



Strasbourg, 9 November / 9 novembre 2006

DH-S-AC(2006)010bil

STEERING COMMITTEE FOR HUMAN RIGHTS

COMITE DIRECTEUR POUR LES DROITS DE L'HOMME
(CDDH)

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**GROUPE DE SPECIALISTES
SUR L'ACCES AUX DOCUMENTS PUBLICS**

(DH-S-AC)

**Information note on the decision of the Inter-American Court of Human Rights
in the case of *Claude Reyes and others vs. Chile***

**Note d'information sur la décision de la Cour interaméricaine des droits de l'homme
dans l'affaire *Claude Reyes and others vs. Chile***

Introduction

The Inter-American Court of Human Rights has ruled on 11 October 2006 (*Claude Reyes and others vs. Chile*) that there is a general right of access to information held by government. This is the first such ruling from an international tribunal. The case originates in a request for information made in 1998 by three environmental activists about a controversial logging project; no information was provided nor a reasoned refusal.

The judgment also makes clear that, to give full effect to this right, states must adopt legal and other provisions which ensure effective exercise of the right to information as well as define limited exemptions to be applied so as to minimise restrictions of this right. The Court further requires the Chilean state to train public officials on the right to information and the international standards for exemptions.

This document provides a non official English translation of the judgment, provided by Open Society Justice Initiative. The Spanish original version of the judgment can be found at: <http://www.corteidh.or.cr/casos.cfm?idCaso=245>

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Introduction

La Cour Interaméricaine des Droits de l'Homme a reconnu le 11 octobre 2006 (*Claude Reyes et autres c. Chili*) l'existence d'un droit général d'accès aux informations détenues par le gouvernement. Il s'agit de la première décision en ce sens prise par une juridiction internationale. L'affaire remonte à une demande d'information faite en 1998 par trois activistes écologistes sur un projet controversé d'exploitation de bois ; aucune information ne leur a été donnée ni les raisons du refus.

L'arrêt indique aussi clairement que, pour donner plein effet à ce droit, les Etats doivent adopter des mesures, notamment des dispositions juridiques, pour assurer l'exercice effectif du droit à l'information. Ils doivent aussi déterminer un nombre limité d'exceptions à appliquer afin de causer le moins de restrictions possible à ce droit. La Cour demande de plus à l'Etat chilien de former les fonctionnaires au droit à l'information et aux normes internationales et matière d'exceptions.

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INTER-AMERICAN COURT OF HUMAN RIGHTS

CLAUDE REYES *ET AL.* V. CHILE

JUDGMENT OF SEPTEMBER 19, 2006

Paragraphs 61 to 103

The Court's findings

61. Article 13 (Freedom of Thought and Expression) of the American Convention establishes, *inter alia*, that:

1. Everyone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice.
2. The exercise of the right provided for in the foregoing paragraph shall not be subject to prior censorship but shall be subject to subsequent imposition of liability, which shall be expressly established by law to the extent necessary to ensure:
 - a. respect for the rights or reputations of others; or
 - b. the protection of national security, public order, or public health or morals.
3. The right of expression may not be restricted by indirect methods or means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions.

[...]

62. Regarding the obligation to respect rights, Article 1(1) of the Convention stipulates that:

The States Parties to this Convention undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition.

63. Regarding domestic legal effects, Article 2 of the Convention establishes that:

Where the exercise of any of the rights or freedoms referred to in Article 1 is not already ensured by legislative or other provisions, the States Parties undertake to adopt, in accordance with their constitutional processes and the provisions of this Convention, such legislative or other measures as may be necessary to give effect to those rights or freedoms.

64. The Court has established that the general obligation contained in Article 2 of the Convention entails the elimination of any type of norm or practice that results in a violation of the guarantees established in the Convention, as well as the issue of norms and the implementation of practices leading to the effective observance of these guarantees.¹

¹ Cf. *Case of Ximenes Lopes*, *supra* note 2, para. 83; *Case of Gómez Palomino*. Judgment of November 22, 2005. Series C No. 136, para. 91; *Case of the "Mapiripán Massacre"*. Judgment of September

65. In light of the proven facts in this case, the Court must determine whether the failure to hand over part of the information requested from the Foreign Investment Committee in 1998 constituted a violation of the right to freedom of thought and expression of Marcel Claude Reyes, Sebastián Cox Urrejola and Arturo Longton Guerrero and, consequently, a violation of Article 13 of the American Convention.

