
),6&\$/ \$1', \$ 98/1(5İ /\$ (67\$%,/, '\$' < \$872120Ë\$ '(0\$6&2/%\$5 (

, & 6%5((/ '(%(5 '(027,9\$5 6(17(1&,\$6 < \$&78\$&,21(6 '\$0,1,675\$7,9\$6

),6&\$/ \$1', \$ 12 027,9İ /\$ (;&/86,0\$5(&58±,12-26\$ 6\$1'5\$ '(/

0\$6752

,,(/ '(5(&+2 \$ \$&&'(5 \$ 81 5(&8562 ()(&7,92

),6&\$/ \$1', \$ 12 *\$5\$17,=İ 81 5(&8562 ()(&0,\$2,8\$5\$,12-26\$ <

6\$1'5\$ '(/0\$6752

),6&\$/ \$1', \$ 12 *\$5\$17,=İ 81 5(&8562 ()(&0,\$2\$3\$5\$ (6&2%\$5

,,/\$ 12 '\$(&8\$&,İ1 '(/\$ /(*,6/\$&,İ1 ,17(5&\$ \$+/\$

),6&\$/ \$1', \$ 9,2/İ\$(57Ë&8/2(/\$ &\$'+(1 3(5-8,&,20\$5,\$12(;

&),6&\$/ \$1', \$ 9,2/İ\$(57Ë&8/2 & '(/\$&\$'+(1 5(/\$&,İ1 &21 \$27Ë&8/26

< (13(5-8,&,2 '(/\$6 9Ë&7,0\$6

, /\$ 5(/\$&,İ1 '(/265'(&+26 32/Ë7,&262\$3\$6 23(5\$'25\$66 '(-867,&,\$

),6&\$/ \$1', \$ 9,2/İ (/ '(5(&+2 \$ \$&&'(5 < 3(50\$1(&(5 (1 &\$5*26 30%/,&26 (1

&21',&,21(6 '(,*8\$/'\$' (1 3(5-8,&\$0 9(Ë&7,0\$6

'),6&\$/ \$1', \$ 9,2/İ\$(57Ë&8/2 '(/\$ &\$'+(1 5(/\$&,İ1 &21 /(1 3(5-8,&,2 '(

0\$*'\$(1\$ (6&2%\$5\$5,&58±,12-26\$ 6\$1'5\$ '(/0\$6752

, 62%5((/ '(5(&+2 \$,*8\$/'\$' < /\$ 126&5,0,1\$&,İ1

,,/\$,03257\$1&,\$ '(/\$ 3\$57,&,3\$&,İ18-(5/(\$6(1 \$/726*2\$ 30%/,&26

),6&\$/ \$1', \$ 9,2/İ (/ '(5(&+2 \$ /\$,*8\$/'\$' < 12 ',6&5,0,0\$&,&58±

+ ,12-26\$ 6\$1'5\$ '(/0\$6752

),6&\$/\$1', \$ 9,2/ï /\$, *8\$/'\$' (1 /26 &\$5*26 (1 3(5-\$;8,21\$

1. ABREVIATURAS

\$VDPEOHD *HQHUDO

\$*

&RPLVlyQ ,QWHUDPHULFDQD GH 'HUHFKR, V++XPDQRV

&RPLWp GH 'HUHFKRV +XPDQRV

&'+

&RPLWp GH 'HUHFKRV (FRQyPLFRV 6RF&B D H W & XOWXUDOI

&RPLWp SDUD OD (OLPLQDFLyQ GH WRG&R PL W F & L PL Q D F Ly Q

&RQYHQFLyQ \$PHULFDQD VREUH 'HUHFKR, V++XPDQRV

&RUWH ,QWHUDPHULFDQD GH 'HUHFKRV +XPDQ, R V

&RUWH 6XSUHPD GH)LVFDODQGLD

&6)

'HUHF+KRV D Q R V

''++

-XQWD GH 3RVWXODFLyQ GH)LVFDODQGLD XQWD

2SLQLyQ &RQVXOWLYD

2&

2UJDQL]DFLyQ GH ODV 1DFLRQHV 8QLGD 2M 8

5HS~EOLFD GH)LVFDODQGLD

)LVFDODQGLD (VWD

6LVWHPD ,QWHUDPHULFDQR GH 'HUHFKR, V++XPDQRV

7ULEXQDO (XURSHR GH 'HUHFKRV +XPDQ, R V

L & DUWD 'HPRFUIWLFD , QWHUDPHULFDQD Pág. 35.

LL&RQYHQFLyQ , QWHUDPHULFDQD FRQWUD OD &RUUXSFLyQ

LL&XPEUH GH ODV \$PpULFDV &RPSURPLVR GH /LPD VREUH

OD FRUUXSFLyQ Pág. 22.

