

# Moya Chacón et al. v. Costa Rica

## ABSTRACT<sup>1</sup>

*This case is about two journalists in Costa Rica who had reported on an investigation over alleged cases of police corruption. Although they had been acquitted of the criminal charges that the State had filed against them, they were found liable for civil damages. Eventually, the Court found the State in violation of Article 13 (1<sup>st</sup> and 2<sup>nd</sup> paragraph) of the American Convention.*

### I. FACTS

#### A. Chronology of Events

**December 2005:** Mr. Freddy Parrales Chaves, a correspondent for the Costa Rican Newspaper La Nación, receives information that the Judicial Investigations Department (*Organismo de Investigación Judicial* - OIJ) is investigating multiple police officers and police chiefs for a liquor smuggling incident in the State's border region.<sup>2</sup> Mr. Parrales Chaves consults with the OIJ to corroborate this information.<sup>3</sup> After receiving confirmation of the event, Mr. Parrales Chaves informs Mr. Ronald Moya Chacón, an editor at La Nación, about what he has learned from the OIJ.<sup>4</sup> Mr. Moya Chacón then contacts the Minister of Public Security, Mr. Rogelio Ramos Mendez.<sup>5</sup> Mr. Ramos Mendez verbally verifies that several police chiefs are being investigated for incidents in the southern part of Costa Rica and requests two days to confirm this information with the office's director of

---

<sup>1</sup> Gursimran Bhullar, Author; Callie Keller, Editor; Emily Bernstein and Davina Shoumer, Senior IACHR Editors; Sophia Suarez, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

<sup>2</sup> Moya Chacón v. Costa Rica, Report on Merits, Report No. 148/19, Inter-Am. Comm'n H.R., Case No. 12.971, ¶ 16 (Sept. 28, 2019); Moya Chacón et. al. v. Costa Rica, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 451, ¶ 36 (May 23, 2022).

<sup>3</sup> Moya Chacón v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, ¶ 36; Moya Chacón v. Costa Rica, Report on Merits, ¶ 18 n.6.

<sup>4</sup> Moya Chacón v. Costa Rica, Admissibility Report, Report No. 75/14, Inter-Am. Comm'n H.R., Case No. 12.971, ¶ 6 (Aug. 15, 2014).

<sup>5</sup> Moya Chacón v. Costa Rica, Report on Merits, ¶ 17.

Judicial Legal Support.<sup>6</sup> Afterwards, Mr. Ramos Mendez contacts Mr. Moya Chacón and says there is an investigation about alleged extortion involving the San Vito (Coto Brus canton, in the Puntarenas province of Costa Rica) police chief, Mr. José Cruz Trejos Rodriguez.<sup>7</sup>

**December 17, 2005:** Based on Mr. Ramos Mendez's information, Mr. Moya Chacón publishes an article in *La Nación* that alleges the OIJ is investigating a regional police chief that released a vehicle containing potentially smuggled liquor.<sup>8</sup> The newspaper also discusses that the OIJ is investigating two instances of extortion similarly related to smuggled liquor and states that it involved police chiefs (Mr. Trejos Rodriguez and another police chief), who could be dismissed as a result.<sup>9</sup>

**December 19, 2005:** Mr. Trejos Rodriguez sends a letter to *La Nación* and demands to know who informed *La Nación* of the incidents.<sup>10</sup>

**December 21, 2005:** The Secretary of the Director of *La Nación* informs Mr. Trejos Rodriguez that their sources and documents are confidential.<sup>11</sup>

**January 31, 2006:** The Ministry of Public Security's Press Office sends Mr. Moya Chacón a clarifying note.<sup>12</sup> The note explains the article misstated which prosecutor's office was investigating the police officers but does not otherwise comment on the investigation.<sup>13</sup>

**February 7, 2006:** Mr. Trejos Rodriguez files a criminal complaint against Mr. Parrales Chaves, Mr. Moya Chacón, and Mr. Ramos Mendez for slander and defamation by the press.<sup>14</sup> Mr. Trejos Rodriguez also files a civil suit for damages against Mr. Parrales Chaves, Mr. Moya Chacón, *La Nación*, the Minister of Public Security,

---

<sup>6</sup> Moya Chacón v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, ¶ 36; Moya Chacón v. Costa Rica, Report on Merits, ¶¶ 17, 19.

