

**INTER-AMERICAN COURT OF HUMAN RIGHTS**

**CASE OF LEGUIZAMÓN ZAVÁN ET AL. V. PARAGUAY**

**JUDGMENT OF NOVEMBER 15, 2022**

***(Merits, reparations and costs)***

In the case of *Leguizamón Zaván et al. v. Paraguay*,

the Inter-American Court of Human Rights (hereinafter “the Inter-American Court,” “the Court” or “this Court”), composed of the following judges:

Ricardo C. Pérez Manrique, President  
Humberto Antonio Sierra Porto, Vice President  
Eduardo Ferrer Mac-Gregor Poisot  
Nancy Hernández López  
Verónica Gómez  
Patricia Pérez Goldberg  
Rodrigo Mudrovitsch

also present,

Pablo Saavedra Alessandri, Registrar, and  
Romina I. Sijniensky, Deputy Registrar,

Pursuant to Articles 62(3) and 63(1) of the American Convention on Human Rights (hereinafter “the American Convention” or “the Convention”) and with Articles 31, 32, 65 and 67 of the Rules of Procedure of the Court (hereinafter “the Rules of Procedure”), delivers this judgment, structured as follows:

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## **I INTRODUCTION OF THE CASE AND CAUSE OF ACTION**

1. *The case submitted to the Court.* On February 13, 2021, the Inter-American Commission on Human Rights (hereinafter the "Commission") submitted to the Inter-American Court the case of Santiago Leguizamón Zaván and family v. the Republic of Paraguay (hereinafter "the State" or "Paraguay"). The Commission explained that the case concerned the murder of Mr. Santiago Leguizamón Zaván, a renowned journalist and human rights defender, in the city of Pedro Juan Caballero, which borders with Brazil, on April 26, 1991. The Commission informed the Court of the alleged violations committed after the State had accepted the Court's contentious jurisdiction, i.e., the alleged violations of the rights to personal integrity, judicial guarantees and judicial protection, established in Articles 5(1), 8(1) and 25(1) of the American Convention, to the detriment of Ana María Margarita Morra and Raquel, Dante, Sebastián and Fernando Leguizamón Morra, wife, daughter and sons of Santiago Leguizamón, respectively. It maintained that the State had failed to investigate the murder diligently and effectively, and that the continuing impunity in the case had caused the victim's family suffering and distress.

2. *Proceedings before the Commission.* - The proceedings followed before the Commission were as follows:

- a. *Petition.* On January 19, 2007, the Inter American Press Association filed a petition with the Inter-American Commission.
- b. *Admissibility Report.* On April 15, 2016, the Inter-American Commission approved Admissibility Report No. 24/16, and the parties were notified of the fact on May 3, 2016.
- c. *Report on the Merits.* On July 10, 2020, the Commission approved Merits Report No. 196/20, pursuant to Article 50 of the Convention (hereinafter "Merits Report" or "Report No. 196/20").
- d. *Notification to the State.* In a communication dated August 13, 2020, the Commission notified the State of its approval of the Merits Report, and granted Paraguay two months to inform the Commission that it had complied with its recommendations. The State requested an extension, which was granted, and later informed the Commission of some steps taken to comply with the report's recommendations, but did not request a further extension of the deadline for submitting the case to the Inter-American Court. Therefore, the Commission decided to refer the case to the Court.

3. *Submission to the Court.* On February 13, 2021, the Commission submitted to the Inter-American Court the actions and omissions of the State identified in Report No. 196/20 that occurred, or continued to occur, after the date of the State's acceptance of the contentious jurisdiction of the Inter-American Court, given "the need to secure justice and redress for the victims."<sup>1</sup> This Court notes with concern that 14 years elapsed between the

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<sup>1</sup> The Commission named Commissioner Edgar Stuardo Ralón Orellana and Special Rapporteur for Freedom of Expression Pedro Vaca Villarreal as its delegates. It also appointed Marisol Blanchard Vera and Jorge Meza Flores, then the Deputy Executive Secretary and a lawyer of the Commission, respectively, and Cecilia La Hoz Barrera, then a lawyer of the Commission's Executive Secretariat, as legal advisors.

lodging of the initial petition before the Commission and the submission of the case to the Court.

4. *Requests of the Commission.* The Commission asked the Court to declare the State's international responsibility for the violation of the rights to personal integrity, judicial guarantees and judicial protection, established in Articles 5(1), 8(1) and 25(1) of the American Convention, read in conjunction with the obligations established in Article 1(1) thereof, to the detriment of Ana María Margarita Morra and Raquel, Dante, Sebastián and Fernando Leguizamón Morra, wife, daughter and sons of Santiago Leguizamón, respectively.

## **II PROCEEDINGS BEFORE THE COURT**

5. *Notification to the State and the representatives of the alleged victims.* The State and the representatives were notified of the fact that the Commission had submitted the case to the Court on March 22, 2021.

6. *Brief with pleadings, motions and evidence.* On May 21, 2021, the representatives<sup>2</sup> submitted their pleadings, motions and evidence brief (hereinafter "pleadings and motions brief"), pursuant to Articles 25 and 40 of the Court's Rules of Procedure. They asked the Court to declare the State's international responsibility for the violation of the rights referred to in Articles 4, 5, 8, 13 and 25, read in conjunction with Article 1(1) of the American Convention. They also asked the Court to order measures of reparation.

7. *Answering brief.* On August 18, 2021, the State<sup>3</sup> presented its brief in response to the submission of the case, and the pleadings and motions brief (hereinafter "answering brief"), in which it recognized its international responsibility for the rights violations referred to in the Commission's Merits Report.

8. *Final written proceedings.* In an order dated February 17, 2022,<sup>4</sup> the President of the Court, in response to the State's recognition of responsibility and in exercise of his authority under Articles 15(1), 45 and 50(1) of the Rules of Procedure, decided not to convene a public hearing in the instant case and, instead, summoned the Commission and the parties to a public proceeding for the receipt of the testimony of two people.<sup>5</sup> He also ordered that

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<sup>2</sup> The representatives of the alleged victims are Dante Ariel Leguizamón Morra, Hugo Valiente Rojas, Julia Cabello Alonso and Óscar Ayala Amarilla, lawyers from the Coordinadora de Derechos Humanos del Paraguay (CODEHUPY), the country's umbrella human rights organization.

<sup>3</sup> The State of Paraguay appointed Attorney General Juan Rafael Caballero González as its principal agent, and Ambassador Roberto Benítez Fernández, General Director of Human Rights of the Ministry of Foreign Affairs, as its alternate agent. During the proceedings, in a communication dated April 25, 2022, the State informed the Court that it had replaced Mr. Caballero González with acting Attorney General Mr. Miguel Ángel Villalba Rodríguez. Subsequently, in a note dated May 20, 2022, the Court was informed that Mr. Villalba Rodríguez had been replaced by Attorney General Mr. Andrés Barrios.

<sup>4</sup> Cf. *Case of Leguizamón Zaván et al. v. Paraguay*. Order of the President of the Inter-American Court of Human Rights dated February 17, 2022.

<sup>5</sup> These are the statements of Ana María Margarita Morra and Dante Ariel Leguizamón Morra, wife and son of Santiago Leguizamón, respectively.

3 statements from alleged victims,<sup>6</sup> 12 witness statements,<sup>7</sup> and 2 expert opinions<sup>8</sup> be rendered by affidavit.

9. *Proceedings for the receipt of statements.* On March 25, 2022, the Court received the statements of alleged victims Ana María Margarita Morra and Dante Ariel Leguizamón Morra in the public proceedings convened for the purpose, which were carried out virtually, via a video conferencing platform.

10. *Amicus curiae.* The Court received an *amicus curiae* brief from the IFEX-ALC network.<sup>9</sup>

11. *Final written arguments and observations.* On April 25, 2022, the parties and the Commission submitted their final written arguments and observations, respectively.

12. *Deliberation of the case.* The Court deliberated on this judgment on November 11 and 15, 2022.

### **III RECOGNITION OF INTERNATIONAL RESPONSIBILITY**

#### **A. The State's recognition of responsibility and the observations of the Commission and the representatives**

13. The **State** acknowledged its international responsibility for the violations of the rights that the Inter-American Commission identified in its Merits Report No. 196/20. That is, the rights to life and freedom of thought and expression in relation to the obligation to respect rights, to the detriment of Santiago Leguizamón Zaván, and the rights to personal integrity, judicial guarantees and judicial protection, in relation to the obligation to respect rights, to the detriment of Ana María Margarita Morra and Raquel, Dante, Sebastián and Fernando Leguizamón. It accepted that it had failed to fulfill its obligation to prevent the rights violations in question by adopting the necessary timely protection measures.

14. Furthermore, it maintained that it "regret[ed] the loss of the life of a person and a professional such as Santiago Leguizamón Zaván, and the suffering of his family and the harm done [...], as a consequence of the rights violations." It hoped that its acceptance of the facts of the case would be accepted "as a sign of respect for the memory of Santiago Leguizamón Zaván and the harm done to his wife, daughter and sons for more than thirty years and, consequently [that] it would constitute a form of redress for the family." It further stated that the "recognition of responsibility was also intended to ensure that what happened [...] would not be repeated in Paraguay," inasmuch as "it is intended to send a clear message to all of society of its absolute rejection of this type of violation of the rights of journalists in

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<sup>6</sup> The statements of Raquel Leguizamón Morra, Sebastian Leguizamón Morra and Fernando Leguizamón Morra, daughter and sons of Santiago Leguizamón, respectively.

<sup>7</sup> The statements of Andrés Colman Gutiérrez, Aníbal Gómez Caballero, Baldomero Cabral, Cándido Figueredo, Marciano Candia, Eder Rivas, Humberto Rubín, Óscar Acosta, Mercedes Barriocanal Perasso, Alcibiades González Delvalle, Santiago Ortiz and Noelia Díaz Esquivel.

<sup>8</sup> The expert opinion of Miguel Emilio La Rota, proposed by the Commission, and the expert opinion of Iván Velásquez and Adriana Camargo, proposed by the representatives.

<sup>9</sup> The letter was signed by Alejandro Delgado, President of the IFEX-ALC Coordinating Committee. It deals with the importance of the efforts to combat impunity for attacks against journalists as part of the consolidation of democracy and the country's borders, and the need to establish an adequate framework for prevention and protection as a guarantee of non-repetition in frontier-related contexts.

the exercise of their profession.” It also described Mr. Leguizamón as “an icon in the fight for freedom of expression and freedom of the press in Paraguay.”

15. It recognized that Santiago Leguizamón’s rights to life and freedom of expression had been violated, given the obligation to guarantee rights and the fact that he was a person at risk due to his journalistic activities. Furthermore, it acknowledged that it had not adopted effective and adequate measures to protect the victim’s life and freedom of expression, and thus prevent his murder.

16. With regard to the rights to judicial guarantees and judicial protection of Mr. Leguizamón’s family, the State acknowledged that it had failed to fulfill its obligation to effectively investigate and prosecute the alleged perpetrators, and that the lines of investigation had not been adequately pursued. As far as the right to personal integrity of the members of Santiago Leguizamón’s family was concerned, it agreed with the conclusions of the Merits Report, in the sense that the delays in seeking justice and the resulting impunity caused suffering and harm to the journalist’s wife, daughter and sons.

17. Finally, it pointed out that, while no amount of money could compensate for the loss of Mr. Leguizamón’s life, it had implemented a number of actions, including: (i) the payment of a pension to Mr. Leguizamón’s children until they reached the age of majority; (ii) the awarding of a pension to Ana María Margarita Morra, which was still being paid. It also said that (iii) it had adopted various measures, such as the naming of streets, the erection of a monolith, and the naming of a primary school in Santiago Leguizamón’s memory. The State asked the Court to consider its good faith as an important element when deciding on reparations.

18. The **Commission** viewed positively the States’ recognition of international responsibility, describing it as a positive contribution to the proceedings, inasmuch as it conferred dignity on the victims, and validated their claims for access to justice and redress. It noted that, although the State did not comment specifically on the facts alleged by the Commission, it did not dispute the factual framework. The State’s acknowledgement meant that it accepted the facts of the case, as well as the rights violations recognized in the Merits Report. The Commission also pointed out that the State recognized its international responsibility for the violations of Mr. Leguizamón’s rights to life and freedom of expression, which occurred before the date on which the State recognized the Court’s contentious jurisdiction. Therefore, it asked the Court to declare the facts presented by the Commission to be proven, and include them in the merits judgment. Since the rights violations alleged in the Merits Report were no longer in dispute, it also asked the Court to issue a judgment establishing the scope of the violations in light of the facts of the case, resolving the aspects still disputed by the representatives, and determining the corresponding reparations.

19. The **representatives** noted that, while the State accepted all the facts, it did not agree with all the reparations being sought. In particular, they rejected the State’s arguments regarding the legal and material impossibility of further criminal proceedings to determine those responsible for the murder, and the offer of other types of compensation instead. They suggested that the arguments concerning domestic provisions that made an exhaustive investigation of the facts impossible were incompatible with the commitments assumed under the American Convention.

## **B. Considerations of the Court**

### ***B.1 Regarding the facts***

20. The Court finds that, while the State did not comment specifically on the facts alleged by the Commission, it did not dispute or question them either. It is clear that Paraguay has fully accepted the facts established by the Commission in its Merits Report and which serve as the basis for the human rights violations recognized by the State. These facts refer to: (i) the journalist Santiago Leguizamón and his family; (ii) the threats made against, and subsequent murder of, journalist Santiago Leguizamón; (iii) the investigation and criminal proceedings related to the murder of Santiago Leguizamón, and (iv) the threats made against Santiago Leguizamón's family and the consequences of his murder. Therefore, the Court holds that the factual framework of this case is not in dispute.

### ***B.2 Regarding the legal claims***

21. Regarding the legal claims, the Court notes that the State accepted those that appear in the Merits Report, and acknowledged that the response of the national authorities was incompatible with international standards and affected the rights that the Commission alleged had been violated. Furthermore, the Court notes that the recognition of responsibility expressly covers all the violations of the American Convention on Human Rights to which the Commission refers in its Merits Report, including violations of Mr. Leguizamón's rights to life and freedom of expression, which occurred before the date on which the State recognized the contentious jurisdiction of this Court.

22. The Court therefore holds that none of the alleged violations are disputed. The violations in question are as follows:

- a) The violation of the rights to life and freedom of thought and expression, recognized in Articles 4 and 13 of the American Convention, read in conjunction with Article 1(1) thereof, to the detriment of Mr. Leguizamón Zaván as a consequence of his murder.
- b) The violation of the rights to judicial guarantees and judicial protection, established in Articles 8(1) and 25(1) of the American Convention, read in conjunction with Article 1(1) thereof, as a result of a lack of due diligence and the violation of the guarantee that investigations be carried out within a reasonable time. In this case, to the detriment of Mr. Leguizamón Zaván's wife, daughter and sons.
- c) The violation of the right to personal integrity, contained in Article 5(1) of the American Convention, read in conjunction with Article 1(1) thereof, to the detriment of Mr. Leguizamón Zaván's wife, daughter and sons, due to the impact on their psychological and moral integrity of the fact that the State failed to conduct a diligent investigation within a reasonable time.