66. With regard to the specific issues in this case, it has been proved that a request was made for information held by the Foreign Investment Committee, and that this Committee is a public-law juridical person (*supra* para. 57(2) and 57(13) to 57(16)). Also, that the requested information related to a foreign investment contract signed originally between the State and two foreign companies and a Chilean company (which would receive the investment), in order to develop a forestry exploitation project that caused considerable public debate owing to its potential environmental impact (*supra* para. 57(7)).

67. Before examining whether the restriction of access to information in this case led to the alleged violation of Article 13 of the American Convention, the Court will determine who should be considered alleged victims, and also define the subject of the dispute concerning the failure to disclose information.

68. In relation to determining who requested the information that, in the instant case, it is alleged was not provided, both the Commission and the representative stated that the alleged victims were Marcel Claude Reyes, Arturo Longton Guerrero and Sebastián Cox Urrejola. They also indicated that the State violated their right of access to public information because it refused to provide them with the requested information and failed to offer a valid justification. In this respect, Mr. Cox Urrejola affirmed in his written statement "that together with Marcel Claude and Arturo Longton, [he] presented the request for information to the Foreign Investment Committee [in] May 1998" (*supra* para. 48). While, Arturo Longton, in his written statement, indicated that, during the meeting held on May 19, 1998, he requested "several items of information regarding the foreign investor involved [...] and, in particular, the background information that demonstrated his suitability and soundness" (*supra* para. 48).

69. In the instant case, in which violation of the right to accede to State-held information is alleged, in order to determine the alleged victims, the Court must examine their requests for information and those that were refused

70. From examining the evidence, it is clear that Marcel Claude Reyes, as Executive Director of the Terram Foundation, requested information from the Foreign Investment Committee (*supra* para. 57(13), 57(14) and 57(16)), and also that Arturo Longton Guerrero participated in the meeting held with the Vice President of this Committee (*supra* para. 57(14)) when information was requested, part of which has not been provided to them. The State did not present any argument to contest that Mr. Longton Guerrero requested information from the Committee which he has not received. As regards, Sebastián Cox Urrejola, the Court considers that the Commission and the representatives have not established what the information was that he requested from the Foreign Investment Committee which was not given to him; merely that he

15, 2005. Series C No. 134, para. 109; and *Juridical Condition and Rights of Undocumented Migrants*. Advisory Opinion OC-18/03 of September 17, 2003. Series A No. 18, para. 78.

recently took part in filing a remedy of protection before the Santiago Court of Appeal (*supra* para. 57(23)).

71. In view of the above, the Court will examine the violation of Article 13 of the American Convention in relation to Marcel Claude Reyes and Arturo Longton Guerrero, since it has been proved that they requested information from the Foreign Investment Committee.

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Information not provided (subject of the dispute)

72. The Court emphasizes that, as has been proved – and acknowledged by the Commission, the representative, and the State – the latter provided information corresponding to four of the seven points included in the letter of May 7, 1998 (*supra* para. 57(13), 57(14), 57(15) and 57(19)).

73. The Court considers it evident that the information the State failed to provide was of public interest, because it related to the foreign investment contract signed originally between the State and two foreign companies and a Chilean company (which would receive the investment), in order to develop a forestry exploitation project that caused considerable public debate owing to its potential environmental impact (*supra* para. 57(7)). In addition, this request for information concerned verification that a State body - the Foreign Investment Committee – was acting appropriately and complying with its mandate.

74. This case is not about an absolute refusal to release information, because the State complied partially with its obligation to provide the information it held. The dispute arises in relation to the failure to provide part of the information requested in points 3, 6 and 7 of the said letter of May 7, 1998 (*supra* para. 57(13) and 57(17)).

