

INTER-AMERICAN COURT OF HUMAN RIGHTS
CASE OF UZCÁTEGUI ET AL. v. VENEZUELA
OFFICIAL SUMMARY ISSUED BY THE INTER-AMERICAN COURT
JUDGMENT OF SEPTEMBER 3, 2012
(Merits and Reparations)

On September 3, 2012 the Inter-American Court of Human Rights declared, unanimously, that the State of Venezuela is internationally responsible for the violation, among other things, of the right to life of Mr. Néstor José Uzcátegui; of the rights to personal integrity and personal liberty of Luis Enrique Uzcátegui and Carlos Eduardo Uzcátegui, to the freedom of expression of Luis Enrique Uzcátegui; as well as the rights to personal integrity, to a fair trial and to judicial protection of the members of Uzcátegui family, which resided in Coro, state of Falcón, Venezuela. The Court also verified the violation of the right to privacy and private property of several members of Uzcátegui family.

Mr. Néstor José Uzcátegui, who was 21 years old at the time, lived with family members on a home located in Urbanización La Velita II, Coro, state of Falcón. On the morning of January 1, 2001, officers of the Police Investigations Department and an elite group of the Armed Police Forces of the state of Falcón raided without a warrant and in a violent manner the house of Uzcátegui family, while they were celebrating the New Year. During the police operation the officers used firearms against Néstor José Uzcátegui, shooting him at least twice, without having demonstrated the legitimacy or, if applicable, the need and proportionality of the use of lethal force. Néstor José Uzcátegui died as a result of the shots.

These facts occurred within a context of extrajudicial killings and other abuses by the police forces, specifically state and municipal police. At that time “the disproportionate, indiscriminate and discretionary [...] use of force” was frequent, as well as “negligence and lack of expertise in the use of firearms, threats and harassment, simulated executions, arbitrary detentions, illegal raids, delays in transferring injured persons to health centers after injuring them, firing shots into the air, adulteration of cartridges, use of illegal firearms,” among other situations.

In addition, within the framework of the operation carried out on January 1, 2001 at the Uzcátegui home, Luis Enrique and Carlos Eduardo Uzcátegui –brothers of Néstor José Uzcátegui– were detained without being shown an arrest warrant. They were not informed of the reason for the arrest nor were they registered in the detained persons register.

Furthermore, the Court deemed proven several threats and harassment against Luis Enrique Uzcátegui and his family that occurred after he initiated judicial and media activities in the search for justice for the death of his brother and other human rights violations committed by the security forces of the State of Falcón. Similarly, there is evidence that Luis Enrique Uzcátegui was subjected to criminal proceedings for slander that could have generated an intimidating or inhibiting effect on the exercise of his right to freedom of speech. Based on the threats and harassment received, Luis Uzcátegui had to change addresses often and move out of the state of Falcón. In turn, it was demonstrated that the State was aware of the risk of Luis Enrique Uzcátegui and some of his family members, both through complaints and measures of protection granted domestically, as well as based on precautionary and provisional measures ordered by the organs of the Inter-American Human Rights System. The Court also verified that when police officers of the State of Falcón violently entered into the home of Uzcátegui family, the State violated the right to privacy and private property of its citizens.

Consequently, the Court considered that the State did not demonstrate that it had taken sufficient and effective steps to prevent the acts of threat and harassment against Luis Enrique Uzcátegui, therefore it failed to comply with the obligation to adopt the necessary and reasonable measures to effectively guarantee the rights to personal integrity and freedom of thought and expression of Mr. Luis Enrique Uzcátegui.

In addition, in the process before the Inter-American Court the domestic investigations carried out regarding the facts of the instant case were analyzed; it was verified that they were not carried out with due diligence or complied with the reasonable term requirement.

Specifically, the Court observed that during the course of the investigation several evidentiary steps or evidence-gathering procedures were not performed, were not adequately performed or were carried out with a delay; international standards were not fully complied within the framework of the forensic evaluation; in several procedures the authorities omitted or delayed the testing or submission of evidence requested by the Attorney General's Office, and it cannot be inferred from any of the procedures undertaken by the authorities who carried out the investigation or the judicial proceedings regarding the death of Néstor José Uzcátegui that they took into account the context of extrajudicial killings that existed in the State of Falcón at that time. Therefore, the Court concluded that the State had violated the rights enshrined in Articles 8(1) and 25(1) of the American Convention, in relation to Article 1(1) thereof, to the detriment of the next of kin of Luis Enrique Uzcátegui, Carlos Eduardo and the family of Néstor José Uzcátegui.