<sup>7</sup> Moya Chacón v. Costa Rica, Report on Merits, ¶ 17.

<sup>8</sup> Moya Chacón v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, ¶ 37; Moya Chacón v. Costa Rica, Report on Merits, ¶ 18 n.6.

<sup>9</sup> Moya Chacón v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, ¶ 37.

<sup>10</sup> Moya Chacón v. Costa Rica, Report on Merits, ¶ 19.

<sup>11</sup> *Id.* ¶ 20.

<sup>12</sup> Moya Chacón v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, ¶ 39.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* ¶ 41.

and Costa Rica.<sup>15</sup> Mr. Trejos Rodriguez claims that the two extortion cases were not being investigated because they had previously been dismissed and archived.<sup>16</sup> Additionally, Mr. Trejos Rodriguez claims that the article harmed his honor, reputation and employment.<sup>17</sup>

**February 9, 2006:** La Nación publishes an erratum indicating that the Coto Brus prosecutor's office is investigating Mr. Trejos Rodriguez for the alleged extortion claims.<sup>18</sup>

**January 10, 2007:** The Second Circuit Trial Court of San José ("Trial Court"), deciding on both the criminal and civil aspects of the case, determines that Mr. Trejos Rodriguez has a pending extortion case not related to the article's liquor transfer incident.<sup>19</sup> The Trial Court issues a judgment acquitting Mr. Parrales Chaves, Mr. Moya Chacón, and Mr. Ramos Mendez of criminal liability, finding they published the article to inform the public rather than to harm the involved police chiefs.<sup>20</sup> However, the Trial Court also resolves the civil claim, determining that the journalists were negligent because they did not corroborate their information with other sources.<sup>21</sup> The Trial Court therefore holds Mr. Parrales Chaves, Mr. Moya Chacón, Mr. Ramos Mendez, La Nación, and the State jointly and severally liable for five million colones and procedural costs amounting to one million colones (collectively approximately US \$11,500 at the time).<sup>22</sup>

**December 20, 2007:** The Third Chamber of the Supreme Court of Justice affirms the Trial Court's judgment after Mr. Parrales Chaves, Mr. Moya Chacón, La Nación, Mr. Ramos Mendez, and the Minister of Public Security appeal the Trial Court's decision.<sup>23</sup>

**April 29, 2008:** La Nación pays the entirety of the six million colones fine.<sup>24</sup>

---

<sup>15</sup> Moya Chacón v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, ¶ 41.

<sup>16</sup> Moya Chacón v. Costa Rica, Report on Merits, ¶ 23.

<sup>17</sup> *Id.*

<sup>18</sup> Moya Chacón v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, ¶ 40.

<sup>19</sup> Moya Chacón v. Costa Rica, Report on Merits, ¶ 25.

<sup>20</sup> Moya Chacón v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, ¶ 42.

<sup>21</sup> Moya Chacón v. Costa Rica, Report on Merits, ¶ 28.

<sup>22</sup> *Id.* ¶ 24; Moya Chacón v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, ¶ 45.

<sup>23</sup> Moya Chacón v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, ¶ 47.

<sup>24</sup> *Id.* ¶ 48.

*B. Other Relevant Facts*

[None]

**II. PROCEDURAL HISTORY***A. Before the Commission*

**August 29, 2008:** Mr. Pedro Nikken and Mr. Carlos Ayala Caorao lodge the initial petition on behalf of Mr. Parrales Chaves and Mr. Moya Chacón (“petitioners”) before the Inter-American Commission on Human Rights (“Commission”).<sup>25</sup>

**April 29, 2013:** The Commission forwards the petition to Costa Rica with a request to submit a response within two months pursuant with its Rules of Procedure.<sup>26</sup>