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A) *Right to freedom of thought and expression*

75. The Court's case law has dealt extensively with the right to freedom of thought and expression embodied in Article 13 of the Convention, by describing its individual and social dimensions, from which it has deduced a series of rights that are protected by this article.²

76. In this regard, the Court has established that, according to the protection granted by the American Convention, the right to freedom of thought and expression includes "not only the right and freedom to express one's own thoughts, but also the

² Cf. *Case of López Álvarez*. Judgment of February 1, 2006. Series C No. 141, para. 163; *Case of Palamara Iribarne*. Judgment of November 22, 2005. Series C No. 135, para. 69; *Case of Ricardo Canese*. Judgment of August 31, 2004. Series C No. 111, paras. 77-80; *Case of Herrera Ulloa*. Judgment of July 2, 2004. Series C No. 107, paras. 108-111; *Ivcher Bronstein case*. Judgment of February 6, 2001. Series C No. 74, paras. 146-149; *Case of "The Last Temptation of Christ" (Olmedo Bustos et al.)*. Judgment of February 5, 2001. Series C No. 73, paras. 64-67; and *Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism* (Arts. 13 and 29 American Convention on Human Rights). Advisory Opinion OC-5/85 of November 13, 1985. Series A No. 5, paras. 30-33 and 43.

right and freedom to *seek, receive and impart* information and ideas of all kinds.”³ In the same way as the American Convention, other international human rights instruments, such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, establish a positive right to seek and receive information.

77. In relation to the facts of the instant case, the Court finds that, by expressly stipulating the right to “seek” and “receive” “information,” Article 13 of the Convention protects the right of all individuals to request access to State-held information, with the exceptions permitted by the restrictions established in the Convention. Consequently, this article protects the right of the individual to receive such information and the positive obligation of the State to provide it, so that the individual may have access to such information or receive an answer that includes a justification when, for any reason permitted by the Convention, the State is allowed to restrict access to the information in a specific case. The information should be provided without the need to prove direct interest or personal involvement in order to obtain it, except in cases in which a legitimate restriction is applied. The delivery of information to an individual can, in turn, permit it to circulate in society, so that the latter can become acquainted with it, have access to it, and assess it. In this way, the right to freedom of thought and expression includes the protection of the right of access to State-held information, which also clearly includes the two dimensions, individual and social, of the right to freedom of thought and expression that must be guaranteed simultaneously by the State.⁴

78. In this regard, it is important to emphasize that there is a regional consensus among the States that are members of the Organization of American States (hereinafter “the OAS”) about the importance of access to public information and the need to protect it. This right has been the subject of specific resolutions issued by the OAS General Assembly.⁵ In the latest Resolution of June 3, 2006, the OAS General Assembly, “urge[d] the States to respect and promote respect for everyone’s access to public information and to promote the adoption of any necessary legislative or other types of provisions to ensure its recognition and effective application.”⁶

79. Article 4 of the Inter-American Democratic Charter⁷ emphasizes the importance of “[t]ransparency in government activities, probity, responsible public administration on the part of Governments, respect for social rights, and freedom of expression and of the press” as essential components of the exercise of democracy. Moreover, article

³ Cf. *Case of López Álvarez*, *supra* note 72, para. 163; *Case of Ricardo Canese*, *supra* note 72, para. 77; and *Case of Herrera Ulloa*, *supra* note 72, para. 108.

⁴ Cf. *Case of López Álvarez*, *supra* note 72, para. 163; *Case of Ricardo Canese*, *supra* note 72, para. 80; and *Case of Herrera Ulloa*, *supra* note 72, paras. 108-111.

⁵ Cf. Resolution AG/RES. 1932 (XXXIII-O/03) of June 10, 2003, on “Access to Public Information: Strengthening Democracy”; Resolution AG/RES. (XXXIV-O/04) of June 8, 2004, on “Access to Public Information: Strengthening Democracy”; Resolution AG/RES. 2121 (XXXV-O/05) of June 7, 2005, on “Access to Public Information: Strengthening Democracy”; and AG/RES. 2252 (XXXVI-O/06) of June 6, 2006, on “Access to Public Information: Strengthening Democracy.”

⁶ Cf. Resolution AG/RES. 2252 (XXXVI-O/06) of June 6, 2006, on “Access to Public Information: Strengthening Democracy,” second operative paragraph.

⁷ Cf. Inter-American Democratic Charter adopted by the General Assembly of the OAS on September 11, 2001, during the twenty-eighth special session held in Lima, Peru.

6 of the Charter states that “[i]t is the right and responsibility of all citizens to participate in decisions relating to their own development. This is also a necessary condition for the full and effective exercise of democracy”; therefore, it invites the States Parties to “[p]romot[e] and foster[...] diverse forms of [citizen] participation.”

