

Díaz Peña v. Venezuela

ABSTRACT¹

This case is the proverbial straw that broke the camel's back. It concerns the incarceration and trial by Venezuela of someone suspected of having planted bombs in front of the Spanish and Colombian embassies, and the failure of the State to ensure adequate conditions of detention. As a result of the Court's finding the State responsible for the violation of the rights of the petitioner, Venezuela denounced the American Convention on Human Rights.

I. FACTS

A. Chronology of Events

February 25, 2003: Sometime between 2:00 a.m. and 3:00 a.m., the Colombian and Spanish embassies in Venezuela are bombed within minutes of each other.² Four individuals sustain injuries.³ The bombings occur about twenty-four hours after President Hugo Chávez denounces Spain, among other nations, for allegedly interfering in Venezuelan affairs.⁴ Pamphlets of the Bolivarian Liberation Front, which demonstrate support for the Chávez regime, are found outside both bombing sites.⁵ The Chávez administration dismisses the pamphlets as a “ridiculous” plant and suggests that Chávez opponents may be involved in the attacks.⁶

September 2003: Several agencies summon Mr. Raúl José Díaz Peña, a

1. Karina Villa, Author; Alyssa Rutherford, Editor; Hayley Garscia, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

2. A. Criscaut, *Blasts Damage Diplomatic Buildings in Venezuela*, CNN.COM (Feb. 25, 2003, 10:11 AM), <http://www.cnn.com/2003/WORLD/americas/02/25/venezuela.explosions/>; Díaz Peña v. Venezuela, Report on Merits, Report No. 84/10 Inter-Am. Comm'n H.R., Case No. 12.703, ¶ 50 (July 14, 2010).

3. *Morning Explosions in Venezuela Damage Two Diplomatic Mission*, SOUTHEAST MISSOURIAN (Feb. 26, 2003), <http://www.semissourian.com/story/102697.html>.

4. *Id.*

5. *Id.*

6. *Id.*

security guard for Plaza de Altamira, to make a statement about the February 25 explosions.⁷

September 10, 2003: A commission of the Directorate of the Intelligence Services and Prevention (“DISIP”) comes to Mr. Díaz Peña’s home with a warrant issued to impound Mr. Díaz Peña’s Toyota pick-up truck in order to perform a forensic examination of it.⁸ The expert report from the examination conducted on the vehicle reveals that a whitish colored substance present in the cargo zone and left side rear floor corresponds to the high explosive known as C4.⁹

January 15, 2004: Mr. Gilberto Landaeta, 62nd Prosecutor Auxiliary to the Prosecutor for the Metropolitan Area of Caracas, requests that the 11th Control Court for the Metropolitan Criminal Judicial Circuit of Caracas issue an arrest warrant against Mr. Díaz Peña as an accomplice to conspiracy, public intimidation, offenses against the preservation of public and private interests, criminal damage to public property, and minor injuries in relation to Article 84, paragraph 1 of the Criminal Code.¹⁰ The arrest warrant states that an investigation revealed that Mr. Díaz Peña was aware of the plan to attack the Colombian and Spanish embassies.¹¹ The evidentiary basis for this conclusion was statements made by Mr. Díaz Peña, the forensic report conducted on the Toyota pick-up truck, the witness statement of Mr. Pedro Antonio Sifontes Núñez, the witness statement of Ms. Vanessa Mariel Napolitano Salazar, and the witness statement of Mr. Silvio Daniel Mérida Ortiz.¹²

February 25, 2004: DISIP agents arrest Mr. Díaz Peña as soon as he leaves the headquarters of the General Prosecution Services; an arrest warrant is never shown to him.¹³ While imprisoned in his cell in the DISIP, Mr. Díaz Peña is without natural ventilation, outings for air, and with artificial light while imprisoned in his cell.¹⁴

7. Díaz Peña v. Venezuela, Report on Merits, ¶ 53.

8. *Id.* ¶ 54.

9. *Id.* ¶ 55.

10. *Id.* ¶ 56.

11. *Id.*

12. *Id.*

13. *Id.* ¶ 58.

14. *Id.* ¶ 94.