**June 26, 2013:** A one-month extension is requested by Costa Rica to respond to the petition.<sup>27</sup>

**August 5, 2013:** Costa Rica sends its reply to the Commission.<sup>28</sup>

**September 26, 2013:** The petitioners receive Costa Rica’s response.<sup>29</sup>

**August 15, 2014:** The Commission adopts Admissibility Report No. 75/14, deeming the petition admissible.<sup>30</sup>

**September 28, 2019:** The Commission adopts Merits Report No. 148/19.<sup>31</sup> It finds the State violated Article 13(1) (Right to Seek, Receive, and Impart Information and Ideas), Article 13.2 (Prohibition of A Priori Censorship) and Article 9 (Freedom from *Ex Post Facto* Laws) all in relation to Article 1(1) (Obligation to Respect Rights) and Article 2 (Domestic Legal Effects) of the American Convention.<sup>32</sup> The Commission recommends that the State: (1) reverse the civil

---

<sup>25</sup> Moya Chacón v. Costa Rica, Admissibility Report, ¶ 1.

<sup>26</sup> *Id.* ¶ 5.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> Moya Chacón v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, ¶ 2.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.* ¶¶ 1, 54, 93.

penalty against Mr. Moya Chacón and Mr. Chaves; (2) change the civil liability scheme in Costa Rica to ensure that the standards of intent, damage, negligence, and principles of necessity and proportionality are all met; (3) make comprehensive reparation for the human rights violations found by the Commission, including economic compensation; and (4) develop training in the judiciary of the State to effectuate the standards and criteria the Commission established.<sup>33</sup>

**December 5, 2019:** Costa Rica is notified of the Merits Report and is given two months to comply.<sup>34</sup> The Commission gives Costa Rica five months of extensions.<sup>35</sup>

**May 2020:** Costa Rica presents a report without information on its compliance with the Commission’s recommendations.<sup>36</sup> Costa Rica does not ask for a further time extension.<sup>37</sup>

### B. Before the Court

**August 5, 2020:** The Commission submits the case after the State failed to adopt its recommendations.<sup>38</sup>

**January 19, 2021:** The State submits preliminary objections, contesting the Commission’s alleged violations and proposed reparations.<sup>39</sup> The Foundation for Press Freedom (Fundación para la Libertad de Prensa; “FLIP”), El Veinte, and Media Defence together submit an *amicus curiae* brief.<sup>40</sup>

**March 15, 2022:** The Commission and the representatives submit their final written observations and arguments, respectively.<sup>41</sup>

---

<sup>33</sup> Moya Chacón v. Costa Rica, Report on Merits, “The Inter-American Commission on Human Rights Recommends the State of Costa Rica,” ¶¶ 1-4.

<sup>34</sup> Moya Chacón v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, ¶ 2.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.* ¶ 2.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.* ¶ 3.

<sup>39</sup> *Id.* ¶¶ 13, 21.

<sup>40</sup> Moya Chacón v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs ¶ 9 n.7.

<sup>41</sup> *Id.* ¶ 10.

## 1. Violations Alleged by Commission<sup>42</sup>

Article 9 (Freedom from *Ex Post Facto* Laws)

Article 13.1 (Right to Seek, Receive, and Impart Information and Ideas)

Article 13.2 (Prohibition of A Priori Censorship)

*all in relation to:*

Article 1(1) (Obligation of Non-Discrimination)

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

## 2. Violations Alleged by Representatives of the Victims<sup>43</sup>

Same Violations Alleged by Commission, plus:

Article 8.2(h) (Right to Appeal)

Article 25.1 (Right of Recourse Before a Competent Court) of the American Convention.

### III. MERITS

#### A. *Composition of the Court*<sup>44</sup>

Ricardo C. Pérez Manrique, President

Humberto Antonio Sierra Porto, Vice-President

Eduardo Ferrer Mac-Gregor Poisot, Judge

Verónica Gómez, Judge

Patricia Pérez Goldberg, Judge

Rodrigo de Bittencourt Mudrovitsch, Judge

Pablo Saavedra Alessandri, Secretary

Romina I. Sijniensky, Deputy Secretary

---

<sup>42</sup> Moya Chacón v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 1, 54, 93.