80. In the Nueva León Declaration, adopted in 2004, the Heads of State of the Americas undertook, among other matters, “to provid[e] the legal and regulatory framework and the structures and conditions required to guarantee the right of access to information to our citizens,” recognizing that “[a]ccess to information held by the State, subject to constitutional and legal norms, including those on privacy and confidentiality, is an indispensable condition for citizen participation [...].”⁸

81. The provisions on access to information established in the United Nations Convention against Corruption⁹ and in the Rio Declaration on Environment and Development should also be noted.¹⁰ In addition, within the Council of Europe, as far back as 1970, the Parliamentary Assembly made recommendations to the Committee of Ministers of the Council of Europe on the “right of freedom of information,”¹¹ and also issued a Declaration establishing that, together with respect for the right of freedom of expression, there should be “a corresponding duty for the public authorities to make available information on matters of public interest within reasonable limits [...].”¹² In addition, recommendations and directives have been adopted¹³ and, in 1982, the Committee of Ministers adopted a “Declaration on freedom of expression and information,” in which it expressed the goal of the pursuit of an open information policy in the public sector.¹⁴ In 1998, the “Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters” was adopted during the Fourth Ministerial Conference “Environment for Europe,” held in

⁸ Cf. Declaration of Nuevo León, adopted on January 13, 2004, by the Heads of State and Government of the Americas, during the Special Summit of the Americas, held in Monterrey, Nuevo León, Mexico.

⁹ Cf. Articles 10 and 13 of the United Nations Convention against Corruption, adopted by Resolution 58/4 of the General Assembly of the United Nations of October 31, 2003.

¹⁰ Cf. Principle 10 of the Rio Declaration on Environment and Development adopted at the United Nations Conference on Environment and Development held from June 3 to 14, 1992.

¹¹ Cf. Recommendation No. 582 adopted by the Council of Europe Parliamentary Assembly on January 23, 1970. It recommended instructing the Committee of Experts on Human Rights Experts to consider and make recommendations on:

(i) the extension of the right of freedom of information provided for in Article 10 of the European Convention on Human Rights, by the conclusion of a protocol or otherwise, so as to include freedom to *seek* information (which is included in Article 19(2) of the United Nations Covenant on Civil and Political Rights); there should be a corresponding duty on public authorities to make information available on matters of public interest, subject to appropriate limitations;

¹² Cf. Resolution No. 428 adopted by the Council of Europe Parliamentary Assembly on January 23, 1970.

¹³ Cf. Resolution No. 854 adopted by the Council of Europe Parliamentary Assembly on February 1, 1979, which recommended the Committee of Ministers “to invite member states which have not yet done so to introduce a system of freedom of information,” which included the right to seek and receive information from government agencies and departments; and Directive 2003/4/EC of the European Parliament and Council of January 28, 2003, on public access to environmental information.

¹⁴ Declaration on the Freedom of Expression and Information adopted by the Committee of Ministers of April 29, 1982.

Aarhus, Denmark. In addition, the Committee of Ministers of the Council of Europe issued a recommendation on the right of access to official documents held by the public authorities,¹⁵ and its principle IV establishes the possible exceptions, stating that “[these] restrictions should be set down precisely in law, be necessary in a democratic society and be proportionate to the aim of protecti[on].”

82. The Court also finds it particularly relevant that, at the global level, many countries have adopted laws designed to protect and regulate the right to accede to State-held information.

83. Finally, the Court finds it pertinent to note that, subsequent to the facts of this case, Chile has made significant progress with regard to establishing by law the right of access to State-held information, including a constitutional reform and a draft law on this right which is currently being processed.

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84. The Court has stated that “[r]epresentative democracy is the determining factor throughout the system of which the Convention is a part,” and “a ‘principle’ reaffirmed by the American States in the OAS Charter, the basic instrument of the inter-American system.”¹⁶ In several resolutions, the OAS General Assembly has considered that access to public information is an essential requisite for the exercise of democracy, greater transparency and responsible public administration and that, in a representative and participative democratic system, the citizenry exercises its constitutional rights through a broad freedom of expression and free access to information.¹⁷

85. The Inter-American Court referred to the close relationship between democracy and freedom of expression, when it established that:

Freedom of expression is a cornerstone upon which the very existence of a democratic society rests. It is indispensable for the formation of public opinion. It is also a condition *sine qua non* for the development of political parties, trade unions, scientific and cultural societies and, in general, those who wish to influence the public. It represents, in short, the means that enable the community, when exercising its options, to be sufficiently informed. Consequently, it can be said that a society that is not well informed is not a society that is truly free.¹⁸

86. In this regard, the State’s actions should be governed by the principles of disclosure and transparency in public administration that enable all persons subject to its jurisdiction to exercise the democratic control of those actions, and so that they can question, investigate and consider whether public functions are being performed adequately. Access to State-held information of public interest can permit participation

¹⁵ Cf. Recommendation No. R (2002)2, adopted on February 21, 2002.