### ***B.3 Regarding possible reparations***

23. With respect to reparations, the Court notes that the State, in recognizing its international responsibility, said "it is willing to assume the responsibility that this recognition entails, especially with regard to reparations." The State also maintained that "any changes or adjustments made regarding the measures of reparation would in no way

affect the recognition that Santiago Leguizamón Zaván's memory and the suffering of his wife, daughter and sons deserves, or the guarantee that these human rights violations will be redressed and not repeated." Thus, the need to grant measures of reparation is not disputed. Although it is up to the Court to decide on the nature and scope of the specific measures that should be adopted in response to the requests of the Commission and the representatives.

#### ***B.4 Assessment of the scope of recognition of responsibility***

24. The Court appreciates the State of Paraguay's full recognition of international responsibility, which is a positive contribution to the conduct of these proceedings, the validity of the principles that underpin the Convention, and the satisfaction of the reparation needs of the victims of human rights violations. The recognition of international responsibility has full legal effects pursuant to Articles 62 and 64 of the Rules of Procedure, and is of great symbolic value as far as the non-repetition of such events is concerned.

25. The Court especially appreciates the fact that, in recognizing its international responsibility, the State waived the temporal limitation on the exercise of the Court's jurisdiction, thereby allowing the Court, in this specific case, to examine the violations that occurred before March 26, 1993, related to Mr. Leguizamón's rights to life and freedom of thought and expression.<sup>10</sup> The Court also holds that, in waiving the temporal limitation on its jurisdiction, the State recognized, within the framework of the proceedings before the inter-American jurisdiction, Santiago Leguizamón's status as a victim. In this regard, the State asked the Court to "take into account the fact that, in the instant case, the only injured parties are Mr. Leguizamón and his wife, daughter and sons." In the opinion of the Court, this broad recognition of responsibility is a manifestation of the State's goodwill, which helps to guarantee the purposes of the inter-American jurisdiction and the dignity of victims of human rights violations.

26. However, in accordance with Articles 62 and 64 of the Rules of Procedure, and in exercise of its powers of international legal protection of human rights, a matter of international public order that transcends the will of the parties, it is incumbent upon the Court to ensure that acts of acquiescence are acceptable for the purposes of the Inter-American System. In this task, Court does not limit itself to merely confirming, recording or taking note of the acknowledgement made by the State, or verifying the formal conditions of such actions, but must weigh them against the nature and seriousness of the alleged violations, the requirements and interests of justice, the particular circumstances of the specific case, and the attitude and position of the parties, in order to determine, insofar as possible, and in exercise of its competence, the truth of what happened.<sup>11</sup> Accordingly, the Court deems it necessary to issue a judgment in which the events that took place are determined based on the evidence collected and the State's recognition of international responsibility. This helps ensure that reparation is made to the victims and similar events do not occur in the future; in other words, it helps attain the objectives of the inter-American

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<sup>10</sup> Cf. *Case of Ticona Estrada et al. v. Bolivia. Merits, reparations and costs*. Judgment of November 27, 2008. Series C No. 191, para. 30, and *Case of García and family members v. Guatemala. Merits, reparations and costs*. Judgment of November 29, 2012 Series C No. 258, para. 27.

<sup>11</sup> Cf. *Case of Manuel Cepeda Vargas v. Colombia. Preliminary objections, merits, reparations and costs*. Judgment of May 26, 2010. Series C No. 213, para. 17, and *Case of Olivares Muñoz et al. v. Venezuela. Merits, reparations and costs*. Judgment of November 10, 2020. Series C No. 415, para. 29.



human rights jurisdiction.<sup>12</sup> Furthermore, the Court deems it necessary to analyze the scope of the State's international responsibility, with special emphasis on the violation of the rights to freedom of thought and expression, the duty of enhanced due diligence, and the right to personal integrity of family members with regard to the particular circumstances of the case, and to rule on the corresponding reparations.

#### **IV JURISDICTION**

27. The Inter-American Court has jurisdiction to hear the instant case pursuant to Article 62(3) of the Convention, as Paraguay has been a State Party to the American Convention since August 24, 1989, and recognized the Court's contentious jurisdiction on March 11, 1993. However, given the State's acquiescence in its answering brief, reiterated in the final written arguments, the Court understands that it accepted, for the specific case, the Court's jurisdiction with respect to all the facts described in the Merits Report, even if they occurred before March 11, 1993. This means that the State clearly and expressly accepts the Court's jurisdiction to judge this case in its entirety, which the Court greatly appreciates (*supra* para. 25). Therefore, the Court has full jurisdiction to hear all the rights violations referred to in Merits Report No. 196/20, and will rule on the merits and any possible reparations accordingly.

#### **V EVIDENCE**

##### **A. Admissibility of documentary evidence**

28. The Court received several documents submitted as evidence by the Commission, the representatives and the State, attached to their main briefs (*supra* paras. 1, 6 and 7). As is its practice, this Court admits documents duly presented on time (Article 57 of the Rules of Procedure)<sup>13</sup> by the parties and the Commission, whose admissibility was neither contested nor opposed, and whose authenticity was not questioned.<sup>14</sup>

##### **B. Admissibility of testimonial and expert evidence**

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<sup>12</sup> Cf. *Case of Tiu Tojín v. Guatemala. Merits, reparations and costs*. Judgment of November 26, 2008. Series C No. 190, para. 26 and *Case of Movilla Galarcio et al. v. Colombia. Merits, reparations and costs*. Judgment of June 22, 2022. Series C No. 452, para. 40.

<sup>13</sup> Items of evidence may be submitted, in general and pursuant to Article 57.2 of the Rules of Procedure, together with the first case documents submitted to the Court, or with the pleadings and motions or answering briefs, as appropriate. Evidence may not be submitted at other procedural moments, except in the special cases also established in Article 57.2 (*force majeure* or serious impediment), or if it refers to an event that occurred after the permitted points in the process.

<sup>14</sup> Cf. Article 57 of the Rules of Procedure; also *Case of Velásquez Rodríguez v. Honduras. Merits*. Judgment of July 29, 1988. Series C No. 4, para. 140, and *Case of Aroca Palma et al. v. Ecuador. Preliminary objection, merits, reparations and costs*. Judgment of November 8, 2022. Series C No. 471, para. 26.

29. This Court deems it pertinent to admit the statements rendered before a notary public<sup>15</sup> and in public proceedings<sup>16</sup> inasmuch as they are consistent with the order issued by the President in which he established the reasons for doing so in this case.<sup>17</sup>

## VI FACTS

30. In view of the State's full recognition of responsibility, the Court will now present the facts of the case, based on the factual framework established in the Commission's Merits Report, the complementary facts reported by the representatives in their motions and pleadings brief, and the evidence contained in the case file. In doing so, it will make reference to: (A) the journalist Santiago Leguizamón Zaván and his family; (B) the threats against, and subsequent murder of, the journalist; (C) the threats against Santiago Leguizamón Zaván's family, and the suffering caused by his murder; and (D) the judicial proceedings in relation to this matter.

### **A. The journalist Santiago Leguizamón Zaván and his family**

31. Santiago Leguizamón was a highly experienced Paraguayan journalist. He was based in the city of Pedro Juan Caballero, which borders with Brazil, in the Department of Amambay. He worked as a correspondent for *Diario Noticias*, *Diario Última Hora* and *Canal 13*. He also hosted the "Puertas Abiertas" morning show on *Radio Mburucuyá* and was the editor of the *Revista Mburucuyá*. He was married to Ana María Margarita Morra, with whom he had a daughter and three sons: Raquel, Dante, Sebastián and Fernando Leguizamón Morra, who were 14, 13, 11 and 1 year old, respectively, on the date of their father's murder. The journalist's family lived in Asunción.

32. Santiago Leguizamón wrote articles critical of the actions of the authorities and members of the business community on issues related to the environment, the illegal trade in timber, the situation of farmers and indigenous peoples, corruption, drug trafficking and the problems created by crime and violence in the border region where he lived, that is, in Pedro Juan Caballero, considered one of the most dangerous areas in the south of the

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<sup>15</sup> These are the affidavits of the victims Ana María Raquel Leguizamón Morra, Sebastián Leguizamón Morra and Fernando Leguizamón Morra, daughter and sons of Santiago Leguizamón, respectively; the affidavits of Andrés Colman Gutiérrez, Aníbal Gómez Caballero, Baldomero Cabral, Cándido Figueredo, Marciano Candia, Eder Rivas, Humberto Rubín, Óscar Acosta, Mercedes Barriocanal Perasso, Alcibiades González Delvalle, Santiago Ortiz and Noelia Díaz Esquivel; and the expert opinions of Miguel Emilio La Rota, proposed by the Commission, and Iván Velásquez and Adriana Camargo, proposed by the representatives.

<sup>16</sup> The testimony of Ana María Margarita Morra and Dante Ariel Leguizamón Morra, wife and son of Santiago Leguizamón, respectively.

<sup>17</sup> The purposes of the testimony are established in the order issued by the President of the Court on February 17, 2022. Cf. *Case of Leguizamón Zaván et al. v. Paraguay*. Order of the President of the Inter-American Court of Human Rights of February 17, 2022. Available at: [https://www.corteidh.or.cr/docs/asuntos/leguizamon\\_zavan\\_17\\_02\\_22.pdf](https://www.corteidh.or.cr/docs/asuntos/leguizamon_zavan_17_02_22.pdf).

continent due to crime and impunity.<sup>18</sup> The situation has led to the area being labeled “a lawless zone.”<sup>19</sup>

33. Between March 22 and 26, 1991, Mr. Leguizamón published a series of articles in the *Diario Noticias* newspaper in which he denounced the alleged triangular operation involving a Brazilian family and the Paraguayan Chamber of Soy Producers (CAPROSA) aimed at evading the payment of Brazilian and Paraguayan taxes for the commercialization of soybeans. In some of his articles he referred to the alleged involvement of a Brazilian businessman in activities linked to smuggling, money laundering and corruption, and to the alleged collusion of the local authorities.

### **B. The threats against, and subsequent murder of, journalist Santiago Leguizamón Zaván**

34. Mr. Leguizamón received threats on a number of occasions in the exercise of his profession as a journalist, including just days before his death. His wife and colleagues and co-workers were aware of them. Although Mr. Leguizamón did not identify the source of the threats, he mentioned them on his radio show. The day before he was murdered, the Government Delegate of the Department of Amambay offered to assign him a bodyguard for his protection due to the serious risk he ran. However, the journalist refused to accept such offers, because he believed that the people assigned to protect him were involved in the threats against him.<sup>20</sup>

35. On April 26, 1991 at roughly 12:15 p.m., Santiago Leguizamón was murdered in Pedro Juan Caballero, a Paraguayan city that borders with Brazil, when he was on his way to a restaurant to celebrate Journalism Day. According to the documents submitted to the Court, the journalist was inside his vehicle with his collaborator Baldomero Cabral, when they were intercepted by three individuals in a black Volkswagen Gol with no license plate who shot at them with firearms of various calibers. The journalist received 21 bullet wounds. After the incident, the alleged assassins crossed the border and headed towards the city of Ponta Porã in Brazil. Mr. Cabral survived the attack.

36. The border zone where Santiago Leguizamón was murdered was, according to his own reports, a violent area, where smuggling, corruption and impunity reigned. Mr. Leguizamón was the first journalist to be murdered following the return to democracy. Since then, at least 19 journalists have been murdered in Paraguay in the exercise of their profession, seven of them in the Department of Amambay, where the city of Pedro Juan Caballero is located, “which demonstrates the difficulties faced by journalists in this region.”<sup>21</sup> The

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<sup>18</sup> Cf. Inter-American Commission on Human Rights. Third report on the situation of human rights in Paraguay. OEA/Ser./L/VII.110. Doc. 52, March 9, 2001. Chapter III. Impunity, paragraphs 14 and 16. Available at: <http://www.cidh.oas.org/countryrep/paraguay01eng/chap3.htm>; Inter-American Commission on Human Rights. Special Rapporteur for Freedom of Expression. Silenced Zones: Highly dangerous areas for the exercise of freedom of expression. Chapter 1, para. 131.

<sup>19</sup> Inter-American Commission on Human Rights. Merits Report No. 196/20, July 10, 2020, para. 22 (Merits file, folio 11) and Third report on the situation of human rights in Paraguay. OEA/Ser./L/VII.110. Doc. 52, March 9, 2001. Chapter III. Impunity, paragraph 14. Available at: <http://www.cidh.oas.org/countryrep/paraguay01eng/chap3.htm>.

<sup>20</sup> Cf. Statement of Mrs. Ana María Morra in the public proceedings held on March 25, 2022.

<sup>21</sup> Expert opinion submitted by Iván Velásquez Gómez and Luz Adriana Camargo Rincón (evidence file, folio 6269).

situation prevailing in the area where the city of Pedro Juan Caballero is located makes it one of the most dangerous places to practice journalism in Paraguay.<sup>22</sup>

### **C. The threats against the family of Santiago Leguizamón Zaván and the impact of his murder on them**

37. Santiago Leguizamón's wife, daughter and sons received threats following the journalist's murder.<sup>23</sup> Vehicles with tinted windows and without license plates drove around and parked near the family's residence. Even during the funeral, Mr. Leguizamón's family was subjected to harassment.

38. On April 29, 1991, when the Leguizamón-Morra family traveled to the city of Pedro Juan Caballero, they were followed by cars with tinted windows. Later, in Asunción, Mr. Leguizamón's sons, Dante and Sebastián, received anonymous calls in which they were asked at what time they got out of school. Santiago Leguizamón's wife, Ana María Margarita Morra, was also subjected to harassment and received threatening calls. On one occasion a box of bullets was left outside the door of her house.<sup>24</sup> Due to the fear she felt after Mr. Leguizamón's murder and the subsequent threats, his wife decided to sell her husband's radio station.