<sup>43</sup> Moya Chacón v. Costa Rica, Report on Merits, ¶ 107. Mr. Ayala Corao, Mr. Carlos Tiffer Sotomayor, Mr. Edward Jesús Pérez, and Ms. María Daniela Rivero acted as the alleged victim's representatives. The Commission acknowledged that the representatives did not address Articles 8.2(h) (Right to Appeal) and 25.1 (Right of Recourse Before a Competent Court), but the Commission considered these in the admissibility report. *Id.* ¶ 105.

<sup>44</sup> Costa Rican National Judge Nancy Hernández López did not take part in the signature and deliberation of the judgment in accordance the Court's Rules of Procedure. Moya Chacón v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, at n\*.

### B. Decision on the Merits

**May 23, 2022:** The Court issues its Judgment on Preliminary Objections, Merits, Reparations, and Costs.<sup>45</sup>

The Court unanimously rejected Costa Rica’s preliminary objections:

*The State argued that, because the Commission included violations in the Merits Report that were not in the Admissibility Report, the Commission modified the disputed issues and violated its right to defense.<sup>46</sup> The Court held this did not harm Costa Rica’s right to defense and that new information is admissible upon its discovery.<sup>47</sup> The Court determined that the State, as the objecting party, did not meet its burden of proof to show how the newly included violations were prejudicial.<sup>48</sup> The Court also found Costa Rica’s rights to defense had not been prejudiced and therefore rejected the preliminary objection.<sup>49</sup>*

*The State also objected that defendants failed to exhaust domestic remedies in accordance with both Article 2 (Obligation to Give Domestic Legal Effect to Rights) and Article 9 (Freedom from Ex Post Facto Laws) because they did not file a domestic claim for the criminal proceedings.<sup>50</sup> The Court held these allegations were waived because the State did not include them in the initial pleading.<sup>51</sup>*

The Court found unanimously that Costa Rica had violated:

Article 13(1) (Right to Seek, Receive, and Impart Information and Ideas) and 13(2) (Prohibition of a Priori Censorship) of the American Convention on Human Rights, in relation to Article 1(1) (Obligation of Non-Discrimination) of this instrument, to the detriment of Mr. Moya Chacón and Mr. Parrales Chaves,<sup>52</sup> because:

---

<sup>45</sup> Moya Chacón v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, ¶ 1.

<sup>46</sup> *Id.* ¶ 13.

<sup>47</sup> *Id.* ¶ 19.

<sup>48</sup> *Id.* ¶¶ 17, 19.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.* ¶ 21.

<sup>51</sup> Moya Chacón v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, ¶ 25.

<sup>52</sup> *Id.* “Declares,” ¶ 3.

*The State's sanctions on Mr. Moya Chacón and Mr. Parrales Chaves were disproportionate to the publication of the false information in the article.<sup>53</sup> The Court explained that Article 13 (1) (Right to Seek, Receive, and Impart Information and Ideas) protects someone's ability to seek, impart, and receive information on both an individual and social level.<sup>54</sup> The right to freedom of expression is of particular importance for public interest matters regarding officials to promote transparency and accountability in a democracy.<sup>55</sup> Journalism is essential to the freedom of expression and must reflect diverse opinions and information.<sup>56</sup> The Court reasoned that journalists must take reasonable steps to verify their information to protect others' right to receive accurate information.<sup>57</sup> However, the State must encourage diverse information rather than restrict it.<sup>58</sup> The Court highlighted that the State does so by protecting the privacy of journalists' sources and allowing journalists to act independently.<sup>59</sup>*

*The Court also recognized limited circumstances where journalists could be liable for their work.<sup>60</sup> Article 13(2) (Prohibition of A Priori Censorship) allows liability only if three requirements are met: (1) liability must have already been formally and substantively established in law; (2) liability must be allowed within the framework of the American Convention; and (3) the liability must be suitable, necessary and proportionate for a democracy.<sup>61</sup> The Court stressed that Article 13(2) recognizes two permitted and legitimate purposes for liability: to respect others' rights or reputation and to protect national security, the public order, or public morals and health.<sup>62</sup> Restrictions are suitable only to achieve a legitimate and permitted purpose.<sup>63</sup> Similarly, restrictions are necessary if there is a social need for the restriction and it is similar or less harmful than other solutions to achieve the same social need.<sup>64</sup> The restriction's cost and benefits must be balanced; they must be strictly tailored to its purpose.<sup>65</sup>*

---

<sup>53</sup> Moya Chacón v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, ¶ 71.

