

Reverón Trujillo v. Venezuela

ABSTRACT¹

This case is about the arbitrary dismissal of a provisional judge in Venezuela. During the President Hugo Chávez, Venezuela's judiciary relied on a large number of provisional judges to administer justice, who do not enjoy the same guarantees of tenured judges and, therefore, are not truly independent. The Court found violation of Article 25(1) (Right of Recourse Before a Competent Court) and Article 23(1) (Right to Have Access to Public Service).

I. FACTS

A. Chronology of Events

1982: Ms. María Cristina Reverón Trujillo joins the State Judiciary.² Throughout Ms. Reverón Trujillo's career, she holds different positions, including prosecutor, public defender, and judge.³

Before 1999: The Judiciary experiences a period of crisis.⁴ President Hugo Chávez implements various legal and political reforms throughout the State to combat the judiciary's issues with effectiveness and integrity.⁵ One such reform is undertaken by the National Constituent Assembly, which is specifically created to draft a new Constitution.⁶ The State also implements other reforms aimed to increase the Judiciary's reliabil-

1. Jessica McCormick, Author; Zach Tripodes, Editor; Kathryn Benson, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

2. Reverón Trujillo v. Venezuela, Admissibility Report, Report No. 60/06, Inter-Am. Comm'n H.R., Case No. 12.565, ¶ 6 (July 20, 2006).

3. *Id.*

4. Reverón Trujillo v. Venezuela, Preliminary Objections, Merits, Reparations and Costs, Inter-Am. Ct. H.R., (ser. C) No. 197, ¶ 82 (June 30, 2009).

5. Lauren Castaldi, *Judicial Independence Threatened in Venezuela: The Removal of Venezuelan Judges and the Complications of Rule of Law Reform*, 37 GEO. J. INT'L L. 466 at 478 (Spring 2006).

6. Reverón Trujillo v. Venezuela, Preliminary Objections, Merits, Reparations and Costs, ¶ 82.

ity through a guarantee of judicial independence.⁷ One of President Chávez's reforms is to "overhaul the Venezuelan judicial system" by removing, dismissing or suspending judges that President Chávez considers to be corrupt.⁸ Those in opposition to this reform believe that fighting corruption masks President Chávez's true purpose of dismissing judges that have issued unfavorable rulings for the government.⁹

July 16, 1999: Ms. Reverón Trujillo is named Judge of First Instance in Criminal Matters for the Criminal Judicial Circuit of the Metropolitan Area of Caracas.¹⁰ The decree that appoints her to this position makes her a provisional judge until she takes the requisite examination to become a tenured judge.¹¹

Between July 16, 1999 and February 6, 2002: Judge Reverón Trujillo hears a case of political importance in the State.¹² The accused, Mr. Pablo López Ulacio, is the director of a well-known national newspaper, *La Razón*.¹³ Mr. López Ulacio fails to appear in court to make a statement on seven different occasions.¹⁴ Judge Reverón Trujillo orders that Mr. López Ulacio be arrested for contempt of court.¹⁵ Mr. López Ulacio's family submits a disciplinary complaint against Judge Reverón Trujillo to the Commission on the Functioning and Restructuring of the Judicial System.¹⁶

August 12, 1999: As a result of the judicial crisis in the State, the National Constituent Assembly issues the Decree of Reorganization of the Judicial Power and the Prison System ("The Decree of Reorganization") to restructure all bodies of public power.¹⁷

August 19, 1999: The National Constituent Assembly, through the De-

7. Lauren Castaldi, *supra* note 5.

8. *Id.* at 479.

9. *Id.* at 479–80.

10. Reverón Trujillo v. Venezuela, Admissibility Report, ¶ 6.

11. *Id.* Ms. Reverón Trujillo argues that, under this decree, she had a right to keep the position until the examination was administered.

12. *Id.* ¶ 7.

