

# Press Release

Inter-American Court of Human Rights

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## **EL SALVADOR IS RESPONSIBLE FOR THE ARBITRARY REMOVAL OF THE JUDGE EDUARDO COLINDRES SCHONENBERG**

*San Jose, Costa Rica, February 20, 2019.*- In the judgment published today in the Case of *Colindres Schonenberg v. El Salvador*, the Inter-American Court of Human Rights (“the Court”) declared the international responsibility of El Salvador, for the arbitrary removal of Eduardo Colindres Schonenberg from his post as a judge of the Supreme Electoral Court. The official summary of the judgment can be found [here](#) and the entire text of the judgment [here](#) (in Spanish).

On August 11, 1994 Mr. Colindres Schonenberg was appointed by the Legislative Assembly as a judge of the Supreme Electoral Court and elected from a list (*terna*) presented by the Christian Democratic Party. As a consequence of a conflict raised within the party in 1996, members of the party requested the Legislative Assembly to remove Mr. Colindres Schonenberg from his post. On November 22, 1996 Mr. Colindres Schonenberg was removed from office.

However, on November 4, 1997 the Constitutional Court reinstated Mr. Colindres Schonenberg, on the ground that the dismissal proceedings had lacked a hearing. In view of the above, members of the political party once again requested the victim’s removal. The Legislative Assembly created a Special Commission with the aim of guaranteeing Mr. Colindres’ right to a hearing. On July 2, 1998, once the hearing had taken place, the Legislative Assembly removed Mr. Colindres Schonenberg from office.

Mr. Colindres Schonenberg lodged two *amparo* appeals against this decision, to no avail. Additionally, the victim brought a complaint for the damages caused by the first removal. On December 22, 2009 the Supreme Court of Justice issued a final judgment in favor of Mr. Colindres Schonenberg. On February 7, 2014 the State made the corresponding payment.

After having analyzed the elements of the present case and so far it concerned the second removal, the Inter-American Court declared that Mr. Colindres Schonenberg had been a victim of an arbitrary dismissal in violation of his right to a due process, in view of the fact (1) that the Legislative Assembly was not competent and had no authority to remove him and (2) there were no pre-established proceedings for the removal of judges of the Supreme Electoral Court. This also meant the violation of the victim’s right to remain in a public office under general conditions of equality. Subsequently, the State violated the victim’s right to a fair trial as prescribed in Article 8.1 of the Convention, in relation to the obligation to respect rights, the obligation to adopt domestic legal measures and the right to remain in a public office under general conditions of equality as recognized by Articles 1.1, 2 and 23.1.c of the same legal instrument.

Additionally, the Court declared the State’s responsibility for the ineffectiveness of the *amparo* complaints lodged by Mr. Colindres Schonenberg as regards the second removal, which led to a violation of the right to a fair trial and judicial protection, as protected by Articles 8.1 and 25 of the Convention, in relation to the obligation to respect rights, as prescribed by Article 1.1.

Finally, the Court also concluded that El Salvador did not comply with the reasonable time requirement in violation of Article 8.1 in relation to the obligation to respect rights, as prescribed by Article 1.1, for taking 15 years to process and implement the judgment of December 22, 2009, issued as a result of the complaint for damages lodged by Mr. Colindres Schonenberg.

In view of these violations, the Court ordered the State to a) publish the judgment and the official summary and b) pay the indicated amount for material and moral damage.

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The Court's composition for the judgment included the following: Judge Eduardo Ferrer MacGregor Poisot, President (Mexico); Judge Eduardo Vio Grossi, Vice-President (Chile); Judge Elizabeth Odio Benito (Costa Rica); Judge Eugenio Raúl Zaffaroni (Argentina); and Judge L. Patricio Pazmiño Freire (Ecuador). Judge Humberto Antonio Sierra Porto (Colombia) did not participate in the deliberation and adoption of this judgment for reasons of *force majeure*. Judge Ricardo Pérez Manrique (Uruguay) did not participate in the deliberation and adoption of this judgment as well, since his mandate started on January 1, 2019, when the judgment was pending.

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