39. Santiago Leguizamón's murder also affected his wife, daughter and sons emotionally and economically.<sup>25</sup> His wife's salary was insufficient to maintain the family, so the director of the *Diario ABC Color* newspaper, Aldo Zucolillo, paid for her daughter and sons' education between 1991 and 2008. The State granted the journalist's widow and each of his children a pension, in the latter case, until they reached the age of majority. However, the amount involved proved insufficient. This situation led to Mrs. Morra holding down two jobs, and even having to work overseas to be able to pay the bills, and her sons Dante and Sebastián started to work before they reached the age of majority to contribute to the family economy. Sebastián was also forced to abandon his studies at university because he could not afford to pay the fees.<sup>26</sup> As a consequence of Mr. Leguizamón's murder, his daughter Raquel Leguizamón Morra decided to live outside Paraguay.<sup>27</sup>

### **D. The judicial proceedings for the murder of Mr. Leguizamón Zaván**

40. On April 26, 1991, the First Circuit Criminal and Juvenile Court of the Judicial District of Amambay (in Pedro Juan Caballero), began an ex officio investigation into the murder of Santiago Leguizamón. The judge ordered that a series of actions be carried out, including

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<sup>22</sup> Expert opinion submitted by Iván Velásquez Gómez and Luz Adriana Camargo Rincón (evidence file, folios 6246–6282). In her testimony to the Court, Mrs. Ana María Margarita Morra said, "the situation in Pedro Juan [Caballero] on the border is more terrible every day, more crime, more robberies, more drugs, more smuggling, I mean, instead of improving with the help of the State, it's getting worse and worse ... now living in Pedro Juan [Caballero] is very dangerous ... and very terrible, because it is in the hands of underworld people, drug traffickers and people who believe that because they have easy money they can do whatever they want with the city, so, I believe that the situation after Santiago ... who was the first ... got worse and worse, it's really terrible how everything went downhill, instead of that helping to improve things, it got worse." Cf. Mrs. Ana María Morra's testimony in the public proceedings held on March 25, 2022.

<sup>23</sup> Cf. Testimony of Mrs. Ana María Margarita Morra's in the public proceedings held on March 25, 2022, and affidavit of Sebastián Leguizamón Morra (evidence file, folio 6098).

<sup>24</sup> Cf. Testimony of Mrs. Ana María Margarita Morra in the public proceedings held on March 25, 2022.

<sup>25</sup> Cf. Testimony of Mrs. Ana María Margarita Morra in the public proceedings held on March 25, 2022.

<sup>26</sup> Cf. Testimony of Mrs. Ana María Margarita Morra and Mr. Dante Ariel Leguizamón Morra in the public proceedings held on March 25, 2022.

<sup>27</sup> Cf. Testimony of Mrs. Ana María Margarita Morra in the public proceedings held on March 25, 2022.

the removal of the body, an inspection visit, and the drawing of a sketch plan of the crime scene. The vehicle in which the journalist's body was found was also transferred to the court premises and evidence collected. Although these proceedings began immediately, several shortcomings became evident during the course of the investigation.

41. On the same day as the events, the Court issued an interlocutory decree in which it ordered a preliminary investigation into the murder of Santiago Leguizamón to determine the perpetrators of the crime, and also a series of investigative procedures. On April 27, 1991, Paraguay requested information from Brazil to help identify the perpetrators.

42. During the investigation, the Court took statements from radio station employees, witnesses, the journalist's family and friends, and two people accused of masterminding the murder, and carried out a number of investigative activities, including some aimed at securing the assistance of the Brazilian authorities. However, the State now accepts that several of the requests for international cooperation from Brazil were not processed diligently or correctly, were slow to be processed, and in some cases, were not translated into Portuguese or did not adhere to the diplomatic protocols required in formalities of this kind.

43. On February 20, 2002, Amambay's Criminal Court No. 1 adopted a resolution in which it stated that, although all the investigative procedures had been carried out, the 14 individuals linked to the investigation could not be prosecuted because they were Brazilian citizens and were in that country, and there was no possibility of their being extradited. The Court ordered that a copy of the case documents be sent to Brazil, so that the accused Brazilian citizens who were allegedly in Brazilian territory could be tried in that jurisdiction. Seven years elapsed between the judge's decision and the sending of the copies of the case file documents to Brazil. By that time, six of the alleged perpetrators of the murder had died, so can no longer be prosecuted.<sup>28</sup> The rest are fugitives from justice. The State recognized that the measures adopted to transfer the proceedings to Brazil were ineffective and did not meet the standards of due diligence.

44. Brazil informed the Paraguayan authorities that it was not possible to proceed with the investigation because the crime was statute-barred and the case did not fall within the provisions of Article 7, Section II, § 2 of the Brazilian Penal Code, which deals with the extraterritoriality of the law, which ruled out any possibility of continuing the proceedings.

## **VII MERITS**

45. This case concerns the murder of renowned journalist Santiago Leguizamón Zaván, which occurred in Pedro Juan Caballero, a city that borders with Brazil, one of the most violent areas in the region. In this case, the State recognized its international responsibility for the violation of Mr. Leguizamón's rights to life and freedom of thought and expression (Articles 4 and 13 of the Convention), and the rights to judicial guarantees, judicial protection and personal integrity (Articles 8(1), 25(1) and 5(1) of the Convention) of his wife Ana María Margarita Morra and his daughter and sons Raquel, Dante, Sebastián and Fernando Leguizamón Morra. Without prejudice to this, and bearing in mind the reasons

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<sup>28</sup> In Merits Report No. 196/20, it is stated that there were 14 alleged perpetrators, six of whom have since died. The State said as many as 16 people may have been involved in the Mr. Leguizamón's murder, most of whom were of Brazilian nationality, with some having died and the rest being fugitives from justice.

indicated above (*supra* para. 26), in this section the Court will address the allegations related to the violation of these rights. It will rule on (1) the violation of Mr. Leguizamón's right to life and freedom of thought and expression; (2) the violation of the rights to judicial guarantees and judicial protection of Mr. Leguizamón's family; and (3) the violation of the right to personal integrity of Mr. Leguizamón's family.

**VII-1**  
**RIGHTS TO LIFE AND FREEDOM OF THOUGHT AND EXPRESSION**  
**IN RELATION TO THE OBLIGATIONS TO RESPECT**  
**AND GUARANTEE RIGHTS<sup>29</sup>**

**A. Arguments of the parties and the Commission**

46. The **Commission** maintained that there were sufficient significant elements of certainty to conclude that the murder of Santiago Leguizamón was linked to his journalistic work, in particular, because he investigated issues of public interest that involved powerful groups; because various statements made during the investigations linked his murder to the criticisms he made; and because, from the evidence provided, it appears that Mr. Leguizamón received a series of threats, including death threats, in response to the articles he published. The Commission also stressed that the State was aware of Mr. Leguizamón's situation, which is why it should have conducted a risk analysis and informed the victim of the measures available in a timely fashion. It also argued that the danger was real and imminent, the threats serious, and the likelihood of an act of violence high, not only because of the focus of his investigations, but also due to the fact that violence was commonplace in the area. The authorities were aware of the dangers, but they failed to adopt the necessary protection measures when it was within their power to do so.

47. Furthermore, the Commission believed that Santiago Leguizamón's social role as a journalist was of special importance, and that his right to life was closely related to his right to freedom of expression, which was affected by his death. As a result, it considered that the State had failed to fulfill its duty to protect Mr. Leguizamón and prevent his death, and held it responsible for the failure to guarantee his rights to life and freedom of expression, established in Articles 4(1) and 13 of the American Convention, read in conjunction with Article 1(1) thereof.

48. The **representatives** maintained that there was a causal link between Mr. Leguizamón's investigations and publications, the perpetrators, the authorities, and the order to murder him. They highlighted the involvement of State agents in a possible cover-up or steps taken to protect the perpetrators. They also argued that the State failed to take sufficient action to protect the victim's life, even though it was aware of the risk he ran. In relation to the violation of the right to freedom of expression, they alleged that Mr. Leguizamón's murder was a collective violation of the right, not only an individual one, inasmuch as it constituted a form of censorship of the journalist's freedom of expression and had a collective impact on the right to be informed and receive information.

49. The **State** recognized its international responsibility for the violations of Mr. Leguizamón Zaván's rights to life and freedom of expression, enshrined in Articles 4(1) and 13 of the American Convention, read in conjunction with Article 1(1) thereof.

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<sup>29</sup> Articles 4 and 13 of the American Convention, read in conjunction with Article 1(1) thereof.

## B. Considerations of the Court

50. In this section, the Court will refer to the violations of Santiago Leguizamón Zaván's rights to life and freedom of thought and expression, which occurred as a consequence of his murder on April 26, 1991.

51. In relation to the violation of the right to life, the Court finds that the State, in recognizing its international responsibility, accepted the facts described in the Merits Report (*supra* para. 20), according to which the State was aware of the risks to which Mr. Leguizamón was exposed and failed to adopt the necessary protection measures, although it had the power to do so. Thus, the Court notes that Santiago Leguizamón had publicly denounced the threats against him, that the threats were directly linked to his journalistic activities, and that the city of Pedro Juan Caballero, where he was based, was located in one of the most dangerous areas of the region (*supra* para. 35). These circumstances suggested that the risk of the threats against Mr. Leguizamón being acted on was real and immediate. The State recognized that, despite the situation, "it failed to comply with its obligation to prevent the violation of the rights in question by adopting the necessary timely protection measures." Consequently, in view of the international recognition of responsibility, the settled case law of this Court on the subject<sup>30</sup> and the proven facts, the Court does not consider it necessary to rule on the scope of the obligation to guarantee rights in relation to the violation of Mr. Leguizamón's right to life, and finds the State responsible for the violation of Article 4 of the American Convention, read in conjunction with Article 1(1) thereof, to the detriment of Santiago Leguizamón Zaván.

52. The Commission and the representatives also alleged that Mr. Leguizamón's murder was linked to his journalistic work and violated his right to freedom of thought and expression, recognized in Article 13 of the Convention. Although the State also recognized its responsibility for the violation of this right, the Court deems it necessary to rule on the relationship between the murder, Santiago Leguizamón's professional activities, the continuing impunity in this case, and the violation of the right to freedom of thought and expression, given the chilling effect that this event had on the practice of journalism in Paraguay.

53. In this regard, the Court recalls that Article 13 of the Convention protects the right to seek, receive and impart information and ideas of all kinds, as well as the right to receive and know information and ideas imparted by others.<sup>31</sup> Freedom of thought and expression also has both an individual dimension and a social dimension.<sup>32</sup> The two dimensions are equally important and must be fully guaranteed simultaneously in order to ensure the full effectiveness of the right to freedom of thought and expression in keeping with the provisions of Article 13 of the Convention.<sup>33</sup>

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<sup>30</sup> Cf. *Case of the Pueblo Bello Massacre v. Colombia*, Judgment of January 31, 2006. Series C No. 140, para. 123, and *Case of Vera Rojas et al. v. Chile. Preliminary objections, merits, reparations and costs*. Judgment of October 1, 2021. Series C No. 439, para. 83.

<sup>31</sup> Cf. *Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism (Arts. 13 and 29 of the American Convention on Human Rights)*. Advisory Opinion OC-5/85 of November 13, 1985. Series A No. 5, para. 30, and *Case of Moya Chacón et al. v. Costa Rica. Preliminary objections, merits, reparations and costs*. Judgment of May 23, 2022. Series C No. 451, para. 62.

<sup>32</sup> Cf. *Case of "The Last Temptation of Christ" (Olmedo Bustos et al.) vs. Chile. Merits, reparations and costs*. Judgment of February 5, 2001. Series C No. 73, para. 74, and *Case of Moya Chacón et al. v. Costa Rica, supra*, para. 62.

<sup>33</sup> Cf. *Case of Ivcher Bronstein v. Peru. Merits, reparations and costs*. Judgment of February 6, 2001. Series C No. 74, para. 149, and *Case of Moya Chacón et al. v. Costa Rica, supra*, para. 62.

54. Furthermore, the Court has emphasized that the professional practice of journalism “cannot be differentiated from freedom of expression. On the contrary, both are obviously intertwined, for the professional journalist is not, nor can he be, anything but someone who has decided to exercise freedom of expression in a continuous, regular and paid manner.”<sup>34</sup> The practice of journalism includes the two dimensions of freedom of expression, inasmuch as the press has the task of imparting such information and ideas, and the public also has a right to receive them.<sup>35</sup> Therefore, the Court will proceed to analyze the violation of the right to freedom of thought and expression that occurred due to the murder of journalist Santiago Leguizamón.

55. The Court has stated that the individual dimension of freedom of expression includes the right to use any appropriate means to disseminate opinions, ideas and information and to make it reach the greatest number of recipients.<sup>36</sup> In the instant case, the Court observes that Mr. Leguizamón’s murder was related to his journalistic activities, and constituted the most extreme form of censorship, preventing him from continuing to disseminate opinions, ideas and information of public importance. This means that the victim’s murder was a violation of his individual right to freedom of opinion and expression that prevented him from contributing to a pluralistic public debate on matters of national importance.

56. However, Santiago Leguizamón’s murder and the violations of his freedom of thought and expression as an individual had an impact not only on him, but also on Paraguayan society and on his fellow journalists, on whom it had a chilling effect.<sup>37</sup> It was a violation of the collective right to freedom of expression, as it impacted society’s possibility of being made aware of the stories and news that Mr. Leguizamón reported and the opinions he expressed, because of his murder, and those of other journalists who were investigating

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<sup>34</sup> Cf. *Advisory Opinion OC-5/85*, *supra*, paras. 72-74 and *Case of Moya Chacón et al. v. Costa Rica*, *supra*, para. 66.

<sup>35</sup> Cf. ECtHR. *Case of Jersild v. Denmark [GS]*, No. 15890/89, September 23, 1994, para. 31, and *Case of Khadija Ismayilova v. Azerbaijan*, Nos. 65286/13 and 57270/14, January 10, 2019, para. 158.

<sup>36</sup> Cf. *Case of Ivcher Bronstein v. Peru*, *supra*, para. 147, and *Case of Palacio Urrutia et al. v. Ecuador. Merits, reparations and costs*. Judgment of November 24, 2021. Series C No. 446, para. 98.