218

L \$* 'HFODUDFLyQ VREUH OD 3URPRFLyQ \ 3URWHFFFLyQ GH

LL'LUHFWULFHV VREUH OD '2&QFLyQ À GH 'ORV)LVFDOHV

LL&DV%RDHQD 5LFDUGR \ RWURV 9V 3DQDPi 6HQWHQFLD

Pág. 29.

LY&DV%RiPDFD[V9HXO] 9V *XGHWPHDQFLD GH)RQG&RV5MSDUD

Pág. 31.

Y &DV&RDVWDxHGD *XWPDQ 9V (VWDGROW8QIEGBVGOH([FBS

3UHOLPLQDUHV)RQGR 5HSDUDFLRQHV \ &RVWDV

YL&DV&RDVWLOOR 3HWUX]]L6HQRWHUCRFLD9VGBH)BQGR 5HSDUD

Pág. 33.

YL&DV&RKRFUyQ &KRFUyQ 9V 9HQH]XHOD 6HQWHQFLD GH

5HSDUDFLRQHV \ &RV25/29)34. Págs.

YLL&DV&RDXGH 5H\HV \ RWURV 9V &KLOH 6HQWHQFLD G

Págs. 29/43.

L[&DV&R OLQG UHV 6FKRQHQE6HUWHWQ(DD6B0Y)BQBIR 5HSDU

Págs. 30/35.

[&DV&R RPXQLGDG &DPSHVLQD GH 6DQWD %iUEDUD 9V

5HSDUDFLRQHV \ &RV20)DV Pág.

[L &DVR GH OD &RPXQLG6XGLQREPHDWBQFLD ([FHSFLRQHV :

)RQGR UHSDUDFLRQHV \ &RVWDV Pág. 19.

[LL&DVR GH OD &RUWH 6XSUHPD GH -XVWLFLD6HQXLIQVFLDQD

GH ([FHSFLyQ 3UHOLPLQDU)RQGR 5HSDUDFLRQHV \ &R

[LL&DVR 'XUDQG \ 8JDUWH 9V 3HU~ 6HQWHQFLD GH)RQGF

[LY&DVR)DLUpQ *DUEL \ 6ROtV &RQWBQFMD9GH+)RQGXRUDV

20.

[Y & DVR)ORU)UHLUBHQWHQFDGRGH ([FHSFLyQ 3UHOLPLQD
&RVWDV Pág. 25.

[YL&DVR *HQLH /DFD\R 9V 1LFDUDJXD 6HQWHQFLD GH
Pág. 19.

[YL&DVR *RQ]iOH] \ RWUDV &DPSR \$OJRGRQHUR 9V OF

YL&DFLXQD 3ROtWLFD ,QWHJUDO GH 3URWHFFLyQ D 3H

2(\$ 6HU / 9 ,, 'RF s.27/28. Pág

2 @P ì«Ñ 4]HñB/ FLD @ A00 Du uPP ` VF

LLÆVHUYDFLyQ *HQHUDO 1f (O 'HUHFKR D XQ -XLFLR
7ULEXQDOHGH\ -&RWWFIVD Pág. 44.

&216(-2 '')+ +

L ,QIRUPH GHO 5HODWRQJ (MSHCFE D QFDLLEWUSQBRVD GRV
/HDQGUR 'HVSRX\ 4. Págs. 33/4

LL,QIRUPH GH OD 5HODW, QGBS (WSEHFOEDWBESEHOD GRV
*DEULHOD .QDXOPágs.27/34.

LLQIRUPH GH OD 5HODW, QGBS (WSEHFOEDWBESEHOD GRV
*DEULHOD .QDXO Pág. 27.

3. HECHOS

/D 5HS~EOLFD GH)LVFDODQGLD HV XQ (VWDGR DPHULF
 ORV SULQFLSLRV GH VHSDUDFLyQ GH SRGHUHV LQGHSHQG
 VHQWLGR KD UDWLILFDGR QXPHURVRV LQVWUXPHQWRV LQV
 OD FRUUXSFLyQ

)LVFDODQGLD HVWi HVWUXFWXUDGD HQ ORV SRGHUHV (
 3RGHU (MHFXWLYR HVWi HQFDEHJDGR SRU HO 3UHVLGHQWH
 GHO 3DUWQR (V(OR3RGHU -XGLFLDO HVWi LQWHJUDGR SRU
 -XJJDGRV GH SULPHUD LQVWDQFLD /D &6) QR VyOR HMFUHF
 VLQR WDPFLpQ GLVFLSOLQDULDV HQ WDQWR VH HQFDUJD
 \$GHPWV SUHVLGHQWH ÈQJHO /RER TXLHQ WLHQH OD IDFXO
 KD VLGR GHXQFLDGR SRU PDQLSXODU VX FRPSRVFLyQ H
 GHXQFLDV KDQ VLGR DUFKLYDGDV 3RU RWUR ODGR HO 3
 HQWUH ORV TXH VH HQFXHQWUD OD)LVFDOD *HQHUDO e
 HOHJLGR D SRU HO 3UHVLGHQWH WUDV DQDOLJDU XQD WHU

