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VENEZUELA IS RESPONSIBLE FOR THE VIOLATION OF THE RIGHTS TO PARTICIPATE IN GOVERNMENT AND JUDICIAL PROTECTION TO THE DETRIMENT OF HENRIQUE CAPRILES RADONSKI DURING THE 2013 ELECTIONS

San José, Costa Rica, December 2, 2024.- In the judgment, notified today, in the *Case of Capriles v. Venezuela*, the Inter-American Court of Human Rights declared the international responsibility of the State of Venezuela for the violation of the right to participate in government, freedom of expression, equal protection, judicial guarantees and judicial protection to the detriment of Henrique Capriles Radonski during the 2013 presidential elections.

The official summary and the full text of the judgment can be accessed [here](#).

The facts of the instant case took place during the presidential election process of the Republic of Venezuela held on April 14, 2013. The electoral candidates were Henrique Capriles Radonski, from the party Democratic Unity Roundtable (Mesa de la Unidad Democrática (MUD), and Nicolás Maduro Moros, of the United Socialist Party of Venezuela (Partido Socialista Unido de Venezuela, PSUV). The election was preceded by the death of Hugo Chávez Frías on March 5, 2013; Nicolás Maduro, who was the Executive Vice-President, became interim president (President in Charge of the Republic) and signed up as a candidate of the PSUV party. Before his registration as a candidate, the Constitutional Chamber of the Supreme Court of Justice (SCJ) issued a decision on March 8, 2013, which allowed him to register as a presidential candidate and established that he did not have to step down from office to compete in the election. This was an interpretation of Article 229 of the Constitution of the Bolivarian Republic of Venezuela, which states that a Vice-President in office cannot run for President of the Republic.

The election was organized by the National Electoral Council (NEC), and the electoral campaign formally took place from April 2 to 11, 2013. During the campaign public mass media was used, as well as statements and mobilization of State employees, undue pressure and use of public resources for coverage to promote Nicolás Maduro. Mr. Capriles' campaign team filed 348 complaints against CNE regarding electoral irregularities, but these complaints were not resolved. On April 14, 2013, once the voting and the digital counting of the votes had ended, CNE declared Nicolás Maduro the winner with 50.61% of votes, followed by Henrique Capriles with 49.12%.

On May 2, 2013, Mr. Capriles filed a contentious electoral remedy before the Electoral Chamber of the SCJ, requesting the declaration of the annulment of the presidential election of April 14, 2013. The Constitutional Chamber of the SCJ assumed on its own motion to hear all the cases being processed before the Electoral Chamber of the SCJ that sought to challenge acts or omissions in the context of the presidential election, and it declared unfounded all the challenges filed by Mr. Capriles against the members of the Constitutional Chamber. On August 7, 2013, the Constitutional Chamber decided that this remedy was inadmissible since it contained offensive and disrespectful expressions against the Constitutional Chamber and other jurisdictional bodies and it fined him. It also ordered forwarding the brief filed by Mr. Capriles to the Public Prosecutor's Office to begin the investigations considered necessary to determine his criminal liability.



The Inter-American Court noted that the American Convention on Human Rights requires the existence of an electoral system that permits holding genuine periodic elections that guarantee the free expression of the will of the voters. Moreover, it indicated that the electoral system must guarantee effective opportunities for individuals to have access, under general conditions of equality, to the public service of the country or positions of political representation. Thus, States have the obligation to guarantee the integrity of electoral processes, so that elections are conducted in conformity with the principle of democracy and to protect the rights of those who compete for a public position as well as of the voters. In this regard, it considered that the obligation to preserve electoral integrity requires States to guarantee, as a minimum, and in conformity with domestic law, the following: a) transparency throughout the electoral process, specifically campaign finances and in the results counting phase; b) opportunities for those who compete for a public position to communicate their proposal through traditional and digital means of communication; c) prevent the abusive use of State apparatus in favor of one candidate or political group; d) impartiality, independence and transparency of the bodies in charge of organizing the elections in all stages of the electoral process, including the results verification stage; and e) judicial or administrative remedies that are adequate and effective when there are events that put the electoral integrity at risk.