<sup>37</sup> The “chilling effect” refers to an action that intimidates people or dissuades them from exercising their rights or fulfilling their professional obligations, due to fear of facing sanctions or suffering informal consequences such as threats or attacks. In this regard, see: *Case of Women Victims of Sexual Torture in Atenco v. Mexico. Preliminary objection, merits, reparations and costs*. Judgment of November 28, 2018. Series C No. 371, para. 172, and *Case of Sales Pimenta v. Brazil. Preliminary objections, merits, reparations and costs*. Judgment of June 30, 2022. Series C No. 454, para. 89.



similar events, due to the self-censorship imposed as a strategy to safeguard their life and integrity.<sup>38</sup> In an affidavit for the Court, Mr. Marciano Candia<sup>39</sup> maintained that:

[S]ince Santiago Leguizamón's death, investigative journalism by local communicators has practically ceased. Their publications currently focus on police reports when there is a murder or a raid by anti-drug agencies. They no longer try to find out who could be behind a crime, or get to the bottom of who or what criminal organization is behind a murder or the seizure of a drug shipment. Media organizations even stopped investigating crimes committed in the area in depth to protect the safety of their journalists.<sup>40</sup>

57. The impact on the right of Paraguayan society to be informed is particularly serious because Mr. Leguizamón covered news of great public interest, concerning, among other things, the actions of the authorities and members of the business community on issues related to the environment,<sup>41</sup> the illegal timber trade,<sup>42</sup> the situation of peasants<sup>43</sup> and indigenous peoples,<sup>44</sup> corruption, drug trafficking,<sup>45</sup> and crime and violence in the border area,<sup>46</sup> particularly in Pedro Juan Caballero. The Court recalls that freedom of expression, particularly on matters of public interest, is a cornerstone upon which the very existence of a democratic society rests. Without it, the democratic system is weakened, and pluralism

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<sup>38</sup> In an affidavit submitted to this Court on March 16, 2022, Mr. Andrés Ramón Colmán Gutiérrez stated that: "The murder of Leguizamón, the first in a series of 19 murders of journalists in the country so far, was clearly intended to act as a warning, to frighten and try to stop members of the press from continuing to investigate and publish details of mafia activities and their links with the branches of government" (evidence file, folios 6112–6113). Mr. Eder Rivas Benítez, in an affidavit submitted to this Court on March 16, 2022, stated that Mr. Leguizamón's murder "had a significant impact on freedom of expression. To a large extent, self-imposed censorship has been inevitable, based on the belief that all State [bodies] were violated, practically being subjected to the will of those who are part of [organized] crime. This situation has forced journalists to be increasingly cautious, increasingly moderate. In other words, less and less free to express itself" (evidence file, folio 6190). Mr. Alcibiades González del Valle, in an affidavit submitted to this Court on March 16, 2022, also maintained that: "Santiago's murder stunned the profession. Its first effect was self-censorship, which continues to this day[,] given that the example was repeated with other journalists who investigated drug trafficking" (evidence file, folio 6220). Finally, in a video statement recorded on March 15, 2022 and sent to this Court, Mr. Cándido Figueredo stated that "many journalists opted for self-censorship after the death of Santiago Leguizamón" (minute 20:30).

<sup>39</sup> Mr. Marciano Candia worked at Radio Mburucuyá with Santiago Leguizamón and is currently a correspondent for Telefuturo.

<sup>40</sup> Affidavit of Marciano Gustavo Candia Rolón, dated March 16, 2022 (evidence file, folio 6183).

<sup>41</sup> Cf. Press articles: "Why destroy the habitat?" (evidence file, folio 5048), "Save the dying Cerro Guazú" (evidence file, folio 5049), "Pollution in a tributary of the Aquidabán River" (evidence file, folio 5054) and "Creek polluted with herbicide" (evidence file evidence, folio 5055). In this regard, the Court, in OC/23, held that "[r]egarding activities that could affect the environment, [...] access to information on activities and projects that could have an impact on the environment is a matter of evident public interest. The Court has considered that information on activities relating to exploration and exploitation of natural resources in the territory of indigenous communities, and implementation of a forestry industrialization project is of public interest." *The environment and human rights (State obligations in relation to the environment in the context of the protection and guarantee of the rights to life and to personal integrity: interpretation and scope of articles 4(1) and 5(1) in relation to articles 1(1) and 2 of the American convention on human rights)*. Advisory Opinion OC-23/17 of November 15, 2017. Series A No. 23.

<sup>42</sup> Cf. Press article: "Timber: Illegal trade and plundering [of resources]." Santiago Leguizamón, May 3, 1987 (evidence file, folio 5044).

<sup>43</sup> Cf. Press article: "Have the Amambay farmers been punished?" (evidence file, folio 5045) and "Peasants without land" (evidence file, folio 5071).

<sup>44</sup> Cf. Press article: "Indigenous communities of the north" (evidence file, folio 5061), "Fight over Paitavyterâ lands" (evidence file, folio 5062), "Legal action for encroachment" (evidence file, folio 5063) and "Indigenous people without land" (evidence file, folio 5064).

<sup>45</sup> Cf. Press articles: "355,000 kilos of marijuana destroyed in a year and a half" (evidence file, folios 5046–5047), "Operation Pharaoh: [a]nother blow" (evidence file, folio 5059) and "Drug trafficking and violence" (evidence file, folio 5067).

<sup>46</sup> Cf. Press articles: "They take justice into their own hands" (evidence file, folio 5057) and "Guns on their hip, like in the Far West" (evidence file, folio 5058).

and tolerance are harmed; the mechanisms for control and complaint by the individual become ineffectual and, ultimately, a fertile ground is created for authoritarian systems to take root in society.<sup>47</sup> Furthermore, “[i]n a climate where journalists are safe, citizens find it easier to access quality information and many objectives become possible as a result: democratic governance and poverty reduction; conservation of the environment; gender equality and the empowerment of women; justice and a culture of human rights, to name a few.”<sup>48</sup> So, guaranteeing the pluralism of a truly democratic society requires a more significant circulation of reports and opinions about matters of public interest<sup>49</sup> that guarantee citizens the right to access information and ideas from a diversity of positions.<sup>50</sup>

58. It is also clear that fighting corruption calls for transparency in the exercise of power. The press’s role is fundamental, to keep the citizenry informed of the degree to which the constituted powers comply with the legal order by their actions or omissions, fulfilling an important social function in the formation of public opinion.<sup>51</sup> This relationship between transparency, democracy and probity is clearly recognized in the Inter-American Charter, which establishes that “Transparency in government activities, probity, responsible public administration on the part of governments, respect for social rights, and freedom of expression and of the press [among others] are essential components of the exercise of democracy.”<sup>52</sup> The protection of the work of the press in its role as guardian of the general public interest is not only a matter of public importance, but a question of the survival of the democratic system.<sup>53</sup> In this regard, the Inter-American Convention against Corruption establishes in its preamble that “representative democracy, an essential condition for stability, peace and development of the region, requires, by its nature, the combating of every form of corruption in the performance of public functions, as well as acts of corruption specifically related to such performance.”<sup>54</sup>

59. The attack on Mr. Leguizamón’s life and the continuing impunity in this case –no one has been convicted for the crime 31 years after the event– have also had a chilling effect on

<sup>47</sup> Cf. *Advisory Opinion OC-5/85, supra*, para. 70, *Case of Carvajal Carvajal et al. v. Colombia, Merits, reparations and costs*. Judgment of March 13, 2018. Series C No. 352, para. 174, and *Case of Moya Chacón et al. v. Costa Rica, supra*, para. 65.

<sup>48</sup> Cf. United Nations Plan of Action on the Safety of Journalists and the Issue of Impunity. Available at: [https://www.ohchr.org/sites/default/files/documents/issues/journalists/2023-01-31/un-plan-on-safety-journalists\\_en.pdf](https://www.ohchr.org/sites/default/files/documents/issues/journalists/2023-01-31/un-plan-on-safety-journalists_en.pdf)

<sup>49</sup> Cf. *Case of Herrera Ulloa v. Costa Rica. Preliminary objections, merits, reparations and costs*. Judgment of July 2, 2004. Series C No. 107, para. 127, and *Case of Usón Ramírez v. Venezuela. Preliminary objection, merits, reparations and costs*. Judgment of November 20, 2009. Series C No. 207, para. 83.

<sup>50</sup> Cf. *Case of Granier et al. (Radio Caracas Television) v. Venezuela. Preliminary objections, merits, reparations and costs*. Judgment of June 22, 2015. Series C No. 293, para. 170.

<sup>51</sup> However, according to the United Nations Plan of Action on the Safety of Journalists and the Issue of Impunity, “Journalists reporting on corruption and organized crime are increasingly targeted by organized crime groups and parallel powers.” Cf. United Nations Plan of Action on the Safety of Journalists and the Issue of Impunity. Available at: [https://www.ohchr.org/sites/default/files/documents/issues/journalists/2023-01-31/un-plan-on-safety-journalists\\_en.pdf](https://www.ohchr.org/sites/default/files/documents/issues/journalists/2023-01-31/un-plan-on-safety-journalists_en.pdf)

<sup>52</sup> Cf. Article 4. Inter-American Democratic Charter.

<sup>53</sup> In this regard, the Court has held that corruption affects not only the rights of the individuals concerned, but has negative repercussions on society at large, insofar as “the people’s confidence in the government, and eventually in the democratic order and the rule of law, is undermined.” Cf. *Case of Ramírez Escobar et al. v. Guatemala. Merits, reparations and costs*. Judgment of March 9, 2018. Series C No. 351, para. 241, and Human Rights Council, Final report of the Human Rights Council Advisory Committee on the issue of the negative impact of corruption on the enjoyment of human rights, January 5, 2015, UN Doc. A/HRC/28/73, para. 20c.

<sup>54</sup> Preamble to the Inter-American Convention against Corruption. Paraguay ratified this Convention on November 29, 1996. The Convention entered into force on June 3, 1997.

the exercise of freedom of expression and impacted the watchdog role of the press in Paraguay.<sup>55</sup> The combination of violence against journalists and impunity has a highly negative impact, first, for the journalists themselves and their families, and second, because it has prevented communities ... from receiving information on issues of importance to them<sup>56</sup> and they lose relevant voices and points of view.<sup>57</sup> Additionally, not only does impunity for attacks on journalists have a chilling effect on the victims and society, but also fosters chronic recidivism of human rights violations, and total defenseless of victims and their relatives.<sup>58</sup> The statements made by Santiago Leguizamón's colleagues during the proceedings before this Court demonstrate this. Mr. Andrés Colman maintained that as a consequence of the impunity surrounding Leguizamón's murder, the exercise of journalism has been "weakened."<sup>59</sup> Mr. Santiago Ortiz Brun<sup>60</sup> stated that:

[...] Journalists saw that it was preferable to remain silent and the mafia saw that they could murder a journalist and nothing would happen, since the State did not try to protect Santiago or his family, nor did it do what it should have in terms of seeking justice and punishing the perpetrators, a situation that was evident from the impunity in the case and from everything the family had to go through, the threats against them, etc. All the testimonies of the lives of our organization's members point to the fact that that the event was a great blow for journalism and for the fledgling democracy, it undermined the foundations of a society that had just begun to live in freedom and, in the wake of that event, returned to the darkest times where it was preferable to remain silent. The murder of Santiago Leguizamón has left its mark to this day [...].<sup>61</sup>

60. The chilling effect of impunity for crimes committed against journalists has been examined previously by this Court, the European Court of Human Rights, the African Court of Human and Peoples' Rights, and the ECOWAS Community Court of Justice. For example, in the *Case of Vélez Restrepo and family v. Colombia*, this Court held that the failure to comply with the obligation to investigate the acts of aggression and the subsequent threats and harassment committed against Mr. Vélez Restrepo, in his capacity as a journalist,

<sup>55</sup> On this matter, the United Nations Plan of Action on the Safety of Journalists and the Issue of Impunity maintains that "[t]he safety of journalists and the struggle against impunity for their killers are essential to preserve the fundamental right to freedom of expression, guaranteed by Article 19 of the *Universal Declaration of Human Rights*. Freedom of expression is an individual right, for which no one should be killed, but it is also a collective right, which empowers populations through facilitating dialogue, participation and democracy, and thereby makes autonomous and sustainable development possible." See also: ECHR. *Case of Khadija Ismayilova v. Azerbaijan*, Nos. 65286/13 and 57270/14, January 10, 2019, para. 161.

<sup>56</sup> Cf. *Case of Carvajal Carvajal et al. v. Colombia*, *supra*, para. 177.

<sup>57</sup> Cf. *Case of Bedoya Lima et al. v. Colombia. Merits, reparations and costs*. Judgment of August 26, 2021. Series C No. 431, para. 113.

<sup>58</sup> Cf. *Case of Maritza Urrutia v. Guatemala, Merits, reparations and costs*. Judgment of November 27, 2003. Series C No. 103, para. 126, and *Case of Bedoya Lima et al. v. Colombia*, *supra*, para. 151.

<sup>59</sup> In this regard, Mr. Andrés Colman, in an affidavit dated March 16, 2022, stated: "[t]he unfortunate consequence of the Leguizamón case and the cases of most of the other murdered journalists remaining unpunished is the certain knowledge that in Paraguay, gangsters can freely kill journalists who try to investigate them and report on their crimes, and nothing happens, because the State not only allows it, but also covers it up" (evidence file, folio 6117). Mr. Aníbal Gómez, in an affidavit dated March 16, 2022, maintained that Mr. Leguizamón's murder "[was] a hard blow, whose consequences reverberate to this day, it "weakened" journalism, the criminal accusations for a long time were no longer direct, even more so when justice is not done for the death of a journalist" (evidence file, folio 6153). Mr. Humberto León Rubín Schwartzman, in a sworn statement dated March 16, 2022, maintained that "[t]he impact that the crime of Santiago Leguizamón and his assistant had, and continues to have, is that until now it has not been reliably clarified who is truly behind the murder of Santiago Leguizamón, that is, who were the real perpetrators of the murder, which made journalists afraid to investigate the organized mafia, not only in the city of Pedro Juan Caballero and the surrounding area, but throughout the country" (evidence file, folio 6197).

<sup>60</sup> Mr. Santiago Ortiz is a radio journalist and the current Deputy General Secretary of the Paraguayan Journalists Union.

<sup>61</sup> Affidavit of Santiago Ortiz Brun dated March 16, 2022 (evidence file, folio 6227).

implied a failure to comply with the obligations to respect and guarantee their right to freedom of thought and expression and had a collective impact:<sup>62</sup>

In this case, the Court considers that the impunity for the attack of August 29, 1996, and for the subsequent threats, harassment and attempted deprivation of liberty that resulted in the exile of journalist Vélez Restrepo were especially serious given the intimidating effect they could have on other journalists who cover news of public interest, which affects the information that is ultimately received by the members of society. [...] The Court considers that, given the impunity of these facts, both Mr. Vélez Restrepo and other journalists could reasonably fear that this type of human rights violation might be repeated, and this could lead to self-censorship of their work; for example, as regards the type of news covered, the way the information is obtained, and the decision to disseminate it.<sup>63</sup>

61. Similarly, in the judgment of the *Case of Bedoya Lima et al. v. Colombia*, the Court noted that impunity for crimes committed against journalists has both an individual and collective impact:

[The State has an obligation] to adopt all the measures necessary to not only protect journalists from these risks, but also to diligently investigate any act of aggression against them. Furthermore, prevention of these violations is necessary to ensure the crimes committed against journalists, especially those that endanger their lives and/or physical integrity, do not remain in impunity. As previously noted, it is impunity that has both a direct effect on the victim or victims of the attacks, and a social impact.<sup>64</sup>

62. Similarly, the European Court of Human Rights has held that a climate of impunity can have a chilling effect on freedom of expression.<sup>65</sup> The African Court on Human and Peoples' Rights has maintained that a State's failure to identify and arrest those responsible for murdering a journalist could potentially cause fear and anxiety in the exercise of journalism.<sup>66</sup> Finally, the ECOWAS Community Court of Justice has held that impunity in the investigation of crimes committed against journalists has the effect of denying them the right to practice their profession and their right to freedom of expression.<sup>67</sup>

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<sup>62</sup> Cf. *Case of Vélez Restrepo and family members v. Colombia. Preliminary objection, merits, reparations and costs*. Judgment of September 3, 2012. Series C No. 248, para. 215.