Based on the foregoing, the Inter-American Court of Human Rights concluded that:

1. The State is responsible for the violation of the right to life, enshrined in Article 4(1) of the American Convention on Human Rights, in relation to Article 1(1) of said instrument, to the detriment of Néstor José Uzcátegui Jiménez.
2. The State is responsible for the violation of the right to personal liberty, enshrined in Articles 7(1), 7(2) and 7(4) of the American Convention on Human Rights, in relation to Article 1(1) thereof, to the detriment of Luis Enrique Uzcátegui Jiménez and Carlos Eduardo Uzcátegui Jiménez, and in relation to Article 19 of the Convention to the detriment of the latter.
3. The State is responsible for the violation of the right to personal integrity enshrined in Article 5(1) of the American Convention on Human Rights, in conjunction with Article 1(1) of said instrument, to the detriment of Carlos Eduardo Uzcátegui, Luis Gilberto Uzcátegui, Yrma Josefina Jiménez, Gleimar Coromoto Uzcátegui Jiménez, Paula Yulimar Uzcátegui Jiménez, Irmely Gabriela Uzcátegui Jiménez, José Gregorio Mavárez Jiménez, José Leonardo Mavárez Jiménez and Josianni de Jesús Mora Uzcátegui.
4. The State is responsible for the violation of the rights to personal integrity and freedom of thought and expression, recognized in Articles 5 and 13 of the American Convention on Human Rights, respectively, in relation to Article 1(1) thereof, to the detriment of Luis Enrique Uzcátegui Jiménez.
5. The State is responsible for the violation of the right to privacy enshrined in Article 11 of the American Convention on Human Rights, in relation to Article 1(1) thereof, to the detriment of Néstor José Uzcátegui, Luis Enrique Uzcátegui, Carlos Eduardo Uzcátegui, Gleimar Coromoto Uzcátegui Jiménez, Paula Yulimar Uzcátegui Jiménez, Irmely Gabriela Uzcátegui Jiménez and Josianni de Jesús Mora Uzcátegui.
6. The State is responsible for the violation of the right to private property, enshrined in Article 21 of the American Convention on Human Rights, in relation to Article 1(1) thereof, to the detriment of Néstor José Uzcátegui and his family.
7. The State is responsible for the violation of the rights to a fair trial and judicial protection, recognized in Articles 8(1) and 25(1) of the American Convention on Human Rights, in relation to Article 1(1) thereof, to the detriment of Luis Enrique Uzcátegui Jiménez and his family.

8. It is not appropriate to examine the facts of this case in light of Articles 1, 2 and 6 of the Inter-American Convention to Prevent and Punish Torture, or of Articles 2, 9, 44 and 63(2) of the Convention.

9. The alleged violation of Articles 7(3), 7(4) and 7(6) of the American Convention on Human Rights was not demonstrated.

Lastly, the Inter-American Court of Human Rights expressed that the Judgment constitutes a type of reparation in and of itself. In addition, it ordered other reparation measures, including that the State shall: a) conduct an effective investigation into the facts of this case, in order to clarify them, determine the corresponding criminal responsibilities and effectively apply the sanctions and consequences contemplated by the law; b) examine, in conformity with the pertinent disciplinary regulations, the procedural and investigation irregularities related to the instant case, and if applicable, to punish the behavior of the corresponding public officers; c) provide psychological attention through its public health institutions to the victims who request it; d) publish the Judgment of the Inter-American Court, and e) pay certain amounts for compensation of pecuniary and non-pecuniary damages as well as reimbursement of costs and expenses and the amounts paid by the Victims' Legal Assistance Fund of the Inter-American Court.

The full text of the Judgment can be accessed through the following link:

http://corteidh.or.cr/docs/casos/articulos/seriec_249_ing.pdf