¹⁶ Cf. *Case of YATAMA*. Judgment of June 23, 2005. Series C No. 127, para. 192; and *The Word “Laws” in Article 30 of the American Convention on Human Rights*. Advisory Opinion OC-6/86 of May 9, 1986. Series A No. 6, para. 34.

¹⁷ Cf. *supra* note 75.

¹⁸ Cf. *Case of Ricardo Canese*, *supra* note 72, para. 82; *Case of Herrera Ulloa*, *supra* note 72, para. 112; and Advisory Opinion OC-5/85, *supra* note 72, para. 70.

in public administration through the social control that can be exercised through such access.

87. Democratic control by society, through public opinion, fosters transparency in State activities and promotes the accountability of State officials in relation to their public activities.¹⁹ Hence, for the individual to be able to exercise democratic control, the State must guarantee access to the information of public interest that it holds. By permitting the exercise of this democratic control, the State encourages greater participation by the individual in the interests of society.

B) The restrictions to the exercise of the right of access to State-held information imposed in this case

88. The right of access to State-held information admits restrictions. This Court has already ruled in other cases on the restrictions that may be imposed on the exercise of freedom of thought and expression.²⁰

89. In relation to the requirements with which a restriction in this regard should comply, first, they must have been established by law to ensure that they are not at the discretion of public authorities. Such laws should be enacted "for reasons of general interest and in accordance with the purpose for which such restrictions have been established." In this respect, the Court has emphasized that:

From that perspective, one cannot interpret the word "laws," used in Article 30, as a synonym for just any legal norm, since that would be tantamount to admitting that fundamental rights can be restricted at the sole discretion of governmental authorities with no other formal limitation than that such restrictions be set out in provisions of a general nature.

[...]

The requirement that the laws be enacted for reasons of general interest means they must have been adopted for the "general welfare" (Art. 32(2)), a concept that must be interpreted as an integral element of public order (*ordre public*) in democratic States [...].²¹

90. Second, the restriction established by law should respond to a purpose allowed by the American Convention. In this respect, Article 13(2) of the Convention permits imposing the restrictions necessary to ensure "respect for the rights or reputations of others" or "the protection of national security, public order, or public health or morals."

91. Lastly, the restrictions imposed must be necessary in a democratic society; consequently, they must be intended to satisfy a compelling public interest. If there are various options to achieve this objective, that which least restricts the right protected must be selected. In other words, the restriction must be proportionate to

¹⁹ Cf. *Case of Palamara Iribarne*, *supra* note 72, para. 83; *Case of Ricardo Canese case*, *supra* note 72, para. 97; and *Case of Herrera Ulloa*, *supra* note 72, para. 127. Likewise, cf. *Feldek v. Slovakia*, no. 29032/95, § 83, ECHR 2001-VIII; and *Surek and Ozdemir v. Turkey*, nos. 23927/94 and 24277/94, § 60, ECHR Judgment of 8 July, 1999.

²⁰ Cf. *Case of López Álvarez*, *supra* note 72, para. 165; *Case of Palamara Iribarne*, *supra* note 72, para. 85; *Case of Ricardo Canese*, *supra* note 72, para. 95; and *Case of Herrera Ulloa*, *supra* note 72, paras. 120-123.

²¹ Cf. *Advisory Opinion. OC-6/86*, *supra* note 86, paras. 26-29.

the interest that justifies it and must be appropriate for accomplishing this legitimate purpose, interfering as little as possible with the effective exercise of the right.²²

92. The Court observes that in a democratic society, it is essential that the State authorities are governed by the principle of maximum disclosure, which establishes the presumption that all information is accessible, subject to a limited system of exceptions.

93. It corresponds to the State to show that it has complied with the above requirements when establishing restrictions to the access to the information it holds.

94. In the instant case, it has been proved that the restriction applied to the access to information was not based on a law. At the time, there was no legislation in Chile that regulated the issue of restrictions to access to State-held information.