(O VH SXEOLFDyQ 3017\$ &RUUHRV' GRQG
 FRQYHUVDFLRQHV HQWUH XQ DVHVRU SUHVLGHQFLDO \ PLH
 &XHQWDV RWUR yUJDQR GHO 3RGHU &RQWUDORU 6HJ~Q OD
 HO DVHVRU QXPHURV VH OHFFLRQDGDV 7LHPSR GHVSXpV
 3UHVLGHQWH \ H[DOFDQGH GH OD FDSLWDO %HUHQD IXH L
 FHOHEUDGRV FRQ XQD HPSUHVD SULYDGD 6LQYDGR BUJR H
 &RPR FRQVHFXHQFLD OD)LVFDOD *HQHUDO ODJGDQHQD

OD FUHDFLyQ GH XQD -XQWD SDUD OD HOHFFLyQ GH XQ QXH

\ D O D O X] G H O D M X D L R ' S U X H G X O V I R Q P Q D X H U B G D J R W D G R V
S U R Q X Q F L D P L H Q W R G H O D & , ' + V R E U H O D D G P L V L E L O L G D G
S U H O L P L Q D U S O D Q W H D G D S R U) L V F D O D Q G L D

...&

GLFWDURQ VHQWHQFLD VREUH HOI XHEXQV B DG/HPXQ PFDDJ ISVHW
SDWLFHSDXUBQRFHGLPLHQWR G VWHF³FORVMJHOFV RUVRV LQWHQW
VXSXHVWDV YtFWLPDV QR HUDQ FDSDFHV GH SURGXFLU HO
HVWDEDQ FRQGHQDGRV DO IUDFDVR FRPR HQ OD SUIFWLFD
(Q)LVFDODQGLD ED 86) yHU DORHGR FDUJDGR GH DSOLFD
VDQFLRQH V GH VXVSHQVlyQ \G B LQWMLDQXFLDyQOLKHEWLEDCM
SURFHGLPLHQWR GLVFLSOLQDULR GH FBQVODRQEXM VHG 00H
7ULEXQDOH SGRFHVROLSFDQERtD T&H) OELPDDLQYHVWLJDFI
VHD WDPELpQ OD FXB G VGHVHGFLDQ tXOMFDULRV X S(RWHQFLD
FRQVHFHXHQLD 0DULLPQR F5 G HGDIERHWDHUORIV UHFxUVRV LQW
HOUWtFXOR GH OD &\$'+ VGDGLBGRH VHWiQGDUHV GHO 6,'+
)LVFDODQGLD UHFxUVR DOJXQR TXH SXGLHUD LQWHQWDU T

5. CUESTIONES DE FONDO

\$ (/ &217(;72 '(&25583&,i)1,6(8\$/\$1', \$

/D FRUUXSFLyQ HV XQ IHQyPHQR TXH GHELOLWD ODV
FRQILDQ]D GH OD FLXGD GIDRBUED HOO JRFVIXQDEPRQDQWBV HV
DFW~DQ FRPR DJHQVFNDCSULRULQVXSHFLyQ V SULDYDGRV VHD

&RUWH,'+ 7ULEXQDO &RQVWLWXFLRQDO 9V 3HU~ ^
\$FODUDWRULD
+HFKRV^
\$FODUDWRULD
+HFKRV^
&IU &RUWH,'+ 5DPtUH] (VFREDU \ 2WURV&9V I&RUPHVRGDH &RUUXSFI
''++ ^ 2(\$ &RPSURPLVR GH /LPD VREUH *REHUQDELOLGDG 'HPRF
^
&IU &,'&IRUPH VREUH &RUUXSFLyQ2(\$'+&RQYHQFLyQ ,QWHUDPHULFDQD
SUIPEXOR

VX IXQFLyQ SRU SDUWH GH yUJDQRV DMHQRV WOUBRGQDO-XV
TXH HMFHFHQ IXQFLRQH GH &RUWUHLyQURDDSEQDMLFQDPHQW
(VWDGRV HVWiq REQDDGSRVUDHQFDDQVH]DQGHSHQGHQFLD G
FRQILDQ]D QR VyVR QROD XFLXIGFLDDEQHD HQ XQD VRFLHGDG

\$O VGRVWXHFHIXQGVPHQWDOHV SDUD ISO RXQH J(HVUW DGRV
GHPRFUIQVLEFRQ HVWDEOHFHUVH SURFHGLPLHQWRV HVWULFV
/D LQGSHQGHQFLD MXGLFLDO M[XLHHDXQVLDVGRVDMWXFLDy
GLVFLSOLQDQVSHMNGEFPHQVSHLSRUSLR GH QDLPDQVHYEUGK
GHVWLWYDRLGQEH SURFHGHU SRU FRQGXFWDVHFQDUDVPHQWH
FDVR GH QHJOLJHQFLD R LPSHULFLD GHEHQ H[LVWLU RWUD