13. *Id.*

14. *Id.*

15. *Id.*

16. *Id.*

17. Reverón Trujillo v. Venezuela, Preliminary Objections, Merits, Reparations and Costs, ¶¶ 83–84.

creed of Reorganization, creates a Judicial Emergency Commission.¹⁸ The Judicial Emergency Commission is established to create a national plan for the selection and evaluation of judges and to organize judicial selection processes along with their respective juries.¹⁹ The Emergency Commission's power remains in force until the adoption of the new Constitution.²⁰

December 20, 1999: The new Constitution enters into force.²¹ It requires judges to obtain their positions through "public competitive tenders."²² Furthermore, the Constitution creates an Executive Office of the Magistracy to manage and govern the administration of the Judiciary.²³ The Executive Office of the Magistracy is also empowered with the ability to supervise and inspect the courts.²⁴

August 2, 2000: The Supreme Court of Justice issues the Regulations on the Management, Government, and Administration of the Judicial Power with the objective of delegating management, government, and administration duties of judicial power.²⁵ This Regulation delegates these tasks to the Executive Office of the Magistracy.²⁶ As a result, the Commission for the Operation and Restructuring of the Judicial System ("CFRSJ") is required to cease performing these tasks; it is only responsible for disciplinary functions.²⁷

Prior to February 6, 2002: Judge Reverón Trujillo waits to take the examination that would allow her to move from provisional judge to tenured judge.²⁸

February 6, 2002: The CFRSJ dismisses Judge Reverón Trujillo from her judicial position.²⁹ She is removed for allegedly committing an

18. *Id.* ¶ 84.

19. *Id.*

20. *Id.* ¶ 85.

21. *Id.* ¶ 86.

22. *Id.*

23. *Id.*

24. *Id.*

25. *Id.* ¶¶ 14, 93.

26. *Id.* ¶ 93.

27. *Id.*

28. Reverón Trujillo v. Venezuela, Admissibility Report, ¶ 2.

29. Reverón Trujillo v. Venezuela, Preliminary Objections, Merits, Reparations and Costs, ¶ 50.

“abuse of authority, inexcusable judicial error, and negligence” in managing the judicial process.³⁰

March 5, 2002: Ms. Reverón Trujillo files an administrative appeal to reconsider her dismissal with the CFRSJ.³¹

March 20, 2002: The CFRSJ finds Ms. Reverón Trujillo’s appeal inadmissible.³²

March 10, 2002: Ms. Reverón Trujillo appeals the affirmation of her dismissal to the Political-Administrative Chamber of the Supreme Court of Justice.³³ In this appeal, Ms. Reverón Trujillo argues that the CFRSJ clearly interfered when they effectuated her removal.³⁴ Ms. Reverón Trujillo further argues that this constitutes a violation of the independence of judges since her decisions were always based in law and precedent.³⁵

October 14, 2004: The Supreme Court of Justice declares Judge Reverón Trujillo’s appeal partially admissible.³⁶ The Supreme Court of Justice nullifies Judge Reverón Trujillo’s dismissal because there is no evidence of judicial error, nor abuse of authority.³⁷ There is no evidence that Judge Reverón Trujillo expansively interpreted the law; rather, she interpreted it correctly and did not exceed her judicial functions.³⁸ The Supreme Court of Justice holds that Judge Reverón Trujillo was justified in her decision because Mr. López Ulacio’s failure to adhere to court orders could lead someone to reasonably believe that he would not appear for later court hearings.³⁹ Although there was a slight error in the notice ordering a place of imprisonment that Judge Reverón Trujillo issued, she immediately corrected this, and it had no impact on Mr. López

30. Reverón Trujillo v. Venezuela, Admissibility Report, ¶ 2.

31. Reverón Trujillo v. Venezuela, Preliminary Objections, Merits, Reparations and Costs, ¶ 51.

32. *Id.*

33. Reverón Trujillo v. Venezuela, Admissibility Report, ¶ 8.

34. *Id.*

35. *Id.*

36. *Id.* ¶ 9.

37. Reverón Trujillo v. Venezuela, Preliminary Objections, Merits, Reparations and Costs, ¶ 2; Reverón Trujillo v. Venezuela, Admissibility Report, ¶ 2.

38. Reverón Trujillo v. Venezuela, Admissibility Report, ¶ 9.

39. *Id.* ¶ 10.

