

Reporters Without Borders

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Americas - Ecuador

Convicted for its opinion Magazine fined 80,000 dollars for "electioneering" before referendum

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The electoral disputes tribunal imposed a fine of \$80,000 on the opposition magazine *Vistazo* on 26 September for an editorial it published on 6 May last year. Headlined "A definite no", the article gave an unfavourable response to four questions, of which two concerned the media, among 10 posed in a referendum held the next day. The tribunal considered the editorial to be electioneering in favour of a "no" vote, in breach of publication and broadcasting embargoes during an election campaign.

"Would a 'yes' stance have averted a conviction?" asked Reporters Without Borders. "In a statement responding to the penalty, *Vistazo* asked why the daily *El Telegrafo* had not been similarly found guilty for publishing a column on 6 May headlined '10 times yes'.

"The question must be asked. If the conviction is really about a breach of the 48-hour embargo that applies before a vote, then all media outlets should be penalised in the same way. Clearly such an outcome would not be desirable and we believe that such a publication ban should be enforced only on the day of the ballot.

"Yet the decision to apply it to just one outlet is an indication that the publication was in reality judged on its editorial viewpoint. This is a setback for media pluralism and sets a bad precedent in the run-up to the presidential election on 17 February next year."

After the May referendum, President Rafael Correa personally complained about the tone of the article and called for sanctions against *Vistazo*. Five organizations and social movements close to the government then took legal action against the magazine for breaking the 48-hour publication embargo in force before a vote.

Then on 12 December last year, Judge Ximena Endara threw out the case, ruling that the editorial was not propaganda. This decision by the former head of the electoral disputes tribunal angered the government.

The tribunal's judges reached a contrary verdict on appeal, drawing fierce criticism from *Vistazo*, which deplored the delay in reaching it and the fact that it was issued after structural changes were made to the tribunal.

Reporters Without Borders notes that the verdict, which restricts the ability of media organizations and newspapers to fulfil their role of opinion makers, could become the norm since reforms to the country's democracy code were introduced in February this year.

One of the new clauses requires media organizations to "abstain from directly or indirectly conducting any promotion, whether through reports, special pages or any other type of message, that might have an impact for or against a particular candidate, philosophy, opinion, electoral preference or political theory"
