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Institution: Inter-American Commission on Human Rights
File Number(s): Report No. 33/00; Case 11.308
Title/Style of Cause: Ragnar Erland Hagelin v. Argentina
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Decided by: Chairman: Helio Bicudo;
First Vice-Chairman: Claudio Grossman;
Commissioners: Marta Altolaguirre, Robert K. Goldman, Peter Laurie, Julio Prado Vallejo
The Second Vice-Chairman of the Commission, Juan E. Mendez, of Argentine nationality, did not participate in the discussion and decision on this report in accordance with Article 19(2)(a) of the Regulations of the Commission.
Dated: 13 April 2000
Citation: Hagelin v. Argentina, Case 11.308, Inter-Am. C.H.R., Report No. 33/00, OEA/Ser.L/V/II.106, doc. 3, rev. (1999).
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I. SUMMARY

1. On June 10, 1994, Ragnar Erland Hagelin (hereinafter "the petitioner") filed a petition with the Inter-American Commission on Human Rights (hereinafter "the Commission" or the "IACHR") against the Argentine Republic (hereinafter "the State" or "Argentina") in which it denounced the violation of the following rights under the American Convention on Human Rights (hereinafter "the Convention" or the "American Convention"): the right to humane treatment (Article 5); the right to a fair trial (Article 8); and the right to property (Article 21).

2. At its 93rd regular session, the Commission adopted admissibility report 40/96, which was sent to the parties on October 21, 1996. In 1999, the Commission began to make arrangements with the petitioner and the State to reach a friendly settlement on the basis of respect for the human rights recognized in the Convention and invited the parties to decide on that possibility. On March 17, 2000, a friendly settlement agreement was signed in Buenos Aires between the parties, in the presence of the Rapporteur for Argentina, Commissioner Prof. Robert Kogod Goldman, and the Executive Secretary, Ambassador Jorge Taiana. In that agreement, the State undertook to pay compensation that it owed to Mr. Hagelin, who expressly waived his right to any other redress--whether it be before domestic courts or administrative tribunals or before another international body--related to the events that led the court to order payment of damages for pain and suffering.

3. This report on friendly settlement, pursuant to Article 49 of the Convention and Article 45(6) of the Regulations of the Commission, briefly describes the petitioner's allegations and the

friendly settlement reached. The Commission also decided to publish the friendly settlement agreement.

II. PROCESSING BY THE COMMISSION

4. On June 16, 1994, the Commission sent the relevant parts of the petition to the State in order for the State to provide information related to the case. After several transfers of information from and to the parties, on June 6, 1995 the Commission placed itself at the disposal of the parties with a view to reaching a friendly settlement. On July 10, 1995, the Commission received a reply from the petitioner in which he consented to such a settlement; for its part, the State reported on July 19, 1995 that it would not be possible to agree to that proposal. On October 16, 1996, at the 93rd regular session, the Commission approved Report 40/96 in which it declared the case to be admissible. That report was sent to the parties on October 21, 1996.

5. After several communications from the parties, the Commission, on September 27, 1999, again placed itself at the disposal of the parties to reach a friendly settlement pursuant to Article 48(1)(f) of the Convention and Article 45 of the Regulations of the Commission, and gave them 30 days to say whether they were prepared to accept such a settlement. On October 28, 1999, the State requested an extension, which, on January 11, 2000, was granted for 45 days. On February 23, 2000, the State informed the Commission of the meeting between the President of the Republic, Dr. Fernando de la Rúa, accompanied by the Minister of Foreign Affairs, International Trade, and Worship, Dr. Adalberto Rodríguez Giavarini, and Mr. Ragnar E. Hagelin on January 27, 2000, in Stockholm, Sweden. On that occasion it was announced that the State would pay the compensation it owed to Mr. Hagelin and that steps were being taken to arrive at a friendly settlement. On March 17, 2000, in Buenos Aires, during a visit by Professor Robert K. Goldman, a member of the Commission and Rapporteur for Argentina, the State and the petitioner reached agreement on the friendly settlement. On March 21, 2000, the State sent the text of the agreement to the Commission.

III. THE FACTS

6. On October 20, 1988, Ragnar Hagelin brought an action against the State in Federal District Court N° 1 of Buenos Aires, seeking compensation for damages due to the State's claim that it had no knowledge of the whereabouts of his daughter Dagmar Ingrid Hagelin, who disappeared on January 27, 1977, during the era of the dictatorship. He also sought damages for the suffering experienced by the immediate family on account of that situation. In a ruling of October 21, 1991, the Federal District Court for Administrative Matters dismissed the action. Mr. Hagelin appealed that ruling before the Third Chamber of the Federal Court of Appeals for the Federal Capital, which, on March 31, 1992, set aside the decision of the lower court and ordered the State to pay US\$ 250,000, plus interest from the day the illicit act occurred. Interest was to accrue at a rate of 6% annually until the date of payment.

