diligence' in the processing of a case. Mrs Reveron Trujillo filed an administrative appeal for reconsideration before the CFRSJ, which eventually declared the appeal inadmissible. On 19 March 2002, Mrs Reveron Trujillo filed an appeal for annulment before the Political-Administrative Chamber of the Supreme Court of Justice (hereinafter SPA), requesting a precautionary suspension of the effects of the appealed act. The SPA dismissed the demand of suspension of the effects of the act, but concluded that the CFRSJ decision to dismiss was unlawful. The SPA did not order the payment of salaries or reinstatement because there was a judicial restructuring process where all judicial positions were submitted to public competitive tenders. However, the SPA did order that all mentions of the punishment be deleted off Mrs Reveron Trujillo's file.

The Court first looked to whether reinstatement to the position was an effective remedy after the arbitrary dismissal of the judge. The Court highlighted the importance of judicial independence, which included an adequate appointment process, the tenure in the position, and the guarantee against external pressures. The Court determined that reinstatement is needed for a remedy that declares the nullity of an unlawful dismissal of a judge. Then the Court looked to see if the reasons indicated by the SPA, which were the judicial restructuring process and the provisional nature of the position of the judge, were adequate restrictions to the reinstatement and payment of salaries. The Court concluded that the transition regimen and the provisional position were not acceptable reasons for lacking reinstatement. The Court stated that

⁵ *Ibidem*, at paras 103–106.

⁶ Inter-American Court of Human Rights, *Aptiz Barbera vs Venezuela*, Preliminary Objection, Merits, Reparations and Costs, judgement of 5 August 2008, Series C, No. 182.

a necessary corollary of the guarantee of tenure in the position of provisional judges, like that of titular judges, is the reinstatement to their position, and reimbursement of their salaries, when it has been proven, as in the present case, that the dismissal was arbitrary. Therefore, the State violated Article 25 of the American Convention, since the remedy to which Mrs Reveron Trujillo had access to did not offer adequate reparations, and because there was no justified reason for denying reinstatement and payment of salaries.

Also, the Court considered the alleged violation to the right to have access to public service in general conditions of equality under Article 23(1)(c) of the Convention. The Court asserted that this right protects the access to a direct form of participation in the design, implementation, development, and execution of the State's political guidelines through public service. Therefore, it is necessary that the State generate optimal conditions and mechanisms in order for those political rights to be exercised effectively, respecting the principle of equality and non-discrimination. Given that the SPA, would have likely reinstated a titular judge, whereas not a provisional judge, the Court decided that the difference in treatment between judges does not respond to a reasonable criterion pursuant to the Convention. Therefore, the State violated Article 23, because Mrs Reveron Trujillo suffered an arbitrary, unequal treatment regarding the right to remain, under equal conditions, in the exercise of public service.

In *Perozo et al. vs Venezuela*⁷ and *Ríos et al. vs Venezuela*,⁸ the Court addressed the issue of whether a situation of repeated attacks and harassment against media representatives carried out by private actors, in a context of political polarisation resulting from statements given by the highest-rank public officers of the State, against journalists and media outlets, violated the rights to freedom of expression and personal integrity under Articles 13 and 5 of the American Convention. Given space considerations, this report will only cover the facts and issues addressed in *Perozo et al. vs Venezuela*.

At the time of the facts in *Perozo*, Venezuela was in a period of political and institutional conflict, which resulted in extreme polarisation of society. On 2 April 2002, the Workers' Confederation of Venezuela and *Fedecamaras* (Federal Chamber of Commerce and Production) went on strike. On 11 April 2002, an opposition march took place, demanding the resignation of Venezuela's President. This situation led to violence, an attack on the constitutional government through a *coup d'état*, and the subsequent restoration of the constitutional order. This setting caused ongoing attacks and threats against reporters, cameramen, photographers and other workers of mass media, especially to individuals related to the media outlet Globovision, whom were the victims in the present case. Venezuela alleged Globovision had a 'programme'

⁷ Inter-American Court of Human Rights, *Perozo et al. vs Venezuela*, Preliminary Objections, Merits, Reparations and Costs, judgement of 29 January 2009, Series C, No. 195.

⁸ Inter-American Court of Human Rights, *Ríos et al. vs Venezuela*, Preliminary Objections, Merits, Reparations and Costs, judgement of 28 January 2009, Series C, No. 194.

against the government, which promoted instability in society. The victims alleged that after high-rank public officials made statements about Globovision's 'programme', members of Globovision were subject to an ongoing and escalating campaign of harassment and aggression, which prevented them from performing their jobs. The victims also claimed damage to Globovision's property. The victims alleged that some aggressors were members of 'Bolivarian Circles', a group in support of the government. The particular incident of each victim was described, along with claims that the State failed to protect the victims and undertake a serious and effective investigation of these incidents to identify and punish those responsible.

The Court concluded, that it was not proven from the statements of the public officials that they authorised, incited, directed or ordered violent attacks against the victims, and highlighted that unidentified individuals, not State agents directly violated human treatment of the victims. Nonetheless, the Court pointed out that the statements made by the highest-ranking authorities of the Venezuelan State placed those who worked for Globovision in a position of greater vulnerability, and created or contributed to an increase of hostility by some sectors of the population, against those who worked in that particular media outlet. That situation constituted the State's failure on its duty to prevent that the exercise of the victims' right to seek, receive and impart information be affected, as a result of the harassment and attacks perpetrated by private actors, while the victims performed their jobs. Furthermore, the Court held that there was enough evidence to conclude that the State violated its obligation to guarantee the right to mental and moral integrity of some of the victims in view of the impairments in their personal and professional lives.

With regard to the investigation of the criminal activities, the Court took into consideration the delay by the victims in reporting the attacks, but held that the State could not justify its total inactivity to conduct an investigation based on the fact that they were not brought to the attention of the competent authority, by means of the procedure established by the domestic legislation. The Court also held that only 19 of the 48 facts reported were investigated, and in those 19, no responsible person had been identified; therefore, in those cases the investigations were not an effective means to insure the right to humane treatment and the right to seek, receive and impart information of the alleged victims. The attacks or the risk situations for personal integrity of the victims, in the contexts of the statements given by high-ranking public officials, and the failure of State authorities to comply with the duty of due diligence in the investigations, constituted a failure of the State's obligation to prevent and investigate the facts. Therefore, the State violated its duty to freely seek, receive and impart information and the right to humane treatment of Articles 13 and 5 of the American Convention.

In the end, the Court attributed international responsibility to Venezuela for the actions carried out by private individuals under the assumption that the State was aware of the existence of a risk, the creation of which it apparently contributed to

through the statements of high-ranking officials, and failed to act with due diligence to prevent the impediment of Globovision's workers' right to freedom of expression and personal integrity.