<sup>54</sup> *Id.* ¶ 62.

<sup>55</sup> *Id.* ¶ 63.

<sup>56</sup> *Id.* ¶ 66.

<sup>57</sup> *Id.* ¶ 68.

<sup>58</sup> *Id.* ¶ 69.

<sup>59</sup> Moya Chacón v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 69-70.

<sup>60</sup> *Id.* ¶ 71.

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> *Id.* ¶ 72.

<sup>64</sup> *Id.*

<sup>65</sup> Moya Chacón v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, ¶ 72.



*The Court recognized that the press' protections under Article 13 (2) (Prohibition of A Priori Censorship) must be balanced with individual's protections under Article 11 (Right to Privacy).<sup>66</sup> In doing so, the Court reasoned that published content about public figures, or people the public is interested in, must be analyzed differently because they have higher amounts of scrutiny due to their social positions.<sup>67</sup> However, the State must occasionally intervene to restore someone's reputation.<sup>68</sup> Additionally, the Court held that reparations for harming someone's reputation should provide relief rather than punish journalists or sources of the information.<sup>69</sup> The Court highlighted that journalists must reasonably verify their information and meet professional ethical standards.<sup>70</sup> The Court determined that journalists should not be liable for their work when it is based on publicly accessible information or discovered through official sources.<sup>71</sup>*

*The Court first confirmed that the 2005 news article was of public interest, as was recognized by the Trial Court.<sup>72</sup> The Court also established that Article 1045 of Costa Rica's civil code had the permitted purpose of protecting people's rights or reputation.<sup>73</sup> The Court found that Mr. Moya Chacón and Mr. Parrales Chaves acted with due diligence by verifying information with an official source and could not be required to make additional verifications.<sup>74</sup> The Court reasoned that the Trial Court could not arbitrarily choose official sources that the journalists must consult when determining whether they acted with due diligence because this would interfere with journalistic independence.<sup>75</sup> Additionally, the journalists attempted to contact Mr. Trejos Rodriguez for information but were instead sent a demand letter for their sources.<sup>76</sup> This, the Court stated, was an inappropriate request and Mr. Trejos Rodriguez should have corrected the published information.<sup>77</sup> The law suit, trials, and civil sanction had a disproportionate chilling effect on the involved journalists, leading*

---

<sup>66</sup> Moya Chacón v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, ¶ 73.

<sup>67</sup> *Id.* ¶¶ 74-75.

<sup>68</sup> *Id.* ¶ 76.

<sup>69</sup> *Id.* ¶ 78.

<sup>70</sup> *Id.* ¶ 76.

<sup>71</sup> *Id.* ¶ 77.

<sup>72</sup> Moya Chacón v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, ¶ 80.

<sup>73</sup> *Id.* ¶¶ 85-86.

<sup>74</sup> *Id.* ¶ 89.

<sup>75</sup> *Id.* ¶ 90.

<sup>76</sup> *Id.* ¶ 91.