February 26-27, 2004: A hearing takes place to present Mr. Díaz Peña before the 11th Control Court.¹⁵ The Court issues a Judicial Decision of Preventive Detention against Mr. Díaz Peña, finding “sufficient elements of conviction” to establish Mr. Díaz Peña’s role as an accomplice to the charged crimes.¹⁶

April 6, 2004: The representative of the General Prosecution Services formally files charges against Mr. Díaz Peña.¹⁷

April 22, 2004: Mr. Díaz Peña files a brief requesting nullification for breaching procedural requirements, which affected his right to a defense and equality of arms, and requesting the nullity of the expert evidence filed by the General Prosecution Services because it violated due process guarantees.¹⁸ Additionally, in the brief, Mr. Díaz Peña challenges the Prosecutor’s indictment alleging that the prerequisites laid down in Article 326, paragraphs 2, 3, and 4 of the Organic Code of Criminal Procedure (“COPP”) had not been fulfilled.¹⁹ Mr. Díaz Peña also requests the annulment of the detention measure.²⁰

June 15, 2004: The 11th First Instance Control Court of the Metropolitan Criminal Judicial Circuit of Caracas opens a preliminary hearing against Mr. Díaz Peña.²¹ The indictment against Mr. Díaz Peña is admitted in its entirety and the court determines that it is well founded to maintain the preventive detention measure “given the gravity of the facts alleged there is a presumed danger of absconding.”²² The court also declares that the requests for annulment lodged by Mr. Díaz Peña’s defense are unfounded.²³

July 30, 2005: In light of his failing health, Mr. Díaz Peña requests a transfer from the DISIP to the Reclusion Center located in the Police Training School.²⁴ This request is denied because the Reclusion Center

15. *Id.* ¶ 60.

16. *Id.*

17. *Id.* ¶ 61.

18. *Id.*

19. *Id.*

20. *Id.*

21. *Id.* ¶ 62.

22. *Id.*

23. *Id.*

24. *Id.* ¶ 67.

is used exclusively for police employees.²⁵

October 12, 2005: In his request for precautionary measures, Mr. Díaz Peña states that as a consequence of exposure to the white electric light used at the detention center, he lost his sense of time, his biological cycles changed, his skin lost pigmentation, and he lost ten kilograms during the first nineteen months of imprisonment.²⁶

November 2, 2005: Mr. Díaz Peña's public trial is deferred to November 16, 2005 when the Prosecutor, Mr. Landaeta, fails to appear for the fourth consecutive time.²⁷ Judge Maria Mercedes Prado requests that the General Prosecution Services take disciplinary measures against Mr. Landaeta due to the fact that the procedural delays caused by non-attendance violate due process.²⁸

March 24, 2006: After two years of imprisonment, Mr. Díaz Peña lodges an appeal for review of the detention measure, in accordance with Article 244 of the COPP.²⁹

April 17, 2006: After the 23rd Court rules that the review of the detention measure is unfounded, Mr. Díaz Peña lodges appeal proceedings against this ruling.³⁰

June 19, 2006: The First Specialized Chamber of the Court of Appeals upholds the decision of the 23rd Court, citing Supreme Court dicta that "irrefutably established" crimes against humanity, violations of human rights, and war crimes are excluded from alternative precautionary measures.³¹

August 14, 2006: Mr. Díaz Peña files a constitutional *amparo* appeal based on the "unfounded" judgment in the appeal proceedings denying review of his detention measure issued by the 23rd First Instance

25. *Id.*

26. *Id.* ¶ 108.

27. *Id.* ¶ 69.

28. *Id.*

29. *Id.* ¶ 75. Article 244 of the Organic Code of Criminal Procedure states: "Proportionality. An individual coercive measure may not be ordered when it appears disproportionate to the gravity of the offense, the circumstances surrounding its commission and the probable sentence. In no case may it exceed the minimum sentence for each offense, nor exceed two years. In exceptional cases, the General Prosecution Services or the defendant may request a suspension from the control Judge, which may not exceed the minimum sentence for the crime. . . ." *Id.* ¶ 75 n.76.