7. The Federal District Court began proceedings to enforce the judgment. It decided on September 11, 1992, that the Third Chamber of the Court of Appeals had ordered payment to be made within 30 days, and that this issue was final and hence not subject to modification. The State appealed the decision before the Federal Court of Appeals in Administrative Matters. On

November 24, 1992, the Court upheld the decision of the Federal District Court. In the light of this situation, the State filed for an extraordinary legal remedy against that decision. The judge of the Federal District Court ordered the attachment of State funds. The Federal Supreme Court requested the file, thereby halting the proceeding and preventing execution of the judgment. On December 22, 1993, the Federal Supreme Court set aside the decision of March 31, 1992 issued by the Federal Court of Appeals for the Federal Capital. Once the domestic remedies had been exhausted, and within the period established under the American Convention, the petitioner filed a petition with the IACHR against the State alleging that in the proceeding to enforce the judgment his due process guarantees had been violated.

IV. FRIENDLY SETTLEMENT

8. The State and the petitioner reached an agreement, the text of which establishes that the State agreed to the Commission's proposal to place itself at the disposal of the parties with a view to reaching a friendly settlement and payment of the compensation owed to Mr. Hagelin:

FRIENDLY SETTLEMENT AGREEMENT

In the city of Buenos Aires, on the seventeenth day of the month of March, two thousand, the Government of the Argentine Republic, represented by the Special Representative for human rights at the international level, Ambassador Leandro Despouy, and by the Director General of Human Rights of the Ministry of Foreign Affairs, International Trade, and Worship, Minister Plenipotentiary Hernán Roberto Plorutti, and Mr. Ragnar Erland Hagelin, the petitioner in Case No. 11.308, which he has brought before the Inter-American Commission on Human Rights, have signed the following agreement:

1. The Argentine Government and Mr. Ragnar Erland Hagelin agree to the proposal by the Commission to place itself at the disposal of the parties with a view to reaching a friendly settlement in the case, pursuant to Article 48.1.f of the American Convention on Human Rights and Article 45, paragraphs 1 and 2, of the IACHR Regulations.
2. The Argentine Government undertakes to pay compensation for all losses relating to the unlawful imprisonment and subsequent disappearance of Dagmar Ingrid Hagelin.
3. The parties agree to fix the compensation at \$701,797.16 (seven hundred and one thousand seven hundred and ninety-seven pesos and sixteen cents), on the basis of paragraph X of the ruling in the judgment rendered by the Third Chamber of the National Court of Appeals for Administrative Matters of the Federal Capital on March 31, 1992, and taking account, as of April 1, 1991, of the rate of interest established by the decision of the Supreme Court of Justice of the Nation in its ruling of December 22, 1993, on the appeal for review of the facts and the law presented by the plaintiff in Hagelin, Ragnar Erland v. National Executive.
4. Once Mr. Ragnar Erland Hagelin is satisfied that he has received that entire sum, he shall request the Inter-American Commission on Human Rights to close his case, thereby expressly waiving any other claim for any other loss related to the same events, whether in judicial or administrative tribunals or in another international body.
9. That friendly settlement agreement was signed in Buenos Aires on March 17, 2000, by the petitioner, Mr. Ragnar Hagelin, the Special Representative for Human Rights in the International Sphere, Ambassador Leandro Despouy, and the Director of Human Rights of the

Argentine Foreign Ministry, Dr. Hernán Plorutti, during a visit to the country by Prof. Robert Kogod Goldman and Executive Secretary Jorge Taiana.

10. The Commission is pleased with this agreement and thanks the parties for their cooperation with the Commission in settling this case in accordance with the purposes and provisions of the American Convention.

11. The Commission finds it appropriate to reiterate that, in accordance with Articles 48(1)(f) and 49 of the Convention, this procedure is intended to reach "a friendly settlement of the matter on the basis of respect for the human rights recognized in this Convention." By agreeing to carry out this procedure, a State indicates that it will endeavor, in good faith, to comply with the provisions of the Convention pursuant to the principle of *pacta sunt servanda*, which binds States to honor their treaty obligations.[FN1] The Commission also wishes to reiterate that the friendly settlement procedure provided for in the American Convention allows individual cases to be concluded on a noncontentious basis and, in past cases that have involved several countries, it has proven to be an important dispute settlement mechanism that can be used by both parties (petitioners and states).[FN2]

[FN1] IACHR Report No 68/99, Case 11.709, Luis María Gotelli (junior). Argentina. Decision of May 14, 1999.

[FN2] IACHR Report No 90/99 on Friendly Settlement, Case 11.713, Indigenous Communities Enxet-Lamenxay and Kayleyphapopyet -Riachito-, Paraguay. Decision of September 29, 1999.

V. CONCLUSIONS

12. On the basis of the preceding considerations and in accordance with the procedure set forth in Articles 48(1)(f) and 49 of the American Convention, the Commission wishes to thank the parties once again for their efforts, and to express its satisfaction with the friendly settlement agreement reached in this case in accordance with the purposes and provisions of the American Convention.

13. By virtue of the considerations and conclusions set forth in this report,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,

DECIDES:

1. To approve the terms of the friendly settlement agreement signed on March 17, 2000.
2. To publish this report and include it in the IACHR report to the OAS General Assembly.

Done and signed at the headquarters of the Inter-American Commission on Human Rights, in Washington, D.C., on April 13, 2000. Signed by: Hélio Bicudo, Chairman; Claudio Grossman, First Vice Chairman; and Commissioners Marta Altolaguirre, Robert K. Goldman, Peter Laurie, and Julio Prado Vallejo.