<sup>63</sup> *Case of Vélez Restrepo and family members v. Colombia, supra*, para. 212.

<sup>64</sup> Cf. *Case of Bedoya Lima et al. v. Colombia, supra*, para. 111.

<sup>65</sup> In the case of *Khadija Ismayilova v. Azerbaijan*, the ECHR took note "of the reports on the general situation in Azerbaijan concerning the freedom of expression and safety of journalists, as described by the Commissioner for Human Rights of the Council of Europe, the third-party interveners and the applicant herself. In particular, it [took] note of the reports of physical attacks and other types of alleged persecution of journalists, and the perceived climate of impunity for such acts, as those responsible were reportedly rarely, if ever, brought to justice. The Court consider[ed] that such an environment may produce a grave chilling effect on freedom of expression, including on the "public watchdog" role of journalists and other media actors and on open and vigorous public debate, all of which are essential in a democratic society." ECtHR. *Case of Khadija Ismayilova v. Azerbaijan*, Nos. 65286/13 and 57270/14, January 10, 2019, para. 161.

<sup>66</sup> "In the circumstances, the Court is of the opinion that even though the Respondent's State failure to identify and apprehend Norbert Zongo's assassins could potentially cause fear and anxiety in media circles, in the instant case, however, the Applicants have not shown proof that the Burkinabe media had not been able to exercise freedom of expression." African Court on Human and Peoples' Rights. *Beneficiaries of late Norbert Zongo, Abdoulaye Nikiema alias Abiasse, Ernest Zongo and Blaise Ilboudo the Burkinabe Human and Peoples' Rights Movement v. Burkina Faso*, No. 013/2011, March 28, 2014, para. 186.

<sup>67</sup> "The plaintiffs cited specific instances where state operatives have been involved in misdeeds against journalists, but no action was taken against them. At least this court's previous decisions in two such cases support what the plaintiffs had claimed. The Defendant was thus bound to lead evidence in rebuttal, but this was not forthcoming. Article 66 of the ECOWAS Revised Treaty imposes an obligation on Member States to assure a safe and conducive atmosphere in the practice of journalism. And in the situation where attacks by

63. Based on the above, the Court finds that Mr. Leguizamón's murder had an individual impact on his right to freedom of expression, inasmuch as it prevented him from continuing to perform his journalistic work, which involved the reporting of matters of great public interest. Furthermore, the murder and the impunity surrounding it have an impact on the collective right to freedom of expression, since it had a chilling effect on other journalists. Therefore, the Court concludes that the State is responsible for violating Article 13 of the American Convention, read in conjunction with Article 1(1) thereof, to the detriment of Santiago Leguizamón Zaván.

### C. Conclusion

64. In view of what has been stated in the preceding paragraphs, the Court concludes that the State is responsible for the violation of Articles 4(1) and 13 of the American Convention on Human Rights, read in conjunction with Article 1(1) thereof, to the detriment of Mr. Santiago Leguizamón.

## VII-2 RIGHTS TO JUDICIAL GUARANTEES AND JUDICIAL PROTECTION IN RELATION TO THE OBLIGATIONS TO RESPECT AND GUARANTEE RIGHTS<sup>68</sup>

### A. Arguments of the parties and the Commission

65. The **Commission** acknowledged the fact that the authorities had opened an investigation as soon as the crime was reported, and collected evidence, took statements, and carried out important procedural steps soon after the murder occurred. However, it argued that the authorities' inspection of the scene and collection of evidence did not meet international standards. It also maintained that the evidence provided during the proceedings before the Commission failed to demonstrate that the authorities had followed a logical line of investigation based on Mr. Leguizamón's work as a journalist, or to consider the possible motives for the crime, the alleged instigators and perpetrators, or the question of the context of the city of Pedro Juan Caballero, all of which had affected the objectives of the proceedings. Nor did the Commission find that the State had undertaken a line of investigation designed to confirm or refute a hypothesis regarding the perpetrators. Finally, it recalled that the murder of Santiago Leguizamón occurred in 1991 and the case was filed in 2002. So, 29 years after the crime was committed, total impunity continued to prevail. Therefore, the Commission concluded that the State had violated the rights to judicial guarantees and judicial protection established in Articles 8(1) and 25(1) of the American Convention, read in conjunction with Article 1(1) thereof, to the detriment of Ana María Margarita Morra, Raquel Leguizamón Morra, Dante Leguizamón Morra, Sebastián Leguizamón Morra and Fernando Leguizamón Morra.

66. The **representatives** maintained that the purpose of the investigation carried out had been to prevent clarification of the facts and achieve impunity for its perpetrators. They agreed with the Commission that in this case there was an absence of due diligence in the

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state operatives against journalists are not investigated, let alone to prosecute the suspects, the State will be in breach of its obligation under the Treaty and also the ACHPR, as such impunity has the effect of denying the journalists the right to function and thus stifling freedom of expression." Community Court of Justice ECOWAS. Deyda Hydara Jr. and Others v. The Gambia, ECW/CCJ/APP/30/11, June 10, 2014, p. 9.

<sup>68</sup> Articles 8(1) and 25(1) of the American Convention, read in conjunction with Article 1(1) thereof.

collection of evidence and the criminal proceedings, an absence of logical lines of investigation and an investigative hypothesis, and a violation of the guarantee that investigations be carried out within a reasonable time. Furthermore, they argued that the State's failure to comply with the obligation of due diligence in the investigation, identification and punishment of the individuals responsible for Mr. Leguizamón's death had perpetuated the murder's chilling effect on his colleagues, and on society in general.

67. The **State** accepted that the investigation had not been sufficiently thorough, and recognized its international responsibility for the violations of the rights to judicial guarantees and judicial protection established in Articles 8(1) and 25(1) of the American Convention, read in conjunction with Article 1(1) thereof, to the detriment of Ana María Margarita Morra and Raquel, Dante, Sebastián and Fernando Leguizamón Morra.

## **B. Considerations of the Court**

68. In the case of Mr. Leguizamón's murder, the Commission and the representatives alleged a violation of the guarantee that the authorities conduct and conclude an investigation "within a reasonable time," and with due diligence. With regard to the first point, the Court has stated that the right of access to justice in cases of human rights violations must ensure, within a reasonable time, [that] all necessary steps [are] taken to learn the truth about what happened and to investigate, prosecute, and punish, as appropriate, those eventually found responsible.<sup>69</sup> In addition, a significant delay in the proceedings can in itself constitute a violation of judicial guarantees.<sup>70</sup> However, the State recognized that "the measures adopted to ensure an exhaustive investigation were neither appropriate nor sufficient, nor were they carried out within a reasonable time," and it assumed its international responsibility in that regard. In view of the State's recognition of international responsibility, the settled case law of this Court on the subject,<sup>71</sup> and the proven facts, the Court does not deem it necessary to rule on the matter in this specific case. Therefore, it concludes that Paraguay violated the right to judicial guarantees, because it failed to pursue, within a reasonable time, the investigation and prosecution of the individuals responsible for Mr. Santiago Leguizamón's murder on April 26, 1991, to the point that, until now, no one has been convicted of the crimes committed.

69. Given the particular characteristics of this case, the Court does deem it necessary to rule on the question of the duty of due diligence. In light of the State's recognition of responsibility and the proven facts, the obligation assumes special importance because it involved the murder of a journalist who was investigating matters of public interest.

70. The Court reiterates that the duty to investigate is an obligation of means and not of results, which must be assumed by the State as its own legal duty, not as a mere formality doomed to be ineffective, or as a step taken by private interests that depends upon the initiative of the victim or his family or upon their offer of proof.<sup>72</sup> Furthermore, in light of the

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<sup>69</sup> Cf. *Case of Bulacio v. Argentina. Merits, reparations and costs*. Judgment of September 18, 2003. Series C No. 100, para. 114, and *Case of Sales Pimenta v. Brazil, supra*, para. 106.

<sup>70</sup> Cf. *Case of Hilaire, Constantine and Benjamin et al v. Trinidad and Tobago. Merits, reparations and costs*. Judgment of June 21, 2002. Series C No. 94, para. 145, and *Case of Sales Pimenta v. Brazil, supra*, para. 106.

<sup>71</sup> Cf. *Case of Suárez Rosero v. Ecuador. Reparations and costs*. Judgment of January 20, 1999. Series C No. 44, para. 71, and *Case of Sales Pimenta v. Brazil, supra*, para. 107.

<sup>72</sup> Cf. *Case of Velásquez Rodríguez v. Honduras. Merits, supra*, para. 177, and *Case of Maidanik et al. v. Uruguay. Merits and reparations*. Judgment of November 15, 2021. Series C No. 444, para. 139.

obligation to investigate with due diligence, once the authorities have knowledge of the event, they should initiate a serious, impartial and effective investigation, ex officio and without delay. This investigation should be undertaken utilizing all the legal means available and should be oriented toward the determination of the truth<sup>73</sup> and seeking the prosecution, capture, and eventual trial and punishment of the perpetrators of the crimes.<sup>74</sup>

71. Likewise, in view of the duty of due diligence, the investigating body [is required] to carry out all measures and investigations necessary to try and obtain the required result.<sup>75</sup> Therefore, due diligence will be demonstrated in criminal proceedings if the State succeeds in proving that it has made every effort, within a reasonable time, to enable the determination of the truth and to identify and punish all those responsible, whether private individuals or State officials.<sup>76</sup> On the other hand, a State may be responsible for failing to order, practice, or evaluate evidence that would have been of great importance for the full clarification of the crimes.<sup>77</sup>

72. However, in the case of a journalist, the duty of due diligence is different and even more important, given the impact that crime of this kind has on democracy and on the right to freedom of expression, at both the individual and collective levels (*supra* para. 55). The aim of the investigation should be to establish the possible relationship between the crime and the victim's professional activity, bearing in mind the chilling effect that the crime may have on the exercise of freedom of expression.<sup>78</sup> Furthermore, the obligation of due diligence requires that investigations undertaken by the State take into account the context of the facts, their complexity, and the patterns that explain their perpetration.<sup>79</sup>

73. This duty has been recognized by the United Nations Human Rights Committee, which, in its General Comment No. 34, maintained that "States parties should put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression," which includes journalists, and that attacks against them "should be vigorously investigated in a timely fashion, and the perpetrators prosecuted, and the victims, or, in the case of killings, their representatives, be in receipt of appropriate forms of redress."<sup>80</sup>

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<sup>73</sup> Cf. *Case of García Prieto et al. v. El Salvador. Preliminary objections, merits, reparations and costs.* Judgment of November 20, 2007. Series C No. 168, para. 101, and *Case of Sales Pimenta v. Brazil, supra*, para. 85.

<sup>74</sup> Cf. *Case of Juan Humberto Sánchez v. Honduras. Preliminary objections, merits, reparations and costs.* Judgment of June 7, 2003. Series C No. 99, para. 127, and *Case of Sales Pimenta v. Brazil, supra*, para. 85.

<sup>75</sup> Cf. *Case of the Serrano-Cruz Sisters v. El Salvador. Merits, reparations and costs.* Judgment of March 1, 2005. Series C No. 120, para. 83, and *Case of Maidanik et al. v. Uruguay, supra*, para. 139.

<sup>76</sup> Cf. *Case of the Workers of the Fireworks Factory in Santo Antônio de Jesus v. Brazil. Preliminary objections, merits, reparations and costs.* Judgment of July 15, 2020. Series C No. 407, para. 221, and *Case of Barbosa de Souza et al. v. Brazil. Preliminary objections, merits, reparations and costs.* Judgment of September 7, 2021. Series C No. 435, para. 127.

<sup>77</sup> Cf. *Case of the "Street Children" (Villagrán Morales et al.) v. Guatemala. Merits.* Judgment of November 19, 1999. Series C No. 63, para. 230, and *Case of Barbosa de Souza et al. v. Brazil, supra*, para. 131.

<sup>78</sup> Cf. ECtHR. *Case of Mazepa and Others v. Russia*, No. 15086/07, July 17, 2018, para. 73, and *Case of Khadija Ismayilova v. Azerbaijan*, Nos. 65286/13 and 57270/14, January 10, 2019, para. 159.

<sup>79</sup> Cf. *Case of the La Rochela Massacre v. Colombia. Merits, reparations and costs.* Judgment of May 11, 2007. Series C No. 163, para. 158, and *Case of the Los Josefinos Village Massacre v. Guatemala. Preliminary objection, merits, reparations and costs.* Judgment of November 3, 2021. Series C No. 442, para. 108.

<sup>80</sup> United Nations Human Rights Committee. General comment No. 34 - Article 19 - Freedoms of opinion and expression. CCPR/C/GC/34. September 12, 2011, para. 23.

74. However, in view of the State's recognition of responsibility and the proven facts, the Court finds, in this case, that although an investigation was launched as soon as the crime was reported, it did not lead to the effective punishment of the instigators or the perpetrators. This was due in part to the fact that the State failed to follow a logical line of investigation taking into account Mr. Leguizamón's professional activities as a journalist, and their bearing on the possible motives for the crime or the alleged perpetrators. The Court further finds that the investigation failed to take into account the context of Pedro Juan Caballero, a border area with high rates of violence where seven journalists have been murdered since 1991,<sup>81</sup> and that the State failed to act with due diligence in seeking cooperation from Brazil, where the alleged perpetrators of the crime were to be found.

75. Therefore, although the State initiated criminal proceedings against the alleged perpetrators of the crime, the fact that all of them were in Brazil meant that no significant steps were taken to determine their responsibility. Furthermore, the State was remiss in its handling of the requests for international cooperation, some of which were not translated into Portuguese or processed through the appropriate diplomatic channels. The State also failed to take steps to investigate any other instigator(s) or perpetrator(s) within Paraguay. In other words, the actions undertaken to advance the investigation were inadequate and insufficient to satisfy the State's obligation to carry out an exhaustive and diligent investigation, given the seriousness of the crime and the effects that impunity in cases of this kind have on other journalists and the wider community.

76. As can be seen from the preceding paragraph, the failure to comply with the duty of due diligence in this case is related, among other things, to the negligent way in which assistance was requested from Brazil, where the perpetrators of the murder were allegedly hiding. The Court acknowledges the fact that the crime was committed on the border between Paraguay and Brazil, that the alleged perpetrators were of Brazilian nationality, and that after the events occurred, they allegedly fled to that country, making the effective investigation and prosecution of those responsible difficult. However, the challenges involved were not insurmountable had there been effective cooperation between the two States.