95. Furthermore, the State did not prove that the restriction responded to a purpose allowed by the American Convention, or that it was necessary in a democratic society, because the authority responsible for responding to the request for information did not adopt a justified decision in writing, communicating the reasons for restricting access to this information in the specific case.

96. Even though, when restricting the right, the public authority from which information was requested did not adopt a decision justifying the refusal, the Court notes that, subsequently, during the international proceedings, the State offered several arguments to justify the failure to provide the information requested in points 3, 6 and 7 of the request of May 7, 1998 (*supra* para. 57(13)).

97. Moreover, it was only during the public hearing held on April 3, 2006 (*supra* para. 32), that the Vice President of the Foreign Investment Committee at the time of the facts, who appeared as a witness before the Court, explained the reasons why he did not provide the requested information on the three points (*supra* para. 57(20)). Essentially he stated that "the Foreign Investment Committee [...] did not provide the company's financial information because disclosing this information was against the collective interest," which was "the country's development," and that it was the Investment Committee's practice not to provide financial information on the company that could affect its competitiveness to third parties. He also stated that the Committee did not have some of the information, and that it was not obliged to have it or to acquire it.

98. As has been proved, the restriction applied in this case did not comply with the parameters of the Convention. In this regard, the Court understands that the establishment of restrictions to the right of access to State-held information by the practice of its authorities, without respecting the provisions of the Convention (*supra* paras. 77 and 88 to 93), creates fertile ground for discretionary and arbitrary conduct by the State in classifying information as secret, reserved or confidential, and gives rise to legal uncertainty concerning the exercise of this right and the State's powers to limit it.

²² Cf. *Case of Palamara Iribarne*, *supra* note 72, para. 85; *Case of Ricardo Canese*, *supra* note 72, para. 96; *Case of Herrera Ulloa*, *supra* note 72, paras. 121 and 123; and Advisory Opinion OC-5/85, *supra* note 72, para. 46.

99. It should also be stressed that when requesting information from the Foreign Investment Committee, Marcel Claude Reyes “proposed to assess the commercial, economic and social elements of the [Río Cónдор] project, measure its impact on the environment [...] and set in motion social control of the conduct of the State bodies that intervene or intervened” in the development of the “Río Cónдор exploitation” project (*supra* para. 57(13)). Also, Arturo Longton Guerrero stated that he went to request information “concerned about the possible indiscriminate felling of indigenous forests in the extreme south of Chile” and that “[t]he refusal of public information hindered [his] monitoring task” (*supra* para. 48). The possibility of Messrs. Claude Reyes and Longton Guerrero carrying out social control of public administration was harmed by not receiving the requested information, or an answer justifying the restrictions to their right of access to State-held information.

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100. The Court appreciates the efforts made by Chile to adapt its laws to the American Convention concerning access to State-held information; in particular, the reform of the Constitution in 2005, which established that the confidentiality or secrecy of information must be established by law (*supra* para. 57(41)), a provision that did not exist at the time of the facts of this case.

101. Nevertheless, the Court considers it necessary to reiterate that, in accordance with the obligation established in Article 2 of the Convention, the State must adopt the necessary measures to guarantee the rights protected by the Convention, which entails the elimination of norms and practices that result in the violation of such rights, as well as the enactment of laws and the development of practices leading to the effective respect for these guarantees. In particular, this means that laws and regulations governing restrictions to access to State-held information must comply with the Convention’s parameters and restrictions may only be applied for the reasons allowed by the Convention (*supra* paras. 88 to 93); this also relates to the decisions on this issue adopted by domestic bodies.

102. It should be indicated that the violations in this case occurred before the State had made these reforms; consequently, the Court concludes that, in the instant case, the State did not comply with the obligations imposed by Article 2 of the American Convention to adopt the legislative or other measures necessary to give effect to the right to freedom of thought and expression of Marcel Claude Reyes and Arturo Longton Guerrero.

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103. Based on the above, the Court finds that the State violated the right to freedom of thought and expression embodied in Article 13 of the American Convention to the detriment of Marcel Claude Reyes and Arturo Longton Guerrero, and failed to comply

with the general obligation to respect and ensure the rights and freedoms established in Article 1(1) thereof. In addition, by not having adopted the measures that were necessary and compatible with the Convention to make effective the right of access to State-held information, Chile failed to comply with the general obligation to adopt domestic legal provisions arising from Article 2 of the Convention.