<sup>77</sup> *Id.*

*Mr. Moya Chacón to censor himself and the Editor-in-Chief of La Nación to not publish other articles.*<sup>78</sup>

*The Court determined, in accordance with the State's courts, that the article was published to inform the public and that the journalists acted in good faith and with due diligence.*<sup>79</sup> *Thus, the State violated Articles 13(1) (Right to Seek, Receive, and Impart Information and Ideas) and 13(2) (Prohibition of a Priori Censorship) of the American Convention on Human Rights by sanctioning the victims.*<sup>80</sup>

*The Court did not consider whether Articles 7 of the Costa Rican Printing Act or Articles 145 and 146 of Costa Rica's criminal code violated these sections because Mr. Moya Chacón and Mr. Parrales Chaves were not found guilty.*<sup>81</sup> *The Court was concerned with Costa Rica's criminal sanctions for journalism which could chill news publications.*<sup>82</sup> *The Court was also concerned that Article 7 made editors, owners, and directors of media criminally liable regardless of whether they were guilty and included harsher penalties for journalists.*<sup>83</sup>

The Court did not rule on:

Article 2 (Obligation to Give Domestic Legal Effect to Rights) and Article 9 (Freedom from *Ex Post Facto* Laws) because:

*The Court did not examine alleged violations of these articles because the journalists were acquitted of criminal charges found in Articles 145 and 146 of Costa Rica's criminal code or Article 7 of the Costa Rican Printing Act.*<sup>84</sup>

Article 8 (Right to a Fair Trial) because:

*The Court ruled it was unnecessary to analyze the alleged violation of Article 8 (Right to a Fair Trial).*<sup>85</sup>

---

<sup>78</sup> Moya Chacón v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, ¶ 92.

<sup>79</sup> *Id.* ¶¶ 76, 80, 88.

<sup>80</sup> *Id.* ¶ 93.

<sup>81</sup> *Id.* ¶ 82.

<sup>82</sup> *Id.* ¶ 83.

<sup>83</sup> *Id.*

<sup>84</sup> Moya Chacón v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, ¶ 82.

<sup>85</sup> *Id.* ¶ 93.

*C. Dissenting and Concurring Opinions*

## 1. Concurring Separate Opinion of Judge Ricardo C. Pérez Manrique

In a concurring separate opinion, Judge Ricardo C. Pérez Manrique analyzed the use of criminal law on journalists, due diligence requirements for journalists, and potential civil and criminal liability for journalism.<sup>86</sup> First, Judge Pérez Manrique condemned criminal sanctions for reports on public interest matters, emphasizing that criminal sanctions hinder free speech, thus weakening public control and access to information.<sup>87</sup> He highlighted that, while the Convention does not specify which sanctions may protect a public official's reputation, criminal sanctions in publishing matters of public interest are incompatible with the Convention.<sup>88</sup> He proposed that civil liability, rectification, or public apologies are appropriate to hold journalists accountable for not acting with due diligence according to Article 14 (Right of Reply) of the American Convention.<sup>89</sup>

Second, Judge Pérez Manrique delved deeper into due diligence requirements for journalism.<sup>90</sup> He agreed with the majority opinion that the journalists could not be required to make additional verifications because the published information came from an official source.<sup>91</sup> Judge Pérez Manrique concluded that further requirements encroached on journalists' role to inform the public and found that referencing one authoritative source was sufficient.<sup>92</sup> Lastly, Judge Pérez Manrique advocated for the use of proportionality with extreme negligence and malice when determining civil liability to limit chilling effects on journalists.<sup>93</sup>

---

<sup>86</sup> Moya Chacón et. al. v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, Separate Opinion of Judge Ricardo C. Pérez Manrique, Inter-Am. Ct. H.R. (ser. C) No. 451, ¶ 1 (May 23, 2022).

<sup>87</sup> *Id.* ¶ 18.

<sup>88</sup> *Id.* ¶¶ 17-18.

<sup>89</sup> *Id.* ¶¶ 19-21.

<sup>90</sup> *Id.* ¶ 23.

<sup>91</sup> *Id.*

<sup>92</sup> Moya Chacón et. al. v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, Separate Opinion of Judge Ricardo C. Pérez Manrique, ¶¶ 24-26.

<sup>93</sup> *Id.* ¶ 35.