3DUWLFXQDUQRQWHODWLYR D VDQFLRQH V GLVFLSOLQD
H[LJHQFLD GH PRWLYDFLyQ HV PFKR PD\RRTXWSDUFRWVY
ODV UHVROXFLRQH GH FDUiFWHU GLVFLSOLQDULR GHEHQ
FRQVWLWX\H XQD IDOWD \ HO GHVDUUROOR GH DUJXPHQW
WLHQHQ HQWLGDG VXILFDHQVQR SDUD DMXV]WDIHFQVXTKEUXQ

\$Vt EDXQXDOHGRVWLHUD XQD GHFODUDFLyQ GH HUURU M
XQ yUJDQR GH UHYLVLyQ GHEH DQDOL]DUVH OD JUDYHGDC
VDQFLyQTXH ORV IXQFLRQDULRV MXGLFLDQXHFQDREHEMQH V

&IU &RUWH,'+ 5HYHUyQ 7UXMLOOR 9V 9HQH]XHOD ^
&IU &RUWH,'+ +HUHUD 8OORD 9V &RVWD 5LFD ^
&IU &RUWH,'+ *DUDQWtDV SDUD OD ,QGHSHQGHQFLD GH ORV DV 2SHUDGRUHV
&IU &RUWH,'+ 7ULEDQDQ &RUWVWLWXFLRQ
&IU &RUWH,'+ /ySH] /RQH \ RWURV 9V +RQG XUDV ^
&IU &RUWH,'+ (GXDUGR 5LFR 9V \$UJHQWLQD ^
&IU &RUWH,'+ 4XLQWDQD &RHOOR 9V (FXDGRU ^
&IU &RUWH,'+)ORU)UHLUH 9V (FXDGRU ^
&IU

GHELGR D TXH VX GHFLVLYQ IXH UHYRFDGD PHGLDQWH XQD
VXSHU(LPS)DUWLFXODU OD PRWLYDFLYQ GH XQD GHVWLWXF
GLIHUHQFLD UD]RQDEOH GH LQWHUSUHWDFLRQHV MXUtGLFD
OD LGRQHLDGD GHO MXH] SDUD HMHUFHU VX IXQFLYQ (OOP
MXHFHV TXH DGRSWDQ SRVFLRQHV MXUtGLFDV GHELGDPI
DÀFOLDPH%LGRJMHVHJXLGRV SRU LQVPDÀRR`UVP

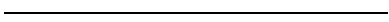
UD]RQDEOHPHQWH OOHYDWD FDDTSLSDMDYMDWJLGHQWH FRQ
QHJOLJHQWH

6XEVLGLDULDPHQWH D~Q VL PIRWLHYDMD FULDSQRVKXEV
FRQVLGDGFXMVLXQDLGQSLYRGRVFLTRQHDGDHPSUHOGVLEPHDUtD
UDWRIRHUPGHSHURGH]DU OD HVWDELOLSDHGDGRUHOXFDWLFRRD
(Q WRGR FDVR)LVFDODQGLD GHEHUtD KDEHU XWLOLJDGR
VDQFLRQDUDDR 5H[

I(B) SOBRE LA ESTABILIDAD Y AUTONOMÍA DE LOS /AS FISCALES

/D HVWDELOLGDG GH ORV DV MXHFHV]DV UHVXOWD WDF
GHVHPShxDQ XQ SDSHO IXQGDPHQWDOCHVQDUHQODFFHGRV VDXVD
LQYHVWLJDFLYQ \ GHIHQVD GH ORVDTXFDXGDENDQWR GV SX
LQWHUQDV \ H[WHUQDV FRQ UHVSRBWHODRODWDGDELDWDFGHV
PLQDU OD FUGLELOLGDG GH OD DXWRULGDG ILVFDO \ VRF
MXVWLFLD

I3RU RWUR ODGR HQ WDQWR RSHUDGRUHV



(Q HVWH VCHWMLGRO HV TXH VURQS VHSVDFLDQY B MWLJDU FD
FRUUXSFEHQ UHFLELU SURWHFFelyQHSEHUJSDUDQWLGBO (HOWBQ
IXQFLyQ VLQ LQWLPLGDFLyQ KRVWLBDP[PEHQWLR ORD V QFMDXUHD
SURPXHYHQ DIHFWDQ SDQGLLOODV JUXSRV GHOLQFXHQFLD
HPSUHVDULDQHV R DJHQWHV HVWDWDOHV HQWUH RWURV

