

**REPORTS OF INTERNATIONAL  
ARBITRAL AWARDS**

---

**RECUEIL DES SENTENCES  
ARBITRALES**

**Bovallins and Hedlund Cases**

1903

VOLUME X pp. 768-770



NATIONS UNIES - UNITED NATIONS  
Copyright (c) 2006

In case of the commission of a crime in the territory of a State the State is bound, without being requested, to prosecute the criminals before the proper local authorities, and in case of failure of the country to prosecute the wrongdoers it will be held liable in damages to those who have suffered.

A State is responsible in damages committed by revolutionists where it subsequently appoints the participants and leaders of the revolution to office, thereby tacitly approving their conduct.

Where it is shown that documentary evidence can not be produced, the statements of witnesses will be accepted.

GAYTÁN DE AYALA, *Umpire*:

The writer, umpire of the Mixed Swedish and Norwegian Claims Commission, organized at Caracas by virtue of the protocol signed at Washington by the representatives of the two interested nations on March 10, 1903,

Requested by the commissioners of Sweden and Norway and Venezuela to render the award which equity and justice require concerning the claims of the Swedish and Norwegian subjects, Carl Bovallins, Henry Hedlund, and Edwin Bovallins, for the amounts and because of the reasons hereinafter expressed.

Carl Bovallins:	
For cash and articles paid for by him . . . . .	£875
For injuries . . . . .	10,000
	<hr/>
	10,875
Henry Hedlund:	
For clothes, jewels, papers, etc . . . . .	£130
For imprisonment and injuries . . . . .	10,000
	<hr/>
	10,130
Edwin Bovallins:	
For personal property, cash, and effects . . . . .	£351 10s
For personal suffering . . . . .	10,000
	<hr/>
	10,351 10s

Having examined the documents produced to prove the validity and amount of these claims;

Having considered the arguments presented by the commissioners of Sweden and Norway and Venezuela in support of the rights and obligations of their respective constituents;

Having weighed the argument presented by the agent of Venezuela and the report of the commissioner, Dr. T. A. Guzmán Alfaro; and

Considering that the forcible attack by an armed force and other facts set forth by the claimants are proved;

Considering that if the opinion of the agent of Venezuela that the perpetrators of the violence were wrongdoers and sharpers be accepted, it would follow that the obligation of prosecuting and punishing the criminals rested on the competent local authorities, without its being necessary that any request be made by the injured parties for that purpose;<sup>1</sup>

Considering that at the time when the acts complained of were committed, and since then, the delinquents have not been chastised or prosecuted, but, on the contrary, their principal leaders have occupied for some time official

<sup>1</sup> See Poggioli case, *supra*, p. 669.

positions, having been appointed by the present Government of Venezuela, and that they are cloaked with authority in the very region where the events took place;

Considering that this circumstance is sufficient in itself to show that the claimants have not been able to address themselves to the local authorities for the purpose of taking the testimony necessary to legally prove the damages and injuries suffered;

Considering that during the greater part of the time elapsed since the outrages occurred until to-day the region where they transpired has remained in a state of war;

Considering that all the acts perpetrated by the authors of the sackage, of which the Orinoco Shipping and Trading Company was the victim, induce one to characterize the bands of armed men in question as revolutionists;

Considering that the Government of Venezuela, by conferring various public offices in the government of the country upon the principals of the said revolutionary forces, tacitly approves their conduct, and according to the principles recognized by public law makes itself responsible for all the acts done by them;

Considering that the persons who assaulted the offices of said Orinoco Shipping and Trading Company, burned and destroyed all the books and documents belonging to the same and to its employees, depriving the latter of the means of producing written detailed proofs of the damages and injuries suffered;

Considering that the claimants have presented the only ones which they could obtain and that they concur in their respective statements sworn to before the competent consular authorities;

Considering that the agent of said company in that region, Carl Bovallins, was absent from Venezuela when the outrages complained of occurred, and that therefore he has no right to the indemnity with respect to the damages like those suffered by his brother, Edwin Bovallins, and by Henry Hedlund, which he demands in his complaint;

By reason of everything stated, and in the name of equity and justice, the umpire decides:

That the Government of Venezuela should pay —	
To Carl Bovallins for loss of cash and personal effects . . . . .	£200
To Henry Hedlund for loss of money, clothes, jewels, and private documents . . . . .	£130
For eight days in prison, for sickness contracted thereby, and loss of time . . . . .	400
	<hr/>
	530
To Edwin Bovallins for the loss of money and personal effects . . . . .	£240
For five days in prison, bodily sufferings, and loss of employment . . . . .	400
	<hr/>
	640

NOTE. — In this commission Mr. Christian Anker, owner of the Norwegian bark *Christina*, made claim for £5,000, consisting of the following items:

For the maintenance of the captain and crew for four months during their detention . . . . .	£1,000
For the use of the ship in transporting troops during this time . . . . .	2,000
For the loss of an advantageous charter . . . . .	1,000
For damages caused to the ship during the transportation of troops . . . . .	1,000
	<hr/>
	5,000

The commissioners disagreed with reference to the allowance of interest from the date of the seizure of the vessel, but agreed in the allowance of £1,000 on the claim.

In the claim of Serine Meling, payment of 84,600 crowns was asked on account of the death of her husband, commander of the steamship *Jotun*, caused by the discharge of artillery upon the vessel at St. Felix on the 11th of June, 1902. The commissioners allowed on this claim the sum of 71,520 crowns.

The claim of the Ydun Life Insurance Company, because of the life-insurance policy which the company had paid to the widow of Captain Meling, was disallowed.

The claim of Messrs. Madsen and Jespersen, owners of the steamer *Jotun*, was for the sum of 4,379.31 crowns, on account of damages caused them by the death of Captain Meling, who commanded the ship. On this claim the sum of 1,244.61 crowns was allowed.

---