Ulacio.⁴⁰ In fact, Mr. López Ulacio had not even been arrested.⁴¹ Despite the Supreme Court of Justice's finding of no judicial error, it did not reinstate Judge Reverón Trujillo's position as judge, nor did it order that she receive salary and benefits lost since the date of removal.⁴² Since Judge Reverón Trujillo is a provisional judge, she cannot "be immediately reinstated but she could participate in public competitions to be considered for similar judicial positions."⁴³ Instead, the Supreme Court of Justice orders that any reference to the dismissal be removed from her judicial file.⁴⁴

July 6, 2005: The Supreme Court of Justice adopts the Regulations for the Evaluation and Competitive Tender for the Acceptance into and Promotion within the Judicial Career ("NEC").⁴⁵ These Regulations regulate entrances, promotions, and continuances within the Judiciary via "public competitive tenders and performance evaluations."⁴⁶ The tender process has two stages: the "Initial Formation Program," and the knowledge exam.⁴⁷ The Initial Formation Program trains aspiring judges.⁴⁸ Aspiring judges can pre-register for the Initial Formation Program; pre-registration is announced in two national newspapers and on the Supreme Court of Justice's website.⁴⁹ Those who comply are required to pass an entrance exam.⁵⁰ If the aspiring judges pass the entrance exam, they are required to provide psychological and medical evaluations.⁵¹ Those who pass all of these steps then move on to the next stage: the knowledge exam, which includes written, oral, and practical portions.⁵² The National School of the Magistracy publishes the date and time of the exam in two national newspapers and on the Supreme

40. *Id.*

41. *Id.*

42. *Reverón Trujillo v. Venezuela*, Preliminary Objections, Merits, Reparations and Costs, ¶ 2; *Reverón Trujillo v. Venezuela*, Admissibility Report, ¶ 11.

43. Andrew W. Maki et al., *Updates From the Regional Human Rights System*, 17 No. 1 HUM. RTS. BRIEF 57 at 61 (Fall 2009).

44. *Reverón Trujillo v. Venezuela*, Admissibility Report, ¶ 2.

45. *Reverón Trujillo v. Venezuela*, Preliminary Objections, Merits, Reparations and Costs, ¶ 95.

46. *Id.*

47. *Id.*

48. *Id.* ¶ 97.

49. *Id.*

50. *Id.*

51. *Id.*

52. *Id.* ¶ 98.

Court of Justice's website.⁵³ The vacant judicial positions are given to the participants who placed highest in the tender.⁵⁴

May 20, 2006: The Organic Law of the Supreme Court of Justice enters into force.⁵⁵ The Organic Law orders the Executive Office of the Magistracy to be reorganized and restructured, and reconfirms that the CFRSJ is only in charge of disciplinary functions.⁵⁶

B. Other Relevant Facts

This case is not the first time international human rights bodies “have criticized Venezuela’s use of provisional judges.”⁵⁷ The United Nations Human Rights Committee expresses concern that in simply fulfilling required judicial responsibilities, Venezuelan judges could be taken out of office.⁵⁸ Similarly, the Inter-American Commission has stated that the State’s large number of provisional judges seriously impacts the right to justice to the detriment of citizens, as well as the right to job stability that guarantees autonomy and independence to the detriment of judges.⁵⁹

II. PROCEDURAL HISTORY

A. Before the Commission

April 13, 2005: Mr. Rafael Chavero Gazdik presents a petition on behalf of Ms. Reverón Trujillo to the Inter-American Commission.⁶⁰ Judge Reverón Trujillo argues that provisional judges should have the same rights as tenured judges, namely the right to independence and impartiality.⁶¹ Since provisional judges in the State can be freely removed, Judge Reverón Trujillo argues that they are denied stability, which is discriminatory treatment compared to tenured judges who are

53. *Id.*

54. *Id.*

55. *Id.* ¶ 94.

56. *Id.*

57. Andrew W. Maki, *supra* note 44.

58. *Id.*

59. *Id.*

60. Reverón Trujillo v. Venezuela, Admissibility Report, ¶ 1.

61. *Id.* ¶ 2.

guaranteed stability through their positions.⁶² Provisional judges will not be reinstated to the position they held, even if their removal is completely nullified.⁶³ In addition, Judge Reverón Trujillo argues that similar cases of erroneous removal have been decided differently than her case.⁶⁴ Judge Reverón Trujillo argues that she should have been reinstated to a similarly ranked position at another court.⁶⁵ Overall, Judge Reverón Trujillo argues that there is a denial of justice because even though the Supreme Court of Justice recognized the illegality of her removal, it did not reinstate her or pay her lost salary from the date of removal.⁶⁶

July 25, 2006: The Commission adopts Admissibility Report No. 60/06, declaring the case admissible under Articles 1(1) (Obligation to Respect Rights), 2 (Obligation to Give Domestic Legal Effect to Rights), 8 (Right to a Fair Trial), 23 (Right to Participate in Government), 24 (Right to Equal Protection) and 25 (Right to Judicial Protection) of the American Convention.⁶⁷