30. *Id.* ¶ 75

31. *Id.* ¶¶ 75-76

Court.³² Mr. Díaz Peña states that the Court's decision violates his rights to personal liberty, due process, the presumption of innocence, and the restoration of the judicial situation, which were breached by judicial error.³³ Mr. Díaz Peña also alleges procedural delays, improper prison conditions, lack of sufficient evidence, and time in preventive detention for a period longer than that allowed by law.³⁴

February 26, 2007: The First Special Accidental Chamber of the Court of Appeals of the Metropolitan Criminal Judicial Circuit of Caracas rules that it is competent to hear the *amparo* proceedings, but declares them inadmissible because Mr. Díaz Peña did not exhaust the ordinary measures in the criminal procedural code.³⁵ Although Mr. Díaz Peña appeals against the declaration of inadmissibility, the Constitutional Chamber of the Supreme Court of Justice upholds the decision.³⁶

September 18, 2007: The Fourth First Instance Court of the Metropolitan Criminal Judicial Circuit of Caracas begins the oral phase of the trial.³⁷

October 31, 2007: Mr. Joel Vallenilla, M.D., from the Body for Investigatory Criminal Sciences' ("CICPC") Forensic Medicine Service, visits the DISIP to perform a medical evaluation on Mr. Díaz Peña.³⁸ In a report, he concludes that Mr. Díaz Peña's general state is satisfactory, but suggests a CAT scan of the middle ear and mastoid, and a hearing test.³⁹

November 8, 2007: Dr. Efraín González Prato examines Mr. Díaz Peña and determines that it cannot be established whether or not he requires surgery because more tests are necessary to form such a conclusion.⁴⁰ However, the doctor concludes that Mr. Díaz Peña suffers from a nasal obstructive syndrome due to allergies, which requires treatment.⁴¹

32. *Id.* ¶ 92.

33. *Id.* Set out in Articles 44, 49.1, 49.2, 49.3, 49.4, and 49.8 and 257 of the Constitution of the Bolivarian Republic of Venezuela. *Id.*

34. *Id.*

35. *Id.* ¶ 93. By virtue of the provisions of Article 6.5 of the Organic Amparo Law on Constitutional Rights and Guarantees. *Id.*

36. *Id.*

37. *Id.* ¶ 81.

38. *Id.* ¶ 126.

39. *Id.*

40. *Id.* ¶ 128.

41. *Id.*

January 28, 2008: An imaging scan is conducted on Mr. Díaz Peña, which diagnoses “chronic bilateral mastoiditis.”⁴²

April 29, 2008: Mr. Díaz Peña is sentenced to nine years and four months in prison.⁴³ He is found guilty of conspiracy, aggravated arson as facilitator, and concealing explosive substances.⁴⁴ Mr. Díaz Peña is also sentenced to accessory punishment established in Article 13 of the Criminal Code.⁴⁵

July 25, 2008: The Eighth Court for Enforcement holds that in consideration of the four years and five months that Mr. Díaz Peña has already served, he must serve the remaining four years and eleven months of his sentence.⁴⁶ The Court determines that Mr. Díaz Peña’s sentence will culminate on June 25, 2013.⁴⁷

September 23, 2008: Mr. Díaz Peña requests that the Court delay the execution of his sentence in view of his “serious health condition,” renounces his right to present appeal proceedings before the judgment, and requests that a certified copy of the case file of the Fourth Court of Justice be remitted to the Eighth Court so that it can proceed to execution.⁴⁸ The Chamber denies the request on the grounds that Mr. Díaz Peña’s was not yet final; although he had been convicted, he had not been sentenced because only one original of his file existed and a superior court cannot issue a sentence on the basis of a copy.⁴⁹

July 9, 2009: A psychological report performed on Mr. Díaz Peña states that Mr. Díaz Peña presents an “abnormal relationship to society and has a lax view of its rules.”⁵⁰ Additionally, it states that Mr. Díaz Peña does not acknowledge his participation in the crime and there are no signs that his time in prison has caused him to reflect in a way that will bring about a positive social change.⁵¹

42. *Id.* ¶ 129.

43. *Id.* ¶ 82.