(V QHFHVDULR TXH ORV WUDVODGRLDGRVSHOXDGRUBH M
UHDOLJDGRV FRQ EDVH D FULWHULRV S~EOLFRV \ REMHWLY
\D TXHH OR FRQVWHD DPHGUHQWDPLHQWR DFWXGHSURFWRRE
OD DWHQFLyQ GHELGD SDUD HO HQMXLFLDPLHQWR GH IXQ
HVSHFLDOPHQWH OLJDGRV D OD FRUUXSFLyQ

),6&\$/\$1', \$ 98/1(\$ (67\$%,/, '\$' < \$0E\$120\$*'\$/ (1\$ (6&2%\$5

ODJGDOHQDKDVERREBQJDGR D LQYHVWLJDU SUHVXQWRV
LQYROXFUDEDQ LQGLUHFWDPHQWH DO 3UHVVLGHQWH 2EUHJY
OD -XQWD SDUD QRPEUDU D 6LQEQHQYQR)UXFDORURQBBBQW
UHPRYHCB UHVVLGHQWH QRPEUY D XQD QXHYD SHUVRQD HQ
IXQFLRQHTXH IIFWLFDPHQWHO BRQYVBLQDX\y DHOQMDHOQB
IXH WUDVODGDGD DO GLVWULWR GH ORUHQD FDUDFWHUL
SDQGLDQVAVBJGDQBHD GHQXQFLDGR DFWRV GH KRVWLJDP
TXLHQ UHVXOWy ILQDOPHQWH HOHJLGR)LVFDO *HQHUDO 3

&IU &,'+ ,QIREUPH OD 6LWXDFLyQ GH 'HIHQVRUDV HV GH ''++ ^

VXIVWDELOLGDG HQ HO FDUJR

3RU ~~SDWVH~~)LVFD~~QDQGLG~~HIQMDyDQWH OD &,'+ TXH HC
KDEHU DJRWDGR ODV YtFWL~~SDV~~-~~HV~~ODD ~~DFJLLy~~QD~~G~~Hy~~QXQLVFDG~~
H~~S~~URFHVR F~~DCW~~HQ~~ELV~~~~R~~V~~D~~WL~~DR~~H~~Q~~~~W~~~~S~~H~~R~~H~~G~~FFV~~R~~QDU GH OD
S~EO~~L6FLQ~~ HPE~~HQ~~~~S~~~~D~~ODE~~SURV~~~~S~~QH OD

SURFHVR WUDQVFXUOLQXDYRDLWD DO DGTXLHUD HO FDUJR

DQWHGLFKRV HQ SDULWLRQDWRXSRUTXSRVLELOLGDG GH UH

LQGSHQGHQFLD MXGLFLDO HQ FRQMXQFLyQ FRQ HO GHUH
LJXDOGDG D XQ FDUJR S~EOLFR

(O GHUDEFKRGHU D FDUJRV S~EOLFRV HQ FRQGLFLRQHVV
SDUWLFLSDFLyQ FLXGDGD L FSHVDFLW LGHOGHSHOQ FHWQGR
GLVPLQXD GSRVLELOLGDG GH TXH VXV DJHQWSEVWUUDQ
HO DFFHVR FRPR OD SUJRPD GFRPRVYRNVLJQDFLyQ \ QRPEU
LQFQRH DGHPiV OR UHODWLYR D ORV SURFHGLPLHQWRV C

3RU RWUR ODGR OD HSVWQFESDRUGHOD BXDO GFRGHOR GL
DO (VWDGR D JHQHUDU FRSHGLFLRQHGWYSWIDODWWWUDFLyQ J
YXOQHUBELMLVGDG LFDPHQWH H[FOXLRV FRPR ODV PXMHUH

),6&\$/\$1', \$ 9,2/'(5/(&+2\$\$&&'(5 < 3(50\$1((&(&\$5*26 30%/,&26 (1 &21', &,21(6 '(
,*8\$/'\$' (1 3(5-82&(/\$6 9E&7,0\$6

ODULFUX] \ 6DQGUD YLHURQ YXOQHUGR VX GHUHFKR D
GH LJXDOGDG DO QRKQDSGLGRHODVJGDU OD WHUQD ILO
HO SULPHU \ VHJXQGR OXJWUWHGFRVHQHRSXBYDQWDFLyQ
GH FRQRFLPLHQWRV \ KDEHUUDRSUBVRYDPHQWBSXQWRD
DQWHFHGHQWHUDUBRHODD FRQWLQDOPHQWH FRQIRUPDGD