July 27, 2007: The Commission approves Report on Merits No. 62/07.⁶⁸ The Commission finds the State violated Article 25 (Right to Judicial Protection).⁶⁹ The Commission recommends that the State: 1) reinstate Judge Reverón Trujillo to her position as Judge of the Fourteenth First Instance Criminal Court; 2) compensate her for lost wages and benefits; and 3) reimburse her costs and expenses.⁷⁰

B. Before the Court

November 9, 2007: The Commission submits the case to the Court after the State failed to adopt its recommendations.⁷¹

62. *Id.* ¶ 12.

63. *Id.*

64. *Id.* ¶¶ 2, 12.

65. *Id.* ¶ 13.

66. *Id.* ¶ 14.

67. Reverón Trujillo v. Venezuela, Preliminary Objections, Merits, Reparations and Costs, ¶ 1; Reverón Trujillo v. Venezuela, Admissibility Report, ¶ 2.

68. Reverón Trujillo v. Venezuela, Preliminary Objections, Merits, Reparations and Costs, ¶ 1.

69. Reverón Trujillo v. Venezuela, Petition to the Court, Inter-Am. Comm'n H.R., Case No. 12.565, ¶ 2 (Nov. 9, 2007) (Available only in Spanish).

70. *Id.* ¶ 18.

71. Reverón Trujillo v. Venezuela, Preliminary Objections, Merits, Reparations and Costs,

1. Violations Alleged by Commission⁷²

Article 25 (Right to Judicial Protection)

in relation to:

Article 1(1) (Obligation to Respect Rights)

Article 2 (Obligation to Give Domestic Legal Effects to Rights) of the American Convention.

2. Violations Alleged by Representatives of the Victim⁷³

Same Violations Alleged by Commission, plus:

Article 5(1) (Right to Physical, Mental, and Moral Integrity)

Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal)

Article 23(1)(c) (Right to Have Access to Public Service)

April 4, 2008: The State files its brief of preliminary objections with the Court.⁷⁴ The State argues that it offered Judge Reverón Trujillo an effective judicial remedy by annulling her dismissal and eliminating any mention of it from her file.⁷⁵ The State requests modification to the Court's jurisprudence, eliminating the requirement that an objection of failure to exhaust domestic remedies be done in a timely manner, otherwise it is waived.⁷⁶

November 27, 2008: The Legal Clinic of the Law School of the Torcuato Di Tella University in Argentina submits an *amicus curiae* brief to the Court.⁷⁷

March 30, 2009: The Human Rights Center and the Law School of the University of Essex submits an *amicus curiae* brief to the Court.⁷⁸

¶ 1.

72. *Id.* ¶ 3.

73. *Id.* ¶¶ 4, 131, 143, 149. Mr. Rafael J. Chavero Gazdik, and Mr. Carlos M. Ayala Corao serve as representatives of Judge Reverón Trujillo. *Id.* ¶ 4.

74. *Id.* ¶ 5.

75. *Id.*

76. *Id.* ¶ 20.

77. *Id.* ¶ 9.

78. *Id.*

May 9, 2008: Judge Diego García-Sayán asks the President to accept his self-disqualification from participating as a judge in this case because he is a member of a non-governmental organization, of which Mr. Ayala Corao, one of Judge Reverón Trujillo's representatives, is also a member.⁷⁹

The Court issues an Order preventing Mr. Emilio Ramos González, who was appointed as judge *ad hoc* by the State, from participating in the case.⁸⁰ The State is given the opportunity to appoint a new judge *ad hoc*.⁸¹

June 30, 2008: The State appoints Mr. Einer Elías Biel Morales as judge *ad hoc*.⁸²

June 30, 2009: The Court decides by six votes to one to dismiss the preliminary objection filed by the State because the rule of exhaustion of domestic remedies shall be interpreted in accordance with international law, and if it is not filed before the Commission in a timely manner, the State waives its ability to use the measure as a defense later on in proceedings.⁸³ Accordingly, the Court does not consider the State's preliminary objection.⁸⁴

III. MERITS

A. *Composition of the Court*⁸⁵

Cecilia Medina Quiroga, President
Sergio García Ramírez, Judge
Manuel E. Ventura Robles, Judge
Leonardo A. Franco, Judge
Margarette May Macaulay, Judge
Rhadys Abreu Blondet, Judge

79. *Id.* at 1, n.1.