44. *Id.*

45. *Id.*

46. *Id.* ¶ 83.

47. *Id.*

48. *Id.* ¶ 85.

49. *Id.*

50. *Id.* ¶ 88.

51. *Id.*

July 28, 2009: Based on the psychological evaluation, the Seventh Court of Execution denies Mr. Díaz Peña the alternative of serving his sentence in a place of work because there was not a favorable outlook on the his future conduct.⁵² Mr. Díaz Peña presents a brief demonstrating his disapproval of the psychological evaluation report, specifically because it appears that he must confess involvement in the crimes in exchange for a positive psychological evaluation.⁵³ He also requests a new psychological assessment by the Forensic Psychiatry Department of the CICPC.⁵⁴

August 14, 2009: The Seventh Court of Execution states that a multidisciplinary team should conduct a psychological evaluation, which is not possible within the CICPC as an investigatory police organ.⁵⁵ Nevertheless, the Court issues a written order to the Director of Social Re-Integration of the Ministry of Popular Power for Justice and Internal Relations to conduct an evaluation of Mr. Díaz Peña.⁵⁶

May 13, 2010: The Eighth Court of Execution grants Mr. Díaz Peña the open prison measure and he is released.⁵⁷ He is required to serve the open prison regime in the José Agustín Méndez Urosa Community Treatment Center and is initially required to remain locked-up for 24 hours.⁵⁸ The Judge reserves discretion to allow Mr. Díaz Peña to work during the day and return to the penitentiary center between 8:00 p.m. and 5:00 a.m. once the Ministry for Public Power for Justice and Internal Relations releases a psychological report.⁵⁹ This system is to remain in place until the Judge determines whether Mr. Díaz Peña may benefit from conditional parole.⁶⁰

B. Other Relevant Facts

President Hugo Chávez's attempts to consolidate power by controlling the oil sector provoke labor and business groups to unite against

52. *Id.* ¶ 89.

53. *Id.*

54. *Id.*

55. *Id.*

56. *Id.*

57. *Id.* ¶ 91.

58. *Id.*

59. *Id.*

60. *Id.*

him.⁶¹ By April 2002, Venezuela's largest labor union stages a strike to support a walkout by oil workers over Petroleos de Venezuela, S.A.'s ("PDVSA") management changes.⁶² The strike sparks nationwide protest and galvanizes support from anti-Chávez factions in the military.⁶³

From December 2002 – February 2003, union and business leaders launch a second general strike known as the Venezuelan general strike of 2002 – 2003.⁶⁴ This strike, known as the oil strike or oil cookout, attempts to force a new presidential election.⁶⁵ Many of the strike's activities and demonstrations occur at the Plaza Francia de Altamira (a wealthy Eastern Caracas neighborhood), which is considered by anti-Chávez supporters as "liberated territory" from the Venezuelan government.⁶⁶

II. PROCEDURAL HISTORY

A. Before the Commission

October 12, 2005: Ms. Patricia Andrade of the organization *Venezuela Awareness Foundation* presents a petition on behalf of Mr. Díaz Peña to the Inter-American Commission on Human Rights.⁶⁷

October 31, 2005: The Commission grants Mr. Díaz Peña's request for precautionary measures.⁶⁸

March 20, 2009: The Commission issues Admissibility Report No. 23/09 declaring the petition admissible in relation to Articles 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial), and 25 (Right to Judicial Protection) of the American Convention, in conjunction with Articles 1(1) (Obligation to Respect Rights) and 2 (Obligation to Give Domestic Legal Effect to Rights) of the same instrument.⁶⁹ The Commission declares the petition inadmissible in rela-

61. M. Billing, *The Venezuelan Oil Crisis*, Foreign Affairs (Sept. 1, 2004), <http://www.foreignaffairs.com/articles/60090/michelle-billig/the-venezuelan-oil-crisis>.

62. *Id.*

63. *Id.*

64. *Id.*

65. *Id.*

66. *Id.*

67. Díaz Peña v. Venezuela, Admissibility Report, Report No. 23/09, Inter-Am. Comm'n H.R., Case No. 12.703, ¶ 1 (Mar. 20, 2009).