UHVXOWDGRV REMHWLYRV IXHURQ QRWORE OTHPH QW EHG HQIFLU
LUUHJXODULGDGHV GHO SURFHVR

\$ VX YHJ ODYIGD OYKOD HUDGR VX GHUHFKR D SHUPDQH
FRQGLFLRQHV GH LJXDOGDG DO KDEHDQVLEHY HQE HOD VSU FFD
GH)LVFDO *HQHUDO \ WUBRQWLDQXGD DXHLIQFMRW LGHD FLRQ U
GH FRUUXSFLyQ TXH LQYROXFUDEDQ DO LDFSWDGDO QPKMLHUHQV
OOHJDU DORFRVDFU DJRV FRPR RSHUDGRUDV GH MXVWFLFD
)LVFDODQGLD~ BRSHUSHWXDQGR ODV WUDEDV D XQD HIHFWL
HQ SXHVWRV GH SRGHU \ GH FRQGXFFLyQ SROtWLFD GHO (V

3RU VX SDUWH ODULDQR 5H[IXH 3RHP RYL WRD GMRV XH ODC
DQWHULRUPHQWH UHDOLJDGR UHVSHFLWR FRY WDLPEXGQ HVD
DSOLFDEOH D ORV GHUHFKR V GH ODU&R 5H[FRQIRUPH H

D. FISCALANDIA VIOLÓ EL ARTÍCULO 24 DE LA CADH EN RELACIÓN CON EL 1.1 EN PERJUICIO

DE MAGDALENA ESCOBAR, MARICRUZ HINOJOSA Y SANDRA DEL MASTRO

, 62%5(('(5(&+2 \$ /\$, *8\$/'\$' < /\$ 12 ',6&5,0,1\$&,İ1

/D &RUWH,'+ KD VHxDODGR TXH HO SULQFLSLR GH LJX
FDUIFWHU IXQGDPHQWDO 'SDUD DOWRDEQDHO DGHULFKRI IORWH
HO LQWHUR'³VREUH pO GHVFDQVD WRGR HO DQGDPDMDH
LQWHUQRQDOWHFWGDSULEDFSL ROD LJXDOGDG SURRUPHO
GLIHUHQFLDV GH WDLPEXODUDDERWDEOHVGDG GHOQSRGHU (M

\$FODUDWRULD
&RUWH,'+ <DWDPD 9V 1LFDUDJXD ^
&RUWH,'+ 2SLQLyQ &RQXOWLYD 2&
&IU &,'+ &RPSHQGLRQEDG O1R 'LVFULPLQDFLyQ ^

OD LJXDOGDG HQWUH KRPEUHV WFXNDWUDHSHULSDWGHG O
TXH EXVFD SURWHJHU D SHUVRQDV TXH KLVWYULFDPHQWH
GHUMFRRR ODV PXMHUHV D WUDYpV GH OD DGRSFLYQ GH P

!

HMHUFLFLR GH VXV GHUHFKRSRIOGVFLXFOO TXWVDCGLWIFWIDP GQIDF
SXHGH VHU GLUHFWD R LQGLUHFWD H[LVWLHQGR HVWD ~O
VX DSOLFDFLyQ UHV(XVWFHSEBQIRP ODDWFXULDUHV FX\D SUH
GH UHVSQRQVDELOLGDG HV HVFDVD HVWiq HQ VLWXDFLyQ
DSOLFDFLyQ SDUXIQWDRWQVHQHFJDOWR SØHGH SHUSHWXDU
GHVL@YBÄgRE €%•E

GHPRFUDFLD (V SRU HOOR TXH LQYROXFUDU D HVD PXM
LPSUHVFLQGLEOH SDUD FRQVROLGDU OD GHPRFUDFLD SDUV

(Q FRQVHFHXHQFLD D UGHEJHEDK PHSQV' MXVWLILFDU XQD
EDVDGD ~QLFDPHQW H VSO FHLV D B HQM y QFRVJ BQHURQ GR XQB
FDWHJRUD VRVSHFKRVD GH VLFVGRDFLy Q QH VWLD VOXGHOF
WUDWD GH XQD SUIFWLFD KLVWYULFD GH GLVFULPLQDFLyQ
UDFLR ODOMXULVSHU XGLYQHULRV VLVWHPDV GHHQ SURV B FFT y Q
GLVFULPLQDFLyQ VH SUHVXPH LQYLFVWUHQV S RQD M BGR D
GHPRVWUDU TXH VX GHFLVLYQ QR WHQtD SURSyVLWR GLVFU

3RU HOOR FXDOTXLHU GDWU Q EYLYQ P QWIR FXG SLGRPXK
OD SUHVHQFLD HTXLOLEUDGD GH KRPEUHV \ DXOD UKRV D V M
DGRSWDU PHGLGDV SRVLWLYDV TXH FRPEDWDQ OD VXEUS

(VWR FREUD YLWDO UHOHYDQGLD MIXVDWUHDULEVSHFRSK
VHOHFFLyQ \ QRPEUDPLHQWR GH ILVFDQHV (Q H V W DL Q Q H D
VHJ~Q ORV PpULWRFD S V S L H U L R W D O M V Q R H W D P E L p Q H O D V H J
GH RSRUWXQLGD GH V W D U TXH O D V D X W R U L G D G H V W H H E D V H