80. *Id.*

81. *Id.* The Judgment does not provide any further information on the appointment or prevention of Mr. Ramos González from acting as judge *ad hoc* in this case.

82. *Id.*

83. *Id.* ¶ 21, "Operative Paragraphs" ¶ 1.

84. *Id.* ¶ 24.

85. Judge Diego García-Sayán recused himself because he and one of the representatives of the victim were both members of a non-governmental organization. *Id.* n.1.

Einer Elías Biel Morales, Judge *Ad Hoc*

Pablo Saavedra Alessandri, Secretary

Emilia Segares Rodríguez, Deputy Secretary

B. Decision on the Merits

June 30, 2009: The Court issues its Judgment on Preliminary Objections, Merits, Reparations, and Costs.⁸⁶

The Court found by six votes to one that the State had violated:

Article 25(1) (Right of Recourse Before a Competent Court), in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Obligation to Give Domestic Legal Effect to Rights) of the Convention, to the detriment of Judge Reverón Trujillo,⁸⁷ because:

Even though the State was experiencing judicial restructuring, it was required to meet certain “minimum parameters of stability” and regulate protections of judicial independence; this should have been addressed when deciding reparations for the dismissal of Judge Reverón Trujillo.⁸⁸ Since State judges, whether permanent or provisional, exercise the same duties, the State was required to provide judicial independence to both types of judges.⁸⁹ However, permanent judges and provisional judges are elected differently; provisional judges are not guaranteed unlimited continuances, whereas permanent judges are guaranteed unlimited continuances.⁹⁰ This guarantee, referred to as tenure, is the ability to enjoy all the benefits of the judicial position until their term of office ends.⁹¹ Provisional judges are not elected by tenders; therefore, they do not necessarily have the same qualifications as permanent judges.⁹² A provisional judge is susceptible to external pressures, specifically those responsible for determining the judge’s job status.⁹³ The Court held that the provisional appointments should be con-

86. Reverón Trujillo v. Venezuela, Preliminary Objections, Merits, Reparations and Costs.

87. *Id.* “Operative Paragraphs” ¶ 2.

88. *Id.* ¶ 108.

89. *Id.* ¶ 114.

90. *Id.* ¶ 115.

91. *Id.* ¶ 116.

92. *Id.* ¶ 115.

93. *Id.* ¶ 117.

sidered an admissible exception to the general rule because although there were obstacles to judicial independence for provisional judges, it was necessary to provide suitable judges.⁹⁴ The State's judicial system had a legitimate purpose, but its application in practice was ineffective.⁹⁵ The regimen to restructure the judicial process was still being implemented in different ways, despite its ten-year existence.⁹⁶

The Court reasoned that there was no evidence that the State had adopted an ethics code for judges.⁹⁷ Additionally, the State's Judiciary currently consisted of upwards of forty percent provisional judges.⁹⁸ When a provisional judge is dismissed for an arbitrary reason, as in Judge Reverón Trujillo's case, a necessary result of the guarantee of tenure is the reinstatement to his or her position, as well as reimbursement of salaries not received.⁹⁹ The only reasons that the State could not reinstate Judge Reverón Trujillo would be if (1) the court no longer existed, (2) the court was strictly made up of permanent judges who were elected pursuant to law, or (3) Judge Reverón Trujillo lost her physical or mental capacity to act as a judge.¹⁰⁰ None of these justifications were present here.¹⁰¹ Overall, neither the State's judicial restructuring nor the provisional nature of Judge Reverón Trujillo's judicial position had any relationship to her right to be repaired from an arbitrary dismissal.¹⁰² Overall, the State violated Article 25(1) (Right of Recourse Before a Competent Court) of the Convention because it did not offer Judge Reverón Trujillo adequate reparations nor did it provide a justified reason for failing to reinstate her or pay the salaries she did not receive.¹⁰³ This posed a significant infringement on judicial independence.¹⁰⁴

Article 23(1)(c) (Right to Have Access to Public Service), in relation to Article 1(1) (Obligation to Respect Rights) of the Convention, to

94. *Id.* ¶ 118.

95. *Id.* ¶ 119.

96. *Id.*

97. *Id.* ¶ 120.

98. *Id.* ¶ 121.