68. *Id.* ¶ 4.

69. Díaz Peña v. Venezuela, Report on Merits, Report No. 84/10 Inter-Am. Comm'n H.R., Case No. 12.703, ¶ 2 (July 14, 2010).

tion to the arguments concerning the alleged violations of Articles 4 (Right to Life), 11 (Right to Privacy), 15 (Right to Peaceful Assembly), and 24 (Right to Equal Protection) of the Convention.⁷⁰

July 13, 2010: The Commission approves Merits Report No. 84/10.⁷¹ The Commission finds that the State violated Articles 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial), and 25 (Right to Judicial Protection) of the American Convention, in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Obligation to Give Domestic Legal Effect to Rights) of this instrument and makes a series of recommendations to the State.⁷²

August 12, 2010: The Commission notifies the State of the Report and grants it two months to provide information relating to its efforts to comply with the Commission's recommendations.⁷³ The State fails to present any information.⁷⁴

B. Before the Court

November 12, 2010: The Commission submits the case to the Court after the State failed to adopt its recommendations.⁷⁵

1. Violations Alleged by Commission⁷⁶

Articles 7(1), 7(2), 7(3), 7(4), 7(5), and 7(6) (Right to Personal Liberty)

Articles 5(1) and 5(2) (Right to Humane Treatment)

Articles 8(1) and 8(2) (Right to a Fair Trial)

Article 25(1) (Right of Recourse Before a Competent Court)

all in relation to:

Article 1(1) (Obligation to Respect Rights)

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

70. *Díaz Peña v. Venezuela*, Admissibility Report, "Decides" ¶ 2.

71. *Díaz Peña v. Venezuela*, Preliminary Objection, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 244, ¶ 2(c) (June 6, 2012).

72. *Id.* ¶ 2(b).

73. *Id.* ¶ 2(d).

74. *Id.*

75. *Id.* ¶ 1.

76. *Id.* ¶ 4.

2. Violations Alleged by Representatives of the Victims⁷⁷

Same Violations Alleged by Commission.

May 24, 2011: The State submits a preliminary objection, claiming domestic remedies have not been exhausted.⁷⁸ Specifically, the State argues that Mr. Díaz Peña failed to exhaust all the judicial remedies provided to him by the Venezuelan Constitution, such as the ordinary remedy of appeal, the appeal for review, and the constitutional review.⁷⁹ Additionally, the State notes that Mr. Díaz Peña filed a petition before the Commission, stating that he decided not to file any remedy in order to expedite the benefits that he may receive.⁸⁰ Thus, the State argues Mr. Díaz Peña did not exhaust all his remedies because of a subjective situation and not because of an obstruction by the State.⁸¹

June 26, 2012: The Court admits the State's preliminary objection of failure to exhaust domestic remedies in regards to Mr. Díaz Peña's preventive detention.⁸² In regards to the preliminary objection of failure to exhaust domestic remedies for the detention conditions and the deterioration of Mr. Díaz Peña's health, the Court notes that the State did not indicate any specific remedies that could have been filed and thus the Court finds this omission leads to the conclusion that there were no domestic remedies to be exhausted.⁸³ Accordingly, the Court rejects the State's objection of failure to exhaust domestic remedies in regards to detention conditions and the deterioration of Mr. Díaz Peña's health.⁸⁴

III. MERITS

A. *Composition of the Court*

Diego García-Sayán, President
Manuel E. Ventura Robles, Vice President
Leonardo A. Franco, Judge
Margarette May Macaulay, Judge

77. *Id.* ¶ 6.

78. *Id.* ¶ 7.

79. *Id.* ¶ 109.

80. *Id.*

81. *Id.*

82. *Id.* ¶ 125.

83. *Id.* ¶ 126.

84. *Id.* ¶ 127.