77. The Court is mindful of the importance of cooperation between States in matters of human rights violations, as both this Court and other bodies have recognized. For example, in its judgment in the *Case of Julien Grisonas Family v. Argentina*, the Court held that "the duty of cooperation among States in the promotion and observance of human rights is a rule of an *erga omnes* nature, since it must be observed by all States, and is of a binding nature in international law."<sup>82</sup> On that occasion, the Court found that the context and circumstances in which the events took place involved the actions not only of Argentina, but also of Uruguay and Chile, and held that "[t]he three States had an obligation to protect and

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<sup>81</sup> According to the expert opinion presented by Iván Velásquez and Luz Adriana Camargo, 19 journalists have been murdered in Paraguay since 1991. Seven of them worked in the Department of Amambay, where the city of Pedro Juan Caballero is located, "which reveals the difficulties faced in practicing journalism in this region." They are "Santiago Leguizamón (1991), Samuel Román (2004), Marcelino Vásquez (2013), Carlos Artaza (2014), Fausto Gabriel Alcaraz (2014), Gerardo Servián (2015), brother of Kiko Servián, and Leo Veras (2020)". Expert opinion presented by Iván Velásquez Gómez and Luz Adriana Camargo Rincón (evidence file, folios 6268-6269).

<sup>82</sup> Cf. *The institution of asylum and its recognition as a human right in the Inter-American Protection System (Interpretation and scope of articles 5, 22(7) and 22(8), in relation to Article 1(1) of the American Convention on Human Rights)*. Advisory Opinion OC-25/18 of May 30, 2018. Series A No. 25, para. 199, and *Case of Julien Grisonas Family v. Argentina. Preliminary objections, merits, reparations and costs*. Judgment of September 23, 2021. Series C No. 437, para. 120.



guarantee human rights and, therefore, the multiple violations committed could eventually lead to some type of concurrent responsibility among them," although the case was submitted to the Court for consideration only with respect to Argentina.<sup>83</sup>

78. For its part, the European Court of Human Rights has held that the collective character of rights and freedoms may, in some specific circumstances, imply a duty for States to act jointly and to cooperate in order to protect them. The European Court has ruled that, in cases where an effective investigation into an unlawful killing which occurred within the jurisdiction of one State requires the involvement of more than one State, the States concerned should cooperate effectively with each other in order to elucidate the circumstances of the killing and to bring the perpetrators to justice, which implies the obligation to seek assistance and an obligation to afford assistance, depending on the circumstances of each particular case. Otherwise, in the Court's opinion, the effect would be to hamper investigations and lead to impunity.<sup>84</sup>

79. Similarly, the Final Report of the Special Follow-up Team appointed by the Inter-American Commission to investigate the events that resulted in the kidnapping and murder of three journalists from *El Comercio* newspaper on the border between Colombia and Ecuador, maintained, in that context, that "coordinated prosecutions [...] by the two States is an ideal instrument for eliminating areas of impunity and unifying the main hypothesis of the case for the identification of punishable conduct in which the criminal organization has incurred, while international cooperation makes it possible to lay the foundations for an effective prosecution through the coordination of investigative and judicial activities."<sup>85</sup>

80. Finally, Article 20(2) of the United Nations Convention against Transnational Organized Crime (Palermo Convention) encourages States to "conclude, when necessary, appropriate bilateral or multilateral agreements or arrangements for using [...] special investigative techniques in the context of cooperation at the international level." These techniques are identified in Article 20(1) as "electronic or other forms of surveillance and undercover operations, by its competent authorities in its territory for the purpose of effectively combating organized crime."

81. Therefore, the Court finds that the fact that Mr. Leguizamón was murdered in a border area imposed specific obligations on the State with respect to due diligence in the investigation, prosecution and punishment of those responsible, i.e., it should have used its resources to ensure that the place where the crime occurred did not contribute to impunity. However, the State failed to adopt any specific measure in response to this particular circumstance. Rather, the Court finds that the cooperation requests submitted by Paraguay were not processed in a timely fashion or through the correct channels, nor did they meet the minimum requirements. All of this, combined with the passage of time, contributed to impunity. These mistakes in the processing of cooperation requests, added to those identified in preceding paragraphs (*supra* para. 73), demonstrate the State's lack of due diligence in the investigation of Mr. Leguizamón's murder.

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<sup>83</sup> Cf. *Case of Julien Grisonas Family v. Argentina*, *supra*, para. 119.

<sup>84</sup> Cf. ECtHR. *Case of Güzelyurtlu and Others v. Cyprus and Turkey [GS]*, No. 36925/07, January 29, 2019, paras. 232-234.

<sup>85</sup> Inter-American Commission on Human Rights. Final Report of the Special Follow-up Team (ESE) appointed by the IACHR: Follow-up to the component involving investigation of the events that resulted in the kidnapping and murder of Javier Ortega, Paúl Rivas and Efraín Segarra (journalists working for "El Comercio" newspaper), 2019, para. 124.

82. Therefore, this Court concludes that the State failed to fulfill its obligation to act with due diligence in the investigation, without delay and employing all available means, of the circumstances and perpetrators of Mr. Leguizamón's murder.

### **C. Conclusion**

83. Therefore, the Court concludes that the State is responsible for the violation of the rights to judicial guarantees and judicial protection recognized in Articles 8(1) and 25(1), read in conjunction with Article 1(1) of the American Convention, to the detriment of Ana María Margarita Morra, wife of Santiago Leguizamón Zaván, her daughter Raquel and her sons Dante, Sebastián and Fernando Leguizamón Morra.

## **VII-3 RIGHT TO PERSONAL INTEGRITY IN RELATION TO THE OBLIGATIONS TO RESPECT AND GUARANTEE RIGHTS<sup>86</sup>**

### **A. Arguments of the parties and the Commission**

84. The **Commission** argued that the manner and the circumstances in which Mr. Leguizamón's murder occurred, and the failure to conduct a diligent investigation, affected his family's moral and psychological integrity. It maintained that the delay of more than 29 years in the process of securing justice and the continuing impunity in the case had caused his family suffering, distress and feelings of helplessness. Mr. Leguizamón's murder also impacted the family in a number of other ways, because he was the main economic provider. This meant that the family lacked sufficient economic resources to cover the costs of the education of the sons and daughter of Mr. Leguizamón and his wife. The Commission claimed that the economic situation created by the murder caused additional feelings of frustration and suffering in the members of the family. Therefore, it concluded that the State had violated the right to personal integrity contained in Article 5(1) of the Convention, read in conjunction with Article 1(1) thereof, to the detriment of Ana María Margarita Morra and Raquel, Dante, Sebastián and Fernando Leguizamón Morra.

85. The **representatives** pointed out that the Leguizamón-Morra family had to endure the distress and sadness caused by the loss of a loved one, aggravated by the circumstances in which the murder occurred and, in particular, by the failure to prosecute and punish those responsible. They emphasized that the impunity in this case had led to the family experiencing feelings of pain and helplessness that seriously affected their personal integrity. They maintained that in the wake of the murder the family's life had changed radically. Due to the fear they felt, they were forced to sell Santiago Leguizamón's radio station and lost contact with the city of Pedro Juan Caballero and the Amambay region. Furthermore, Mr. Leguizamón's sons and daughter grew up without their father. On several occasions, the family received offers to leave the country because of the insecurity in which they lived, and this also caused them distress.

86. The **State** recognized its international responsibility for the violation of the right to personal integrity, enshrined in Article 5(1) of the American Convention, read in conjunction with Article 1(1) thereof, to the detriment of Ana María Margarita Morra and Raquel, Dante, Sebastián and Fernando Leguizamón Morra, so no legal dispute exists in relation to this matter.

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<sup>86</sup> Article 5(1) of the American Convention, read in conjunction with Article 1(1) thereof.

## B. Considerations of the Court

87. The Court has held on several occasions that the family members of the victims of human rights violations can be victims in their own right.<sup>87</sup> The Court has considered that it is possible to declare the violation of the right to mental and moral integrity of “direct family members” of victims and other individuals with close ties to those victims, owing to the additional suffering they have experienced as a result of the particular circumstances of the violations perpetrated against their loved ones and due to the subsequent acts or omissions of state authorities in relation to those events,<sup>88</sup> taking into account, among other matters, the steps taken to obtain justice and the existence of a close family relationship.<sup>89</sup>

88. In this case, the State recognized its responsibility for the violation of the right to personal integrity of the members of Mr. Leguizamón’s family identified in the Merits Report. Moreover, some of the statements made before the Court show that this family has experienced insecurity, suffering and distress to the detriment of their psychological and moral integrity due to the authorities’ actions.<sup>90</sup>

89. In particular, this Court finds that Mr. Leguizamón’s wife was subjected to additional suffering in seeking justice for her husband’s murder and due to the continuing impunity in the case. For example, her son Dante Leguizamón stated that “she decided to record stories, notes, anecdotes, write everything down and have everything close to hand,” and that it was she who “decided to present the case before the Commission.”<sup>91</sup> The Court also notes that, in his capacity as a lawyer, journalist Santiago Leguizamón’s son Dante has represented his family in the proceedings before the Inter-American Court.

90. Therefore, this Court finds that the State violated the right to personal integrity recognized in Article 5(1) of the American Convention, read in conjunction with Article 1(1) thereof, to the detriment of Ana María Margarita Morra, wife of Santiago Leguizamón, his daughter Raquel and his sons Raquel, Dante, Sebastián and Fernando Leguizamón Morra.

## VIII REPARATIONS

91. Pursuant to the provisions of Article 63(1) of the American Convention, the Court has held that every violation of an international obligation which results in harm creates a duty to make adequate reparation, and that this provision reflects a customary norm that constitutes one of the fundamental principles of contemporary international law on State

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<sup>87</sup> Cf. *Case of the “Street Children” (Villagrán Morales et al.) v. Guatemala*, *supra*, para. 176, and *Case of Sales Pimenta v. Brazil*, *supra*, para. 125.

<sup>88</sup> Cf. *Case of Blake v. Guatemala. Merits*. Judgment of January 24, 1998. Series C No. 36, para. 114, and *Case of Sales Pimenta v. Brazil*, *supra*, para. 125.

<sup>89</sup> Cf. *Case of Bámaca Velásquez v. Guatemala. Reparations and costs*. Judgment of February 22, 2002. Series C No. 91, para. 163, and *Case of Sales Pimenta v. Brazil*, *supra*, para. 125.

<sup>90</sup> For example, in the public proceedings held on March 25, 2022, Mrs. Ana María Morra maintained that “[t]he impunity of the case led [her] to completely lose [her] hopes for justice, hopes for a better country, hopes for social justice and freedom of expression in [her] country.” Mr. Dante Leguizamón, in a statement made during the public proceedings, maintained that “the most difficult thing, I mean, I don’t know if it is the most difficult thing, but what is also very difficult is impunity, coping with that impunity.”

<sup>91</sup> Statement made by Mr. Dante Ariel Leguizamón Morra in the public proceedings held on March 25, 2022.

responsibility.<sup>92</sup> This Court has also established that reparations must have a causal nexus with the facts of the case, the alleged violations, the proven damages, as well as the measures requested to repair the resulting damages.<sup>93</sup> Therefore, the Court must observe such coincidence in order to adjudge and declare according to law.

92. Accordingly, in accordance with the considerations set forth on the merits and the violations of the Convention as declared in this Judgment, the Court will proceed to examine the petitions made by the Commission and the representatives, as well as the responses offered by the State, in light of the tenets established in its case law in connection with the nature and scope of the obligation to make reparations and thus adopt the measures required to redress the damage.<sup>94</sup>

### A. Injured Party

93. This Court, under the terms of Article 63(1) of the Convention, holds as an injured party anyone who has been declared the victim of violation of a right recognized therein. Therefore, the Court holds Mr. Santiago Leguizamón, his wife Ana María Margarita Morra, his daughter Raquel and his sons Dante, Sebastián and Fernando Leguizamón Morra as an “injured party.”

### B. Obligation to investigate

94. The **Commission** asked that, as a measure of restitution, the State be ordered to (i) carry out a full, impartial, effective, and expeditious investigation to clarify the circumstances of the murder of journalist Santiago Leguizamón and determine the instigators and perpetrators; (ii) request the cooperation of the State of Brazil, asking it to exercise its jurisdiction over the Brazilian citizens who are alleged perpetrators of the murder and cannot be extradited to Paraguay and, in doing so, to fulfill the formal requirements involved; and, (iii) collaborate with the State of Brazil so that a full, impartial, and effective investigation is carried out within a reasonable time to clarify the circumstances of Mr. Leguizamón’s murder.

95. The **representatives** agreed with the Commission on the importance of carrying out a full, impartial, and effective investigation to clarify the circumstances of Mr. Leguizamón’s murder and determine who was responsible. Therefore, they asked that appropriate diplomatic action be taken to ensure that investigations are carried out in Brazil. They requested that Mr. Leguizamón’s family and representatives be given full access to all efforts undertaken at every stage in the proceedings, and that the results of the investigation be made public and disseminated widely. They also asked that, given the impact that Mr. Leguizamón’s murder and the subsequent murders of other journalists has had on Paraguayan society, the State be ordered to set up a Truth Commission to investigate all cases of journalists murdered in Paraguay since 1991, regardless of the criminal investigations that may have been carried out. Finally, they asked the State be required to investigate the Paraguayan citizens suspected of having participated in Mr. Leguizamón’s

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<sup>92</sup> Cf. *Case of Velásquez Rodríguez v. Honduras. Reparations and costs*. Judgment of July 21, 1989. Series C No. 7, paras. 24 and 25, and *Case of Aroca Palma et al. v. Ecuador, supra*, para. 120.

<sup>93</sup> Cf. *Case of Ticona Estrada et al. v. Bolivia, supra*, para. 110, and *Case of Aroca Palma et al. v. Ecuador, supra*, para. 121.

<sup>94</sup> Cf. *Case of Velásquez Rodríguez v. Honduras. Reparations and costs, supra*, paras. 25 and 26, and *Case of Aroca Palma et al. v. Ecuador, supra*, para. 121.

murder, those who obstructed the investigation into the murder, and those responsible for the threats made to Mrs. Ana María Margarita Morra.

96. The **State** informed the Court that, because the judge in charge of the case had already closed the pre-trial proceedings, if one of the defendants were to be captured or handed over to the Paraguayan authorities, that stage could not be reopened, and the case would proceed to the trial stage. In other words, the State cannot reopen criminal proceedings that have been terminated at the preliminary stage, because to do so would violate rights guaranteed under the Constitution and under conventions recognized by the Paraguayan legal system. It also maintained that, because the Brazilian authorities had informed it that the case was statute-barred in that country, it was not feasible to request cooperation from the State of Brazil. Therefore, it reiterated its desire to make redress through other measures of compensation and guarantees of non-repetition. Finally, the State maintained that, given the impossibility of carrying out a full, effective and expeditious investigation, it was not opposed to the creation of a Truth Commission to determine and make public the circumstances under which the murder of journalist Santiago Leguizamón occurred.