99. *Id.* ¶ 123.

100. *Id.* ¶ 124.

101. *Id.*

102. *Id.* ¶ 124.

103. *Id.* ¶ 127.

104. *Id.*

the detriment of Judge Reverón Trujillo,¹⁰⁵ because:

The difference in treatment between permanent and provisional judges is not reasonable under the Convention.¹⁰⁶ Permanent judges are fully guaranteed tenure, whereas provisional judges do not have any protection with regards to continuance of their positions.¹⁰⁷ Therefore, Judge Reverón Trujillo suffered arbitrary and unequal treatment regarding the right to participate in government, which violates Article 23(1)(c) (Right to Have Access to Public Service) of the Convention.¹⁰⁸

The Court found by six votes to one that the State had not violated:

Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) of the Convention, to the detriment of Judge Reverón Trujillo,¹⁰⁹ because:

The victim's representatives argued, "upon violating the right to an effective judicial protection" the State also violated Judge Reverón Trujillo's "right to independence as a judge, acknowledged in Article 8 (Right to a Fair Trial) of the Convention."¹¹⁰ The Court held that the rights contained in Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) were only applicable to the parties before a judge, not the judge herself.¹¹¹

Article 5(1) (Right to Physical, Mental, and Moral Integrity) of the Convention to the detriment of Judge Reverón Trujillo,¹¹² because:

Ms. Reverón Trujillo's representatives claimed that her moral and psychological integrity were affected by her dismissal.¹¹³ She had experienced anguish, concern, anxiety, stress and depression as a result of her dismissal.¹¹⁴ The Court held that these facts were not presented in the

105. *Id.* "Operative Paragraphs" ¶ 3.

106. *Id.* ¶ 141.

107. *Id.*

108. *Id.*

109. *Id.* "Operative Paragraphs" ¶ 4.

110. *Id.* ¶ 143.

111. *Id.* ¶ 148.

112. *Id.* "Operative Paragraphs" ¶ 5.

113. *Id.* ¶ 149.

114. *Id.*

*Commission's application; therefore the Court would not analyze them.*¹¹⁵ Thus, the State did not violate Article 5(1) (Right to Physical, Mental, and Moral Integrity) of the Convention.¹¹⁶

C. Dissenting and Concurring Opinions

1. Dissenting Opinion of the Judge *Ad Hoc* Einer Elías Biel Morales

In a separate opinion, Judge Biel Morales argued against the Court's dismissal of the State's preliminary objection regarding exhaustion of domestic remedies.¹¹⁷ The Court has jurisdiction only over cases where a State has been allowed to repair the alleged violation and has failed to do so; this requirement that a complainant first exhaust domestic remedies allows a State to resolve the matter under its domestic law.¹¹⁸ The State filed a preliminary objection that Judge Reverón Trujillo did not file an appeal for revision with the Constitutional Chamber of the Supreme Court of Justice.¹¹⁹ The Court did not accept this preliminary objection because the State was not timely in filing it.¹²⁰ An objection of exhaustion of domestic remedies can be waived if the State does not file the objection in a timely manner.¹²¹ Judge *ad hoc* Biel Morales explained that he does not understand why the Court turned the requirement to exhaust remedies into a "means of defense" for the State, which can be waived.¹²² Overall, Judge *ad hoc* Biel Morales argued that the Court should have accepted the State's preliminary objection because "the requirement of lack of exhaustion of domestic remedies cannot be a defense that the State may waive tacitly, since it constitutes a rule on which the subsidiary principle of the Inter-American System is based."¹²³

IV. REPARATIONS

115. *Id.* ¶ 152.

116. *Id.* ¶ 154.

117. Reverón Trujillo v. Venezuela, Preliminary Objections, Merits, Reparations and Costs, Dissenting Opinion of the Judge *Ad Hoc* Einer Elías Biel Morales, Inter-Am. Ct. H.R. (ser. C) No. 197, ¶ 1 (June 30, 2009).

118. *Id.* ¶¶ 2–3.

119. *Id.* ¶ 6.

120. *Id.*

121. *Id.* ¶ 7.

122. *Id.* ¶ 8.

123. *Id.* ¶ 14.