## 2. Concurring Separate Opinion of Judge Humberto Antonio Sierra Porto

In a concurring separate opinion, Judge Humberto Antonio Sierra Porto agreed that an analysis of the case's facts best determines the proportionality between a sanction and the expression.<sup>94</sup> He emphasized that, in this case, the proportionality test appropriately considered the journalists' due diligence, good faith, and concern for the public.<sup>95</sup> Accordingly, civil sanctions were not necessary.<sup>96</sup> He justified the majority's decision to use the proportionality test since it balances other factors, including public interest and protection of the public official, rather than just using a per se bright line rule to determine liability.<sup>97</sup>

## 3. Concurring Separate Opinion of Judge Rodrigo Mudrovitsch

In a concurring separate opinion, Judge Rodrigo Mudrovitsch addressed the criminal sanctions' effect on journalism and argued that criminal sanctions are incompatible with democratic societies' freedom of expression and discussion.<sup>98</sup> Judge Mudrovitsch insisted on using other measures before criminal proceedings while also not granting journalists full protection just because they are publishing information of public interest.<sup>99</sup>

Judge Mudrovitsch began by examining case law to determine criminal procedures should only be used in exceptional cases.<sup>100</sup> They are especially less applicable when regarding matters of public interest or public officials, as it has a chilling effect on journalists and discourages the spread of information.<sup>101</sup> Judge Mudrovitsch next analyzed Article 7 of the Costa Rican Printing Act because he believed it was important for the Court to rule on its compatibility with the

---

<sup>94</sup> Moya Chacón et. al. v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, Separate Opinion of Judge Humberto Antonio Sierra Porto, Inter-Am. Ct. H.R. (ser. C) No. 451, ¶ 6 (May 23, 2022).

<sup>95</sup> *Id.* ¶ 7.

<sup>96</sup> *Id.*

<sup>97</sup> *Id.* ¶¶ 7-9.

<sup>98</sup> Moya Chacón et. al. v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, Separate Opinion of Judge Rodrigo Mudrovitsch, Inter-Am. Ct. H.R. (ser. C) No. 451, ¶¶ 4, 20 (May 23, 2022).

<sup>99</sup> *Id.* ¶ 5.

<sup>100</sup> *Id.* ¶ 36.

<sup>101</sup> *Id.* ¶ 37.

Convention.<sup>102</sup> He analyzed three sub-categories of Article 7 including (a) the press' actions which are punishable by imprisonment, (b) the publication's authors and editors' criminal liability, and (c) the medium's directors, owners and/or lessees liability when the editor is not identified.<sup>103</sup> Judge Mudrovitsch ultimately did not determine that Article 7 violated the convention because of judicial prudence.<sup>104</sup>

#### IV. REPARATIONS

The Court ruled unanimously that the State had the following obligations:

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

###### 1. Judgment as a Form of Reparation

The Court noted that the Judgment itself is a form of reparations.<sup>105</sup>

###### 2. Publish the Judgment

The Court ordered the State to publish the official summary of the judgment in the State's Official Gazette and the State's website homepage within six months of the Court notifying the State of the judgment.<sup>106</sup> This must be disseminated widely in a legible, adequate font and in an accessible manner.<sup>107</sup> Costa Rica must also publish the entire judgment on their official website so that it is publicly accessible from the home page for one year.<sup>108</sup> The State must immediately notify the court upon publication of each.<sup>109</sup>

---

<sup>102</sup> Moya Chacón et. al. v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, Separate Opinion of Judge Rodrigo Mudrovitsch, ¶ 50.

<sup>103</sup> *Id.* ¶ 45.

<sup>104</sup> *Id.* ¶ 85.

<sup>105</sup> Moya Chacón v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, ¶ 107.

<sup>106</sup> *Id.* ¶ 106.

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

<sup>109</sup> *Id.*

### 3. Annul Civil Liability

The Court ordered the State to annul the civil liability imposed on Mr. Parrales Chaves and Mr. Moya Chacón, including any judicial record of the judgment, within one year of the Judgment.<sup>110</sup>

#### *B. Compensation*

The Court awarded the following amounts:

#### 1. Pecuniary Damages

The Court did not assign any pecuniary damages because La Nación paid the damages and procedural costs of the civil case.<sup>111</sup>

#### 2. Non-Pecuniary Damages

The Court ordered the payment of \$20,000 each to Mr. Parrales Chaves and Mr. Moya Chacón.<sup>112</sup>

#### 3. Costs and Expenses

The Court established payment of \$20,000 for costs and expenses incurred during Costa Rica and the Inter-American system's proceedings.<sup>113</sup> The Court ordered the State to make untaxed payments within one year notification of the judgment and report to the Court about the measures taken to comply.<sup>114</sup> The Court may order future reimbursements during the monitoring compliance procedural stage.<sup>115</sup>

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

\$ 60,000 USD

---

<sup>110</sup> Moya Chacón v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, ¶ 102.