97. In arriving at this judgment, the **Court** has determined that the investigation and subsequent judicialization of the events that occurred on April 26, 1991 did not meet the standards of due diligence, nor made it possible to clarify the circumstances of what happened. However, it is not possible to continue with the investigation of the Brazilian citizens who allegedly participated in the crime, because the State did not diligently undertake the necessary actions to secure the cooperation of that country's judicial system, and the crime is now statute-barred in Brazil. Therefore, the Court instead orders that a working group be set up to determine the circumstances of Mr. Leguizamón's murder. The group shall report on (i) the context in which the murder occurred, including the security situation in the city of Pedro Juan Caballero and the border area between Brazil and Paraguay; (ii) the murders of other journalists in Paraguay committed after Mr. Leguizamón's murder and in the exercise of their profession; and (iii) the errors in the investigation of Mr. Leguizamón's murder, with a view to proposing measures designed to guarantee the safety of journalists and overcome impunity.

98. The working group shall be composed of five experts with the technical skills, moral suitability and specific knowledge required to carry out the work, at least one of whom shall be a journalist. One of them shall be a member of the Truth, Justice and Reparation Directorate of the Ombudsman's Office, who shall coordinate the group and facilitate its logistical operations. For the purpose of selecting the other four members, the State and the representatives shall, within six months of notification of this judgment, provide the Court with a list of four independent experts. The Court will select two from each of these lists. The State shall fund the working group and guarantee the budget for its operation. In order to meet its objectives, the group shall be authorized to consult public bodies, academic institutions, and civil society organizations that can provide information for its report. The State shall ensure full access to all the information the working group needs to perform its task. The group shall have two years, counted from the date of its formation, to deliver a final report to the Court. The report shall be public and made available to society in a way that is easy to access.

### **C. Measures of satisfaction requested**

#### ***C.1 Public act of recognition of responsibility***

99. The **Commission** asked the Court to order measures of satisfaction.

100. The **representatives** asked the Court to order the State to hold a public act of recognition of international responsibility for the incidents in the instant case and for the failure to investigate, prosecute and punish those responsible for Mr. Leguizamón's murder.

101. The **State** indicated that it had no objection to holding a public act of recognition of responsibility.

102. The **Court** deems it necessary, in order to redress the damage caused to the victims and prevent similar incidents from occurring in the future, to order the State to hold a public act of recognition of international responsibility for the incidents in the instant case. The human rights violations declared in this judgment should be named in the ceremony. The act should take the form of a public ceremony in the presence of high-level state officials, and the victims declared herein, if they so desire, and their representatives.<sup>95</sup>

103. The date of the act, place where it will be held, and what it will include, should be determined by advance agreement with the victims and/or their representatives.<sup>96</sup> Furthermore, as it has done in other cases,<sup>97</sup> the Court orders the State to disseminate the act in the media as widely as possible, including on radio and television and through the social networks of the Office of the President, the Office of the Attorney General, the Supreme Court of Justice, the Public Prosecution Service, the Ministry of the Interior and the Ministry of Information and Communication Technologies. The State has one year from the notification of this judgment to comply with this measure of reparation.

## **C.2 Publication of the judgment**

104. The **Commission** asked the Court to order measures of satisfaction.

105. The **representatives** asked the Court to order the State to publish the complete text of the judgment, and a summary, on an official website, and to disseminate it through social networks.

106. The **State** promised to publish the Court's judgment on the websites and institutional social networks of entities belonging to the three branches of government.

107. As it has in other cases,<sup>98</sup> the **Court** orders the State to publish, within six months of notification of this judgment and in a legible and appropriate font size: a) the official summary of this judgment prepared by the Court, one time, in the Official Gazette; b) the official summary of this judgment prepared by the Court, one time, in a national newspaper with wide circulation in a legible and appropriate font size; and c) the full text of this

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<sup>95</sup> Cf. *Case of Cantoral Benavides v. Peru. Reparations and costs*. Judgment of December 3, 2001. Series C No. 88, para. 81, and *Case of Aroca Palma et al. v. Ecuador, supra*, para. 136.

<sup>96</sup> Cf. *Case of Radilla-Pacheco v. Mexico. Preliminary objections, merits, reparations and costs*. Judgment of November 23, 2009. Series C No. 209, para. 353, and *Case of Aroca Palma et al. v. Ecuador, supra*, para. 136.

<sup>97</sup> Cf. *Case of the Miguel Castro-Castro Prison v. Peru. Merits, reparations and costs*. Judgment of November 25, 2006. Series C No. 160, para. 445, and *Case of Aroca Palma et al. v. Ecuador, supra*, para. 136.

<sup>98</sup> Cf. *Case of Cantoral Benavides v. Peru. Reparations and costs, supra*, para. 79, and *Case of Aroca Palma et al. v. Ecuador, supra*, para. 135.

judgment, available for one year, on the websites of the Office of the President, the Ministry of the Interior, the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Information and Communication Technologies, the Senate, the Chamber of Deputies and the Supreme Court of Justice, with a link on the home pages so the public can access it easily.

108. In addition, within six months of notification of this judgment, the State shall publicize the Court's judgment on the social media accounts of the Office of the President, the Ministry of the Interior, the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Information and Communication Technologies, the Senate, the Chamber of Deputies and the Supreme Court of Justice. The publication shall state that the Inter-American Court has issued a judgment in the instant case declaring Paraguay's international responsibility, and shall include a link to a page where the full text of the judgment is available.

109. The State shall inform this Court immediately when it has made each of the publications ordered, irrespective of the one-year timeframe for presenting its first report established in the fifteenth operative paragraph of this judgment.

### ***C.3 "Santiago Leguizamón" National Prize for Journalism***

110. The **Commission** asked the Court to order measures of satisfaction.

111. The **representatives** asked the Court to order the State to reinstate the "Santiago Leguizamón" National Prize for Journalism. They also asked that the minimum conditions for the functioning of the prize be guaranteed, in particular: a) that it be enshrined in law, to ensure the prize's importance and continuity, and that it is awarded regularly; b) that it be awarded reasonably frequently, preferably annually; c) that it be awarded by one of the branches of government, preferably the Legislative Branch; d) that a board be set up to administer the award, with the participation and involvement of society, and guarantee the participation of journalists' groups; e) that the terms and conditions be transparent and made public to ensure broad participation in the nomination process; d) that the jury be independent, to ensure the pluralism, representativeness and ethical integrity of its members; e) that it be allocated funds in the public budget for each fiscal year, to guarantee its sustainability; and f) that the participation of Santiago Leguizamón's family be guaranteed, as custodians of his ethical legacy.

112. The **State** informed the Court that it was taking steps to reinstate the "Santiago Leguizamón" National Prize for Journalism.

113. The **Court** orders the State to reinstate the "Santiago Leguizamón" National Prize for Journalism as soon as possible. The prize shall be awarded annually for at least five years to encourage journalists to investigate matters related to corruption, human rights, indigenous peoples, peasant rights, freedom of expression, and impunity. The State shall guarantee the following minimum operating conditions for the prize: a) the State shall set up a board to administer the award with the participation of journalists' groups and the members of Mr. Leguizamón's family who are declared victims in this judgment; b) the award process shall be transparent and public, and the organizers shall explain the terms and conditions, and ensure broad participation in the nomination process; c) there shall be an independent jury for the award to ensure the pluralism, representativeness and ethical integrity of its members, who shall be selected by the board of directors responsible for the

prize; and d) the award shall be funded from the public purse to guarantee its sustainability for at least five years.

#### ***C.4 Maintenance of sites dedicated to the memory of Mr. Leguizamón Zaván***

114. The **representatives** asked the Court to order the State to erect a monument to murdered journalists and the protection of freedom of expression in an important square in the capital and in Pedro Juan Caballero. They pointed out that there is already a monolith located in a square in Asunción, but this was erected by the Paraguayan Journalists Union and is maintained by the union and members of the public. They also noted that there is a "Plaza del Periodista" in Pedro Juan Caballero, marking the spot where Santiago Leguizamón was murdered on April 26, 1991. It was built and financed on the initiative of journalists' groups, without government support. The municipal government and the National Police failed to maintain and safeguard the public space, with the result that it was vandalized and no longer fulfills its function as a landmark or monument in Mr. Leguizamón's honor. Therefore, they asked that the "Plaza del Periodista" memorial in Pedro Juan Caballero be repaired, that the Municipal Government pledge to maintain and preserve the square, and that the names of all the journalists who have been murdered since 1991 be added, in particular, those of the seven journalists murdered in the Department of Amambay. They also asked that the State be ordered to declare the memorials already erected in Santiago Leguizamón's honor, in Asunción and Pedro Juan Caballero, as "sites of memory" under Paraguayan law, which would place them under the stewardship of the National Heritage System, and under the protection of the wider system for the protection of the nation's cultural heritage.

115. The **Commission** did not express an opinion on this matter.

116. The **State** maintained that under Law 62/91, Asunción City Council was authorized to erect a monolith in memory of Santiago Leguizamón as a symbol of the fight for freedom of expression and freedom of the press. Moreover, the street adjacent to the site of the monument is also named after the journalist and a street in the city of Encarnación and a school in the city of Luque are named after "Santiago Leguizamón," pursuant to Ordinance No. 220/92 and Resolution No. 2546/93, respectively.

117. The **Court** finds that there are already a number of sites in Paraguay created to preserve Mr. Leguizamón's memory, some of which were designed and built by private initiative and have deteriorated due to lack of maintenance, including a monolith in Asunción and a square in Pedro Juan Caballero. The Court therefore orders the State to take the necessary steps to preserve the spaces already created to honor Mr. Santiago Leguizamón's memory. In doing so, the State shall declare the monolith located in the city of Asunción and the square located in Pedro Juan Caballero as "sites of memory," pursuant to domestic law. Furthermore, within one year it shall take the necessary steps to restore those spaces, so they fulfill their commemorative purpose.

#### **D. Guarantees of non-repetition**

118. The **Commission** asked that, as a measure of reparation, the State be ordered to adopt legislative, institutional and judicial measures aimed at reducing the exposure to danger of journalists and media workers who are particularly at risk due to the nature of their profession. It argued that the State should develop adequate, expeditious institutional



response programs and measures that make it possible to effectively protect journalists and media workers who are at special risk due to the nature of their profession, and, if applicable, the members of their families, regardless of whether the threats come from State agents or private individuals. In particular, the Commission maintained that the State should design and implement suitable risk assessment protocols and programs for the protection of journalists and their families.

119. It also asked that the State be ordered to (i) strengthen the institutional capacity to combat impunity in cases of journalists and media workers who are threatened and/or murdered, by developing investigation protocols that take into account the risks inherent to the work of journalists and, in particular, that lead to the punishment of those responsible and adequate redress for victims; and (ii) design training programs on the investigation of crimes against journalists for the operators of the Judicial Branch, the Public Prosecution Service, and detectives responsible for cases involving acts of violence against journalists.

120. The **representatives** asked that the State be ordered to adopt (i) rules under domestic administrative and judicial law that recognize the work of journalists; and (ii) a mechanism for the protection of journalists and media workers aimed at reducing their exposure to risks. To that end, they asked that the State be ordered to strengthen the work of the Interinstitutional Working Group within the framework of the police protocol for the protection of journalists designed to prevent and address threats or acts of violence against journalists and their families, allocating the working group a budget to ensure its sustainability.

121. The **State** accepted the Commission's requests and informed the Court of the progress that had been made, so that the Court could evaluate it. It pointed out that on November 28, 2016, it had signed a letter of intent with UNESCO to establish a safety mechanism for journalists in line with the proposals of the Sustainable Development Goals and the United Nations Plan of Action Plan on the Safety of Journalists and the Issue of Impunity. After signing the letter of intent, it had proceeded to make changes aimed at addressing the violence to which journalists may be exposed in the practice of their profession, which included: (i) the creation of a *Mesa de Diálogo* on the safety of Paraguayan journalists, a body designed to coordinate the efforts of public institutions and civil society organizations whose mission is to prevent assaults, attacks and crimes against journalists and media workers, afford them protection, and seek justice when incidents do occur. The *Mesa* coordinates a system for receiving complaints involving threats, coercion, attacks or crimes against journalists, both in order for the judicial system to take action, and to provide follow-up to police actions. It also has an "Observatory on violence against journalists in Paraguay"; (ii) Resolution No. 538/2017 of the National Police Command, which approved the security protocol for journalists in high-risk situations that establishes standards and steps to be taken to provide security to journalists who are at high risk due to threats made against them in the exercise of their profession; (iii) the bill entitled "Freedom of Expression, Protection of Journalists, Press Workers and Human Rights Defenders," introduced on November 16, 2016 and awaiting approval by the Legislature; (iv) Resolution F.G.E. No. 1.712/2021 "which assigns to the Specialized Unit for Human Rights Offenses responsibility for the investigation of cases involving alleged crimes against journalists and media workers, for reasons that could be related to the exercise of their profession." Thus, the prosecutors of the Specialized Unit for Human Rights Offenses will now exercise legal representation and be involved in criminal cases brought for alleged offenses against journalists and media workers that may have been committed in the exercise of their profession.

122. The **Court** views positively the State's efforts regarding guarantees of non-repetition, which are also related to the Commission's recommendations and the representatives' petitions. Therefore, the Court deems it necessary to order the State, as soon as possible, to adopt appropriate measures to strengthen the work of the *Mesa de Diálogo* on the safety of Paraguayan journalists, allocating sufficient funds annually to guarantee its proper functioning. The State shall also inform this Court of the activities of the *Mesa de Diálogo*, as well as those carried out under the security protocol for journalists in high-risk situations. Furthermore, to enable the *Mesa de Diálogo* to carry out its work, the State shall set up a fund of not less than USD 250,000.00 (two hundred and fifty thousand United States dollars) to finance prevention and protection programs and provide assistance to journalists who are victims of violence and targeted because of their profession, and to adopt effective protection measures to guarantee the safety of journalists who are especially at risk due to the nature of their work. This fund shall be allocated a budget that shall be renewed annually for 10 years, or until the institutional framework for the protection of journalists established in the law referred to in the next paragraph is operational.

123. The Court deems it necessary to order the State to take further action to secure enactment of the bill on "Freedom of Expression, Protection of Journalists, Press Workers and Human Rights Defenders" which is currently in the pipeline, or a similar bill on freedom of expression and the protection of journalists, press workers and human rights defenders.

124. Lastly, due to the nature of the violations declared in the instant case and the circumstances in which they occurred, this Court deems it necessary to order the State to send it copies of the regular reports it submits to the specialized agencies of the OAS and the United Nations related to measures implemented for prevention purposes and to protect journalists in Paraguay, in order to evaluate the State's compliance with the other reparation measures ordered in this judgment. The Court will supervise this measure for three years.