The Court ruled by six votes to one that the State had the following obligations:¹²⁴

A. Specific Performance (Measures of Satisfaction and Non-Repetition Guarantee)

1. Judgment as a Form of Reparation

The Court indicated that the Judgment itself should be understood as a form of reparation.¹²⁵

2. Reinstate Judge Reverón Trujillo to a Similar Judicial Position

The State must reinstate Judge Reverón Trujillo to a similar judicial position.¹²⁶ Judge Reverón Trujillo must be reinstated to a position with the same remuneration, benefits, and a similar rank to her previous judicial position.¹²⁷ The Court clarified that Judge Reverón Trujillo be reinstated as a provisional judge, but under certain parameters.¹²⁸ Specifically, her position must be subject to a “cancellation clause” if she commits a disciplinary offense, a parameter that permanent judges are subjected to as well.¹²⁹ Once in her judicial position, Judge Reverón Trujillo may not be freely removed unless she commits a disciplinary offense.¹³⁰

3. Remove Ms. Reverón Trujillo’s File

The State must eliminate Judge Reverón Trujillo’s personal file showing that she was dismissed.¹³¹

4. Adopt an Ethics Code

The State must adopt a code of ethics to ensure judicial independ-

124. Reverón Trujillo v. Venezuela, Preliminary Objections, Merits, Reparations and Costs, “Operative Paragraphs” ¶¶ 6–12.

125. *Id.* “Operative Paragraphs” ¶ 6.

126. *Id.* ¶ 163, “Operative Paragraphs” ¶ 7.

127. *Id.* ¶ 163.

128. *Id.* ¶ 164.

129. *Id.*

130. *Id.*

131. *Id.* “Operative Paragraphs” ¶ 8.

ence, including an appropriate appointment process and secured office tenure.¹³²

5. Adjust Domestic Law to Conform with the Convention

The State must change its domestic law regarding the free removal of provisional judges to comply with the American Convention.¹³³ The State must adequately guarantee judicial independence, which includes tenure for all judges.¹³⁴

6. Publish the Judgment

The State must acknowledge its international responsibility to the public by publishing the main paragraphs of the Judgment in a nationally recognized newspaper.¹³⁵ In addition, the State must publish in its Official Gazette paragraphs 63–128, 138–141, and 190–193, as well as all the operative paragraphs of the Judgment.¹³⁶

B. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

The State must pay Judge Reverón Trujillo \$150,000 in pecuniary damages for the more than seven years she has not been reinstated since her dismissal.¹³⁷

2. Non-Pecuniary Damages

The State must pay Judge Reverón Trujillo \$30,000 in non-pecuniary damages.¹³⁸

132. *Id.* ¶ 190, “Operative Paragraphs” ¶ 9.

133. *Id.* “Operative Paragraphs” ¶ 10.

134. *Id.* ¶¶ 192–93.

135. *Id.* ¶ 194.

136. *Id.* ¶ 195.

137. *Id.* ¶ 174.

138. *Id.* ¶ 183.

3. Costs and Expenses

[None]

4. Total Compensation (including Costs and Expenses ordered):

\$ 240,000.

Moreover, if the State does not reinstate Judge Reverón Trujillo within six months, the State must pay her an additional one-time compensation of \$60,000.¹³⁹

C. Deadlines

The State must reinstate Judge Reverón Trujillo within six months of notification of the Judgment.¹⁴⁰ If, based on reasonable concerns, the State cannot reinstate Judge Reverón Trujillo within six months, the State must pay her a one-time compensation fee of \$60,000 within a maximum period of eighteen months from notification of the Judgment.¹⁴¹

The State must adopt a code of ethics as soon as possible after notification of the Judgment.¹⁴²

The State must change its domestic laws regarding free removability and tenure within a reasonable period of time.¹⁴³

The State must publish the Judgment within six months of notification of the Judgment.¹⁴⁴

The State must pay Judge Reverón Trujillo the \$150,000 in pecuniary damages and the \$30,000 in non-pecuniary damages within one year of notification of the Judgment.¹⁴⁵ This must be paid directly to Judge Reverón Trujillo, unless she passes away, in which case it shall be paid directly to her heirs.¹⁴⁶ If the State does not pay within the one-year time requirement, it will be required to pay interest on this

139. *Id.* ¶ 165.

140. *Id.* ¶ 163, “Operative Paragraphs” ¶ 7.

141. *Id.* ¶ 165.

142. *Id.* “Operative Paragraphs” ¶ 9.

143. *Id.* “Operative Paragraphs” ¶ 10.

144. *Id.* ¶ 195.