&IU 218 'HFODUDFLyQ \ 3ODWDIRUPD GH \$FFLyQ GH %HLMLQJ ^
&IU,'+ 3DUWLFLSDFLyQ 3ROtWLFD GH ODV OXMUHV HQ ODV \$PpULFDV
&IU &,0DUtD (XJQLD 0RUDOHV GH 6LHUUD 9V *XDWHPDOD
&IU 8SULPQ&iQFKHJL(H`°0

GHEH JDUDQWL]DU TXH ORV JUXSRV LQVXILFLHQ(QHPVHQMWH U
 DVSHHQRFDVWVULGMQDOHV HYDOXDGRUHV GH FDQGLGDWRV
 KRPEVHVKD GHVWDFSDGRJUMR GH ODV PXMHUHV KD VLGR O
 KRPEUHV TXH HVWiQ HQ SXHVWRV GH GHFLVLyQ FRQRFHQ
 ODV FXDOLGDGHV \ KDELOLGDGHV GH ODV PXMHVHVDVHQ S
 SDUWLFLSDFLy(QVWHPWQHQGHQFLD D PDQLSXODU OD HOHFFL
 GLVFDVWFLD DV DUUDLJDGDV HQ ORV yUJDQRV GH VHOHFFLy
 GH FRUUXSFLyQ

),6&\$/\$1', \$ 9,2//i'(5(&+2 \$\$,*8\$/'\$' < 12&560,1\$&,i1 0\$5,&58±,12-26\$ <
6\$1'5\$ '(0\$6752

(O (VWDGR QR IDYRUHFLy HOODEV FIVGt G H HQPEUDDVOPXMHC
 UHJLyQ H[LVWHQ FXRWDV GH JpQHUR WHQGLHQWHV DO
 \$UJHQWLQD %ROLYLVDFD@BQGKDDWLHQH XQ ~QLFR SUR\HFV
 SRU HO DQGLRGT@FLDFWXDOPHQWH HO SRUFFHQWUDPHHGMHS
 LQIHULRU \$VLPLVLaB ORV @0T êSÀ \$N e00#ÓTU`0Ru

0iV D~Q)LVFDODQGLD WDPSRFR DSOLFy PHGLGDV SRV

OD GLVWLQFLyQ HIHFWXDGD HQWUH ODV YtFWLDPDV \ ORV
UD]RQDEOH SURSRUFLRQDGR \ DMHQR DO KHFKR GH TXH V

),6&\$/\$1', \$ 9,2/; *8\$/'\$' (1 /26 &\$6*1 3(5-8, &(20\$*'\$/ (1\$(6&2%\$

(O (VWDGR QR FRQVLGHUy OD LPSRUWDQFLD GH TXH OD
)LVFDO *HQHWDQWR XQD PXMHU HV LQGXDGOHPHQWH O
PiV DOWR FDUJR GH OD)LVFDOtD HQ HO FRQWH[WR GH XQ (Y
LQYLVLLELOLJD ODV QHFHVLGDGHV GH ODV PXMHUHV \$XQTX
3IRUPDOPHQWH GHVWLWXLGD' ORV KHFKRV GHPXHVWUDQ T
D XQ QXHYR RFXSDQWH GH VX SURSRUFLRQDGR GHVWLWXF

\$ VX YH])LVFDODQGLD MXVWLILFy HO OODPDGR D OD
SHUPDQHQWH \D TXH HO GH ODJGDOD HQHWDQWR QVLGHU
FDUJR TXH VH YLR LPSHGLGR GH FXPSOLU VX PDQGDWR R
QLQJXQD -XQWD SDUD UHHPsOD]DU ORV RWURV PDQGDWRV

DxRV SDUD TXH YHQFLHUD OD (GHWLJQDFWUD OD FOLYD
XWLOL]DFLyQ GHO KDVKWDJ 3 %<(0\$*'\$/ (1\$' SRU SDUWH GH
HO YHUGDGHUR REMHWLYR SXQW GDOPH GFLGRUD WUHPARDYUH
PXMHU TXH DGHPDFWLYGHWERDEsFLyQ TXHDSR \$DEOHGHRQA
SURSLR 3UHVLGHQWH