#### **E. Other measures requested**

125. The **representatives** asked that the State be ordered to (i) allocate a special annual budget for scholarships for journalists to study abroad. They also asked the Court to order the State to (ii) commence a wide-ranging discussion of the design of a protection program for human rights defenders and legislation aimed at reducing the risks to which journalists and media workers are exposed due to the nature of their work; (iii) promote the amendment of Article 17 of the Code of Criminal Procedure to make threats against journalists and human rights defenders a criminal offense that is subject to automatic prosecution, without a complaint having to be filed; (iv) foster the active participation of national and international journalist and human rights organizations in the design and implementation of training programs on the investigation of crimes against journalists; and (v) take steps to equip the Public Prosecution Service with the capabilities for the investigation of crimes against journalists, including logistical and budgetary tools, equipment and personnel.

126. The **State** argued that some measures were unwarranted, namely (i) the design of a program for the protection of human rights defenders; (ii) the reform of Article 17 of the Paraguayan Code of Criminal Procedure; and (iii) the creation of a special annual fund for scholarships for journalists to study abroad, because they were not related directly to the violations committed against Santiago Leguizamón and his family, for which the State should make redress.

127. The Court holds that the issuance of this judgment and the reparations ordered in this section are sufficient and appropriate to remedy the violations suffered by the victims, and does not deem it necessary to order additional measures.

## **F. Compensation**

### ***F.1 Pecuniary damage***

128. The **Commission** asked the Court to order both pecuniary and non-pecuniary damages for the human rights violations declared in its judgment.

129. The **representatives** left it to the discretion of the Court to determine, in a fair and equitable manner, the consequential damage and loss of earnings. They asked the Court to take into account the amount of roughly USD 59,000 (fifty-nine thousand United States dollars) that Santiago Leguizamón's widow had received between 1991 and 2020 in the form of a monthly ex-gratia pension awarded by the National Congress.

130. They also maintained that one of the immediate consequences of Mr. Leguizamón's murder was that the radio station lost a huge amount of income from advertisers, making it financially unsustainable and accumulating labor and tax liabilities. Ana María Margarita Morra was forced to sell it in order to pay off the accumulated debts for a price below its real value. The sale of the radio station was formalized on June 3, 1992, for an amount equivalent at the time to roughly USD 40,400 (forty thousand four hundred United States dollars), with the funds being used to settle the station's debts with the tax authorities, the social security department, and its employees. The representatives also asked the Court, in calculating the loss of earnings, to bear in mind that, according to the radio station's last tax return, its assets were equivalent to roughly USD 7500 (seven thousand five hundred United States dollars), and its annual income was equivalent to roughly USD 4065 (four thousand and sixty-five United States dollars), at the rate of exchange in effect at the time.

131. The **State** maintained that in 1991 it had granted the sum of ₡ 150,000 (one hundred and fifty thousand guaraníes) per month, equivalent to roughly USD 100 (one hundred United States dollars) to the journalist's four children, until each of them reached the age of majority. It also granted a monthly ex gratia pension to Ana María Margarita Morra in the amount of ₡ 800,000 (eight hundred thousand guaraníes), which was equivalent to roughly USD 320 (three hundred and twenty United States dollars) at the rate of exchange in effect at the time. This sum was increased in 2009 to ₡ 2,000,000 (two million guaraníes) per month, that is, roughly USD 408 (four hundred and eight United States dollars). The State maintained that, as pointed out by the representatives, these sums came to a total of roughly USD 59,000 (fifty-nine thousand United States dollars).

132. This Court has developed the concept of pecuniary damages in its case law, holding that it covers loss or detriment to the victims' income, expenses incurred as a result of the facts of the case and the monetary consequences that have a causal nexus with the facts.<sup>99</sup> However, the representatives failed to provide any evidence of amounts payable for pecuniary damages. Nevertheless, the Court deems it necessary to compensate Mr. Leguizamón's family for the loss of the probable income he would have received had he

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<sup>99</sup> Cf. *Case of Bámaca Velásquez v. Guatemala. Reparations and costs*, *supra*, para. 43, and *Case of Aroca Palma et al. v. Ecuador*, *supra*, para. 144.

lived. The Court only has information on the annual income of the radio station that Mr. Leguizamón owned. Taking that sum into consideration, it will establish, in equity, the sum of USD 105,000.00 (one hundred and five thousand United States dollars), as compensation for income lost by Mr. Leguizamón, of which 50% shall be paid to Mrs. Ana María Margarita Morra and the remaining 50% shall be divided equally among his daughter and sons Raquel, Dante, Sebastián and Fernando Leguizamón.

133. The representatives also failed to provide evidence of specific expenditures incurred by Mr. Leguizamón's family in seeking justice. However, this Court considers it reasonable to assume that such expenses were indeed incurred. Therefore, it deems it appropriate to award, in equity, compensation of USD 50,000.00 (fifty thousand United States dollars) to Mrs. Ana María Margarita Morra, since she was the person who documented and presented the case before the Commission, and compensation of USD 15,000.00 (fifteen thousand United States dollars) to each of Mr. Leguizamón and his wife's children, that is, Raquel, Dante, Sebastián and Fernando Leguizamón Morra.

134. The State may deduct the amounts it has already paid at the domestic level to the victims in this case as reparation for events considered violations of human rights in this judgment from the sum owed to each victim as compensation.

## ***F.2 Non-pecuniary damage***

135. The **Commission** asked the Court to order both pecuniary and non-pecuniary reparations to make redress for the human rights violations declared in its judgment.

136. The **representatives** left it up to the Court's discretion to determine an equitable sum taking into account the non-pecuniary damage caused.

137. The **State** recognized that, given the real impossibility of continuing the judicial investigation into those responsible for Mr. Leguizamón's murder, it should pay the victims in this case financial compensation, and left it up to the Court's discretion to determine the amount.

138. The **Court** considers that Mr. Santiago Leguizamón should be awarded compensation for non-pecuniary damage, and orders, in equity, the payment of USD 80,000.00 (eighty thousand United States dollars). This amount shall be distributed as follows: 50% to his wife, Ana María Margarita Morra, and the other 50% divided equally among his daughter and sons, Raquel, Dante, Sebastián and Fernando Leguizamón Morra. Furthermore, the Court confirmed in its judgment the suffering caused to both Ana María Margarita Morra, Mr. Leguizamón's wife, and their daughter Raquel and sons Dante, Sebastián and Fernando Leguizamón Morra due to the facts analyzed in the instant case. Therefore, taking into consideration the circumstances of this case, the violations committed, the suffering caused and experienced in varying degrees, and the time that has elapsed, the Court orders, in equity, the payment of the sum of USD 50,000.00 (fifty thousand United States dollars) for non-pecuniary damage to Ana María Margarita Morra, and the payment of the sum of USD 40,000.00 (forty thousand United States dollars) for non-pecuniary damage to each of her and Mr. Leguizamón's children, that is, Raquel, Dante, Sebastián and Fernando Leguizamón Morra.

## G. Costs and expenses

139. The **Commission** did not express an opinion on this matter.

140. The **representatives** asked to be reimbursed for the expenses they incurred during these proceedings before the Inter-American System. They put the amount at \$ 33,448,529 (thirty-three million four hundred and forty-eight thousand five hundred and twenty-nine guaraníes) and asked the Court to determine the pertinent costs of the technical legal work carried out.

141. The **State** asked the Court waive the payment of costs by the State, bearing in mind its recognition of responsibility, the immediate effect of which was to simplify the proceedings.

142. The Court recalls that, based on its case law, costs and expenses form part of the concept of reparation, because the activities carried out by the victims in order to obtain justice, both at the national and the international level, entail disbursements that must be compensated when the State's international responsibility is declared in a judgment. Regarding the reimbursement of costs and expenses, it is for the Court to prudently assess their scope, which includes the expenses generated before the authorities of the domestic jurisdiction and those incurred during the proceedings before the inter-American system, taking into account the circumstances of the specific case and the nature of the international jurisdiction for the protection of human rights. This assessment may be made based on the equity principle and taking into account the expenses indicated by the parties, provided their *quantum* is reasonable.<sup>100</sup>

143. Taking into account the amounts requested and the proof of expenses presented, the Court decides to establish in equity the payment of a total amount of USD 15,000.00 (fifteen thousand United States dollars) for costs and expenses. This amount shall be paid directly to the Human Rights Coordinator of Paraguay (CODEHUPY). The Court may also order the State to further reimburse the victims or their representatives for reasonable expenses incurred during the procedural stage of monitoring compliance with judgment.<sup>101</sup>

## H. Method of compliance with the payments ordered

144. The State shall pay the amounts set as compensation for pecuniary and non-pecuniary damages and the reimbursement of costs and expenses established in this judgment directly to the individuals and the organization identified herein, within one year of notification of this judgment.

145. In the event that the beneficiaries die before they receive their compensation, it shall be paid directly to their heirs, pursuant to applicable domestic law.

146. The State shall fulfill its monetary obligations by means of payments in United States dollars, or the equivalent in the national currency, using for the calculation the market

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<sup>100</sup> Cf. *Case of Garrido and Baigorria v. Argentina. Reparations and costs*. Judgment of August 27, 1998. Series C No. 39, para. 82, and *Case of Aroca Palma et al. v. Ecuador, supra*, para. 150.

<sup>101</sup> Cf. *Case of Ibsen Cárdenas and Ibsen Peña v. Bolivia. Merits, reparations and costs*. Judgment of September 1, 2010. Series C No. 217, para. 29, and *Case of Deras García et al. v. Honduras. Merits, reparations and costs*. Judgment of August 25, 2022. Series C No. 462, para. 135.

exchange rate published or calculated by a relevant banking or financial authority, on the date closest to the day of payment.

147. If, for reasons attributable to the beneficiaries of the compensation or their heirs, it should prove impossible to pay the amounts established within the specified time, the State shall deposit the monies in their favor in an account or a certificate of deposit in a solvent Paraguayan financial institution, in United States dollars or the equivalent in the national currency, and under the most favorable financial terms that banking laws and practice allow. If the compensation has not been claimed after ten years, the funds shall be returned to the State together with the accrued interest.

148. The amounts established in this judgment as compensation for pecuniary and non-pecuniary damages and the reimbursement of costs and expenses shall be paid to the individuals and the organization specified in full, pursuant to the provisions of this judgment, free of any tax deductions.

149. If the State falls into arrears with its payments, it shall pay interest on the amount owed at the rate of interest charged on arrears by banks in Paraguay.

## **IX OPERATIVE PARAGRAPHS**

150. Therefore,

### **THE COURT**

#### **DECIDES,**

unanimously:

1. To accept the State's recognition of responsibility pursuant to paragraphs 20 to 26 of this judgment.

#### **DECLARES,**

unanimously, that:

2. The State is responsible for the violation of the rights to life and freedom of thought and expression recognized in Articles 4(1) and 13 of the American Convention on Human Rights, read in conjunction with Article 1(1) thereof, to the detriment of Mr. Santiago Leguizamón, pursuant to paragraphs 50 to 63 of this judgment.

3. The State is responsible for the violation of the rights to judicial guarantees and judicial protection recognized in Articles 8(1) and 25(1) of the American Convention on Human Rights, read in conjunction with Article 1(1) thereof, to the detriment of Ana María Margarita Morra and Raquel, Dante, Sebastián and Fernando Leguizamón Morra, pursuant to paragraphs 68 to 82 of this judgment.

4. The State is responsible for the violation of the right to personal integrity recognized in Article 5(1) of the American Convention on Human Rights, read in conjunction with Article 1(1) thereof, to the detriment of Ana María Margarita Morra and Raquel, Dante, Sebastián

and Fernando Leguizamón Morra, pursuant to paragraphs 87 to 89 of this judgment.

**AND ESTABLISHES:**

unanimously, that:

5. This judgment constitutes per se a form of reparation.
6. The State shall make the publications ordered in paragraphs 102 and 103 of this judgment.
7. The State shall hold a public act of acknowledgement of international responsibility, pursuant to paragraphs 102 and 103 of this judgment.
8. The State shall reinstate the "Santiago Leguizamón" National Prize for Journalism, which shall be awarded annually, for at least five years, pursuant to paragraph 113 of this judgment.
9. The State shall take the necessary steps to preserve the sites dedicated to the memory of Mr. Santiago Leguizamón Zaván. In doing so, it shall declare the monolith in the city of Asunción and the square in Pedro Juan Caballero as "sites of memory," pursuant to domestic regulations and, within one year, take the necessary steps to restore those sites, so they fulfill their commemorative function, pursuant to paragraph 117 of this judgment.
10. The State shall allocate an annual budget sufficient to guarantee the proper functioning of the *Mesa de Diálogo* on the safety of Paraguayan journalists, pursuant to paragraph 122 of this Judgment.
11. The State shall create a fund, under the aegis of the *Mesa de Diálogo* for the safety of Paraguayan journalists, to finance programs aimed at prevention and protection, and to assist journalists who are victims of violence in the exercise of their profession, and the adoption of effective protection measures to guarantee the safety of journalists who are especially at risk due to the nature of their profession, pursuant to paragraph 122 of this Judgment.
12. The State shall promote the approval of the bill referred to in paragraph 123 of this judgment.
13. The State shall send to the Court the periodic reports that it submits to the specialized agencies of the Organization of American States and the United Nations, related to the prevention and protection measures implemented to safeguard journalists in Paraguay, pursuant to paragraph 124 of this judgment.
14. The State shall pay the amounts set forth in paragraphs 132, 133, 138 and 143 of this judgment as compensation for pecuniary and nonpecuniary damages and reimbursement of costs and expenses, pursuant to paragraphs 144 to 149 of this judgment.
15. The State shall, within one year of notification of this judgment, submit to the Court a report on the measures adopted to comply therewith, without prejudice to the provisions of paragraph 109 of this judgment.

16. The Court will supervise full compliance with this judgment, in exercise of its authority and in compliance with its obligations pursuant to the American Convention on Human Rights, and shall declare this case closed when the State has fully complied with all the measures ordered herein.

DONE in San José, Costa Rica, on November 15, 2022, in the Spanish language.



Inter-American Court. *Case of Leguizamón Zaván et al. v. Paraguay*. Merits, reparations and costs. Judgment of November 15, 2022. Judgment adopted in San José, Costa Rica.

Ricardo C. Pérez Manrique  
President

Humberto Antonio Sierra Porto

Eduardo Ferrer Mac-Gregor Poisot

Nancy Hernández López

Veronica Gómez

Patricia Pérez Goldberg

Rodrigo Mudrovitsch

Pablo Saavedra Alessandri  
Registrar

So ordered,

Ricardo C. Pérez Manrique  
President

Pablo Saavedra Alessandri  
Registrar