Considering the criteria indicated above, and in the context of the progressive deterioration of the separation of powers in Venezuela and of the independence and impartiality of CNE and the SCJ, the I/A Court HR confirmed in the instant case that: a) the Constitutional Chamber of the SCJ favored Nicolás Maduro through the decision of March 8, 2013, in which it allowed him to run in the election; b) Nicolás Maduro obtained advantages that could affect the balance of the electoral battle, such as the use of State resources for his campaign and acts of proselytism held by high-level public officials who were exercising their functions, as well as the existence of undue pressure on public officials; c) during the electoral campaign there was disproportionate media coverage in favor of Nicolás Maduro's candidacy, both in terms of the time of coverage and the positive light cast on the candidate; d) the actions of the CNE were not impartial due to the closeness and political relationship of three rectors with the PSUV party and the government, which was confirmed by the lack of response to more than 300 claims of irregularities filed by Mr. Capriles' team; and 3) the refusal to perform an integral audit of the election was an omission by the State that affected the transparency of the process. The Court concluded that these actions and omissions constituted an abuse of State apparatus aimed at favoring the official candidate, and a lack of guarantee of adequate means of recourse and transparency of the process.

Therefore, the Court concluded that the actions and omissions of the State, taken as a whole, and in the context of institutional deterioration, were of such magnitude that they affected the integrity of the electoral process and the right to participate in government, freedom of expression and equality before the law of Mr. Capriles, as set forth in Articles 23, 24 and 13 of the American Convention. Moreover, the Court determined that the actions of the State constituted an abandonment of the fundamental principles of the rule of law, insofar as it ignored the regulations contemplated in the domestic body of law to limit power and enable democracy, and it permitted the use of State apparatus to favor Nicolás Maduro before, during and after the election of April 14, 2013. In addition, the Court concluded that the effects on the integrity of the electoral process and the lack of equality therein affected the right of Venezuelan voters to freely elect their government representatives.



Regarding the judicial remedies filed by Mr. Capriles before the SCJ to request the annulment of the presidential election and the challenges of lack of impartiality of the members of the Constitutional Chamber, the I/A Court HR concluded that there were strong indications of lack of impartiality of the Constitutional Chamber and its decision regarding the inadmissibility of the electoral contentious remedy lacked adequate grounds. Moreover, it concluded that the fine imposed on Mr. Capriles for the expressions included in his claim was arbitrary and constituted a violation of the right to defend himself and to freedom of expression. The Court also concluded that the decisions of the Constitutional Chamber constituted a misuse of power, insofar as they intended to favor the permanence of the PSUV party at the head of the Executive Branch in Venezuela and to silence the legitimate questioning of authority. Therefore, the Court concluded that the State is responsible for the violation of the rights to judicial guarantees, judicial protection and freedom of thought and expression to the detriment of Henrique Capriles Radonski.

The Court adopted reparation measures to redress the human rights violations to the detriment of Mr. Capriles and to prevent the repetition of facts similar to those analyzed in this case. In this regard, it ordered the State to implement measures to make effective the minimum guarantees to preserve the integrity of the elections, the transparency of electoral processes, access to public mass media and the independence and impartiality of the CNE and the SCJ.

Judges Nancy Hernández López, Rodrigo Mudrovitsch, Humberto Antonio Sierra Porto and Eduardo Ferrer Mac-Gregor Poisot disclosed their individual concurring opinions on this judgment. Judge Patricia Pérez Goldberg disclosed her dissenting and partially dissenting opinion.

The Court's composition for the issuing of this Judgment was as follows: Judge Nancy Hernández López, President (Costa Rica); Judge Rodrigo Mudrovitsch, Vice-President (Brazil); Judge Humberto Antonio Sierra Porto (Colombia); Judge Eduardo Ferrer Mac-Gregor Poisot (México); Judge Ricardo C. Pérez Manrique (Uruguay); Judge Verónica Gómez (Argentina) and Judge Patricia Pérez Goldberg (Chile).

This press release was drafted by the Registrar's Office of the Inter-American Court of Human Rights; it is solely responsible for this document.

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