" @ € ° 0

E. FISCALANDIA VIOLÓ EL ARTÍCULO 13 DE LA CADH EN RELACIÓN CON EL 1.1 EN PERJUICIO
DE MARICRUZ HINOJOSA Y SANDRA DEL M

D~Q HQ FDVR GH GXGD R YDFYORR OMHJDSO UPLFXNDVXWVWUWU(UFDV
HVWULFWWDEHEWVHYHUW XG GHGHS WUDQVSSRUHQ FVWV DGRV LGHDE
SURSRUFLRQDU OD Pi[LPD FDQWLGDG SRVLEOBHSHWPDQIRU
RILFLRNDVSHFLDOPHQWH FXDQGR VH WUDWD GH LQIRUPDF
RSHUDDGVBHMXVWVLEFLWR HQ HO FXDO HV HVHQFLDO TXH O
DXWRULGDGSDVWVWLFXODU GHELGR DO DBODFHQWDDOOKXKDFX
FRUUXSFLyQ OD WUDQVSDUHQFLD DGP`Wš@0

XQ VX VHFUHW R HYLGHQFLD D~Q Piv TXH)LVFDODQGLD
 GHWUiv GH OD VHOHFFLyQ ILQDO GH O)LVFDO *HQHUDO
 /D OLEHUWDG GH H[SUHVLyG LGHH FVYLRFDQGE B DDQGDUEH UX
 ~QLFDV TXH QR W XFLHSDNED HM SDFMR DU ODV UD]RQH V GH VX S
 SRU ORV FXDOHV GHEFRUQV DQG VHU D QFH J DGDH V QWD YLROy OD
 WLHR SRU HJXQWDV SUHHVWDEOHLGODVLEBQ B DVFVRQRV UDHP D D
 TXH VH SUHVHQWDURQ \ TXH ORJUDURQ REWHQH UDHOODPHMR
 WRWDOLGDG GH O FRDHHFWLWR R B BHOUDR B WJXQGR R B VWDFXOR
 VXV UHFODPRV D XQ OXJDU GH SUH(SRQXGHU DWQRGR HQ VOF UD
 LGHD GH TXH OD HOHFFLyQ GHILQDVLQGLRGRGHG H LGD V W L
 FDQGLGDSV D VWHQGLYV D Q V H Q B B B OD FODVH SROtWLF D G F

6. PETITORIO

3RU WRGRVHQ R V R D W J X P U H S L G R V H Q W D V F D y Q V R O L F L W D U H
 &RUWH,'+ TXH GHFODUH OD UHVSQRQVDEYLORLOD V D L Q W H M Q B V L
 F HQ UHODFLyQ FRQ ORV DUWtFXORV \ DGMtFXORV+
 F \ HQ UHODFLyQ FRQ HO DUWtFXOR GH OD &
 DUWtFXORV F \ HQ UHODFLyQ FRQ HO DUWtFXO
 +LQRMRVD \ 6DQGDUD GH O ODVWUR

\$FODUDWRULD
 +HFKRV^
 +HFKRV^

'H FRQIRUPLGDG FRQ HO DUWtFXOR GH OD &\$'+ W
LQWHUQDFLRQDO TXH KD\D SURGXFLGR XQ3 ~~RU xR DQVCR~~ OHHV
UHSUHVHQWD ~~FMV~~ ~~SHW~~ ~~R~~ ~~Q~~ ~~V~~ ~~D~~ ~~P~~ ~~W~~ ~~D~~ WH TXH OD &RUWH,'+ GLFWH C
&RPR ~~PL~~GD GH JDUDQWtD)LVFDODQGLD GHEH OOHYDU
PDQHUD D GC00VP

EpbD DØ L S



MXHFH ~~DVXQD~~ LQVWDQFLD UHYLVRUD HQ ORV SURFHVRV
 HIHFWLYRV TXH JDUDQWLFHQ OD WUDQVSDUHQFLD \ SX
 FRPR DTXHOORV TXH SHUPLWDQ HO ~~HYQDXWLQDRJGR~~ VO
 UpJLPHQ GH UHQGLFLyQ GH FXHQWDV GH VXV LQWHJUD
 HIHFWLYRV TXH JDUDQWLFHQ OD LJXDOGDG GH RSRUW
 SHUPDQHQFLD D DOWRV FDUJRV ~~HQDORVLODWHSDRGHD~~
 FDSDFLWDFLyQ D IXQFLRQDULRV ~~SPVMOHLERV MREDUWORD~~ LF
 MXVWLFLD

3RU ~OWLPR HQ PDWHULD GH ~~LQGHPSOLJDELQDQD~~ ~~QD~~
 RFDVLRQDGR+ ~~DQRMLFDQXHO~~ 0DVWUR FRQ 86' GyOD
 HQ HTXLGDG ~~SDEUDHSDGDXR~~ DLQPDW ~~DULGDQDFQDLRVQFRE~~
 FRQ 86' GyODUHV GLH] PLO HQ HTXLGDG PIV 86'
 HQ FRQFHWR GH GDxR PDWHULD ~~SRHSDDDUHLQVGRR~~
 RFDVLRQDGR D 0DULDQR 5H[FRQ 86' GyODUHV C
 GyODUHV FLQFXHQWD PLO HQ FRQFHWR GH GDx