145. *Id.* ¶¶ 174, 183.

146. *Id.* ¶ 203.

amount.¹⁴⁷

V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

VI. COMPLIANCE AND FOLLOW-UP

September 10, 2013: The State withdrew from the American Convention on Human Rights.¹⁴⁸

November 20, 2015: The State failed to fulfill its obligation to inform the Court of the measures taken to comply with the imposed reparations.¹⁴⁹ The State failed to comply with the reparations measures required by the Court.¹⁵⁰ Although the State adopted a code of ethics, the Court noted that the code did not meet the criteria established by the Court relating to due process of appointment, office tenure, and guarantees against external pressures that are necessary for an independent judiciary.¹⁵¹ The State must promptly comply with all the measures required of it under the Judgment.¹⁵²

VII. LIST OF DOCUMENTS

A. *Inter-American Court*

1. Preliminary Objections

[Reverón Trujillo v. Venezuela, Preliminary Objections, Merits, Reparations and Costs, Inter-Am. Ct. H.R., \(ser. C\) No. 197 \(June 30, 2009\).](#)

147. *Id.* ¶ 207.

148. *Venezuela's Withdrawal From Regional Human Rights Instrument Is a Serious Setback*, AMNESTY INT'L (Sept. 6, 2013), <https://www.amnesty.org/en/latest/news/2013/09/venezuela-s-withdrawal-regional-human-rights-instrument-serious-setback/>.

149. Ríos et al., Perozo et al, and Reverón Trujillo v. Venezuela, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R., "Declara Que" ¶ 1 (Nov. 20, 2015) (Available only in Spanish).

150. *Id.* "Considerando Que" ¶ 3.

151. *Id.*

152. *Id.* "Y Resuelve" ¶ 4.

2. Decisions on Merits, Reparations and Costs

[Reverón Trujillo v. Venezuela, Preliminary Objections, Merits, Reparations and Costs, Inter-Am. Ct. H.R., \(ser. C\) No. 197 \(June 30, 2009\).](#)

[Reverón Trujillo v. Venezuela, Preliminary Objections, Merits, Reparations and Costs, Dissenting Opinion of the Judge *Ad Hoc* Einer Elías Biel Morales, Inter-Am. Ct. H.R. \(ser. C\) No. 197 \(June 30, 2009\).](#)

3. Provisional Measures

[Reverón Trujillo v. Venezuela, Provisional Measures, Order of the President, Inter-Am. Ct. H.R. \(ser. E\) \(Sept. 24, 2008\) \(Available only in Spanish\).](#)

4. Compliance Monitoring

[Ríos et al., Perozo et al., and Reverón Trujillo v. Venezuela, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Nov. 20, 2015\) \(Available only in Spanish\).](#)

5. Review and Interpretation of Judgment

[None]

B. Inter-American Commission

1. Petition to the Commission

Reverón Trujillo v. Venezuela, Petition No. 406-05, Inter-Am. Comm'n H.R. (Apr. 13, 2005).

2. Report on Admissibility

[Reverón Trujillo v. Venezuela, Admissibility Report, Report No. 60/06, Inter-Am. Comm'n H.R., Case No. 12.565 \(July 20, 2006\).](#)

3. Provisional Measures

[None]

4. Report on Merits

Reverón Trujillo v. Venezuela, Report on Merits, Report No. 62/07, Inter-Am. Comm'n H.R., Case No. 12.565 (July 27, 2007).

5. Application to the Court

[Reverón Trujillo v. Venezuela, Petition to the Court, Inter-Am. Comm'n H.R., Case No. 12.565 \(Nov. 9, 2007\) \(Available only in Spanish\).](#)

VIII. BIBLIOGRAPHY

Lauren Castaldi, *Judicial Independence Threatened in Venezuela: The Removal of Venezuelan Judges and the Complications of Rule of Law Reform*, 37 GEO. J. INT'L L. 466 (Spring 2006).

Andrew W. Maki et al., *Updates From the Regional Human Rights System*, 17 No. 1 HUM. RTS. BRIEF 57 (Fall 2009).

Venezuela's Withdrawal From Regional Human Rights Instrument Is a Serious Setback, AMNESTY INT'L (Sept. 6, 2013), <https://www.amnesty.org/en/latest/news/2013/09/venezuela-s-withdrawal-regional-human-rights-instrument-serious-setback/>.