Rhadys Abreu Blondet, Judge
Alberto Pérez Pérez, Judge
Eduardo Vio Grossi, Judge

Pablo Saavedra Alessandri, Secretary
Emilia Segares Rodríguez, Deputy Secretary

B. Decision on the Merits

June 26, 2012: The Court issues its Judgment on Preliminary Objection, Merits, Reparations and Costs.⁸⁵

The Court found by six to one that Venezuela violated:

Article 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture, and Cruel, Inhumane, or Degrading Treatment), in relation to Article 1(1) (Obligation to Respect Rights) of the Convention, to the detriment of Mr. Díaz Peña,⁸⁶ because:

The State failed to provide detention conditions that complied with the minimum material requirements of decent treatment.⁸⁷ Persons deprived of their liberty have the right to live in detention conditions compatible with their personal dignity.⁸⁸ The State has an obligation to safeguard the health and welfare of prisoners by providing them, among other elements, with the required medical assistance necessary to ensure that the manner and method of deprivation of liberty do not exceed the inevitable level of suffering inherent in detention.⁸⁹

The Court found that the State did not comply with its obligations under Article 5 (Right to Humane Treatment) for several reasons.⁹⁰

First, Mr. Díaz Peña's detention conditions fell far below the minimum material requirements of decent treatment.⁹¹ In particular, he lacked access to light and natural ventilation, and also was restricted from open air time for more than six years and from access to sanitary installa-

85. Díaz Peña v. Venezuela, Preliminary Objection, Merits, Reparations and Costs.

86. *Id.* ¶¶ 135-141.

87. *Id.* ¶ 141.

88. *Id.* ¶ 135.

89. *Id.*

90. *Id.* ¶ 140.

91. *Id.*

tions during the night for more than three years.⁹² Second, despite the serious and progressive deterioration in Mr. Díaz Peña's health, medical assistance services were not provided opportunely, adequately, or completely.⁹³ Specifically, there was a delay of several months in performing the CAT scan of the middle ear and mastoids, as well as the tonal audiometry.⁹⁴ As a result, the Court determined that the State violated the provisions of Article 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture, and Cruel, Inhumane, or Degrading Treatment), in relation to Article 1(1) (Obligation to Respect Rights).⁹⁵

C. Dissenting and Concurring Opinions

1. Dissenting Separate Opinion of Judge Eduardo Vio Grossi

Judge Vio Grossi wrote separately to discuss why the State's Preliminary Objection concerning the prior exhaustion of domestic remedies was admissible.⁹⁶ Judge Vio Grossi noted that it was not incumbent for the Court to rule on the merits of this case because, as indicated by the State, all of the domestic remedies had not been exhausted.⁹⁷ The Convention established that the remedies under domestic law must be pursued and exhausted before the Commission may consider any petition.⁹⁸ Mr. Díaz Peña lodged his Petition before the Commission on October 12, 2005, before he exhausted the domestic remedies.⁹⁹

92. *Id.*

93. *Id.*

94. *Id.*

95. *Id.*

96. Díaz Peña v. Venezuela, Preliminary Objection, Merits, Reparations and Costs, Separate Opinion of Judge Eduardo Vio Grossi, Inter-Am. Ct. H.R. (ser. C) No. 244, ¶ 1 (June 6, 2012).

97. *Id.*

98. *Id.* at 4.

99. *Id.*

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 indicated that the Judgment itself should be understood as a form of reparation.¹⁰⁰

2. Publication of the Judgment

The State must publish the official summary of this Judgment in the Official Gazette and in a national newspaper with widespread circulation.¹⁰¹ Additionally, the entirety of this Judgment must be available for one year on an official website.¹⁰²

3. Guarantee of Non-Repetition

The State must adopt the necessary measures to ensure that the detention conditions in the Pre-Trial Detention Center of the former General Directorate of the Intelligence and Prevention Services (DISIP) – now, the Bolivarian Intelligence Service (SEBIN) – located in El Heli-coide, in Caracas, Venezuela, comply with the relevant international standards.¹⁰³

B. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

The Court awarded \$5,000 to Mr. Díaz Peña for reimbursement of expenses incurred for medical care and to cover future expenses for

100. Díaz Peña v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 155.

101. *Id.* ¶ 153.