<sup>111</sup> *Id.* ¶ 101.

<sup>112</sup> *Id.* ¶¶ 123-124.

<sup>113</sup> *Id.* ¶¶ 127-128.

<sup>114</sup> *Id.* ¶ 129.

<sup>115</sup> *Id.* ¶ 128.

### C. Deadlines

The State must pay the costs and expenses to Mr. Parrales Chaves and Mr. Moya Chacón or their heirs within one year of notification.<sup>116</sup>

#### V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

#### VI. COMPLIANCE AND FOLLOW-UP

**June 26, 2023:** First, the Court found that Costa Rica fully complied with its obligation to void the journalist’s civil liability within one year of the judgment.<sup>117</sup> Second, the Court determined that Costa Rica fully complied with its obligation to publish and disseminate the Judgment and the official summary on all the required mediums within six months.<sup>118</sup> Third, the Court stated that Costa Rica fully complied with its obligation to compensate Mr. Moya Chacón and Mr. Parrales Chaves for non-pecuniary damages, costs and expenses within one year.<sup>119</sup> Thus, the Court found that Costa Rica fully complied with all its obligations from the Judgment and concluded the case.<sup>120</sup>

#### VII. LIST OF DOCUMENTS

##### A. *Inter-American Court*

##### 1. Preliminary Objections, Merits, Reparations and Costs & Separate Opinions

Moya Chacón et. al. v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 451, (May 23, 2022).

---

<sup>116</sup> Moya Chacón v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 129-130.

<sup>117</sup> Moya Chacón et. al. v. Costa Rica, Monitoring Compliance with Judgment, Resolution of the Court, Inter-Am. Ct. H.R. “Considering that,” ¶¶ 2-3 (June 26, 2023).

<sup>118</sup> *Id.* ¶¶ 4-6.

<sup>119</sup> *Id.* “Considering that,” ¶ 7.

<sup>120</sup> *Id.* “Resolves,” ¶ 2.

Moya Chacón et. al. v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, Separate Opinion of Judge Ricardo C. Pérez Manrique, Inter-Am. Ct. H.R. (ser. C) No. 451, (May 23, 2022).

Moya Chacón et. al. v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, Separate Opinion of Judge Humberto Antonio Sierra Porto, Inter-Am. Ct. H.R. (ser. C) No. 451, (May 23, 2022).

Moya Chacón et. al. v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, Separate Opinion of Judge Rodrigo Mudrovitsch, Inter-Am. Ct. H.R. (ser. C) No. 451, (May 23, 2022)

2. Provisional Measures

[None]

3. Compliance Monitoring

Moya Chacón et. al. v. Costa Rica, Monitoring Compliance with Judgment, Resolution of the Court, Inter-Am. Ct. H.R. (June 26, 2023).

4. Review and Interpretation of Judgment

[None]

*B. Inter-American Commission*

1. Petition to the Commission

[None]

2. Report on Admissibility

Moya Chacón v. Costa Rica, Admissibility Report, Report No. 75/14, Inter-Am. Comm'n H.R., Case No. 12.971, (Aug. 15, 2014).

3. Provisional Measures

[None]



#### 4. Report on Merits

Moya Chacón v. Costa Rica, Report on Merits, Report No. 148/19, Inter-Am. Comm'n H.R., Case No. 12.971, (Sept. 28, 2019).

#### 5. Application to the Court

Moya Chacón v. Costa Rica, Petition to the Court, Inter-Am. Comm'n H.R., Case No. 12.971, (Aug. 5, 2020).