102. *Id.*

103. *Id.* ¶ 154.

specialized medical treatment and other related costs.¹⁰⁴

2. Non-Pecuniary Damages

The Court awarded \$10,000 to Mr. Díaz Peña as compensation for non-pecuniary damage.¹⁰⁵

3. Costs and Expenses

The Court awarded \$3,000 to the Venezuela Awareness Foundation as compensation for these proceedings.¹⁰⁶

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

\$ 18,000

C. Deadlines

The State must comply with the order of the Court to publish the pertinent parts of the Judgment within six months of notification of this Judgment.¹⁰⁷

The State must adopt the necessary measures to ensure that detention conditions in the Pre-Trial DISIP (now SEBIN) is in accordance with the relevant international standards within a reasonable amount of time of the date of notification of the Judgment.¹⁰⁸

The State must pay the costs and expenses within one year of the notification of the Judgment.¹⁰⁹

V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

VI. COMPLIANCE AND FOLLOW-UP

July 24, 2012: Chávez announced his decision to withdraw from the In-

104. *Id.* ¶ 161.

105. *Id.* ¶ 167.

106. *Id.* ¶ 172.

107. *Id.* ¶ 153.

108. *Id.* ¶ 154.

109. *Id.* ¶ 172.

ter-American Court of Human Rights, claiming that the Court's ruling on this case has "offended the dignity of the Venezuelan people."¹¹⁰ Chávez also accused the Court of "supporting terrorism."¹¹¹

September 6, 2012: The State formally notified the Secretary General of the Organization of American States of its intent to withdraw from the American Convention on Human Rights.¹¹²

VII. LIST OF DOCUMENTS

A. *Inter-American Court*

1. Preliminary Objections

[Díaz Peña v. Venezuela, Preliminary Objection, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 244 \(June 26, 2012\).](#)

2. Decisions on Merits, Reparations and Costs

[Díaz Peña v. Venezuela, Preliminary Objection, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 244 \(June 26, 2012\).](#)

[Díaz Peña v. Venezuela, Preliminary Objection, Merits, Reparations and Costs, Separate Opinion of Judge Eduardo Vio Grossi, Inter-Am. Ct. H.R. \(ser. C\) No. 244 \(June 26, 2012\).](#)

3. Provisional Measures

[None]

4. Compliance Monitoring

[None]

110. Europa Press, *Venezuela Left CoIDH after failure against Raúl José Díaz Peña*, NOTIMERICA.COM (July 25, 2012), <http://www.notimerica.com/venezuela/noticia-venezuela-chavez-anuncia-retirada-venezuela-coidh-fallo-contra-raul-diaz-pena-20120725051057.html>.

111. *Id.*

112. J. Alatorre, A. Latsch, & B. West. *Regional Human Rights Systems*, 20 Hum. Rts. Brief, no. 1, 57-58 (2012)

5. Review and Interpretation of Judgment

[None]

B. Inter-American Commission

1. Petition to the Commission

Díaz Peña v. Venezuela, Petition No. 299-07, Inter-Am. Comm'n H.R., (July 24, 2008).

2. Report on Admissibility

[Díaz Peña v. Venezuela, Admissibility Report, Report No. 23/09, Inter-Am. Comm'n H.R., Case No. 12.703 \(Mar. 20, 2009\).](#)

3. Provisional Measures

[None]

4. Report on Merits

Díaz Peña v. Venezuela, Report on Merits, Report No. 84/10, Inter-Am. Comm'n H.R., Case No. 12.703 (July 13, 2010).

5. Application to the Court

[Díaz Peña v. Venezuela, Petition to the Court, Inter-Am. Comm'n H.R., Case No. 12.703 \(Nov. 12, 2010\).](#)

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J. Alatorre, A. Latsch, & B. West. *Regional Human Rights Systems*, 20 Hum. Rts. Brief, no. 1, 55 (2012).

2015]

Díaz Peña v. Venezuela

1943

Audiencia Publica, Caso Diaz Pena Vs. Venezuela, Parte 1, <http://vimeo.com/33002282>.

Audiencia Publica, Caso Diaz Pena Vs. Venezuela, Parte 2, <http://vimeopro.com/corteidh/caso-dias-pena-vs-venezuela/video/33002445>.