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Institution: Inter-American Commission on Human Rights
File Number(s): Report No. 20/01; Case 11.512
Session: Hundred and Tenth Regular Session (20 February – 9 March 2001)
Title/Style of Cause: Lida Angela Rieva Rodriguez v. Ecuador
Doc. Type: Decision
Decided by: Chairman: Claudio Grossman;
First Vice-Chairman: Juan Mendez;
Second Vice-Chairman: Marta Altolaguirre;
Commissioners: Helio Bicudo, Robert K. Goldman, Peter Laurie.
Commissioner Julio Prado Vallejo, of Ecuadorian nationality, did not participate in the discussion of this case, in keeping with Article 19 of the Commission's Regulations.
Dated: 20 February 2001
Citation: Rieva Rodriguez v. Ecuador, Case 11.512, Inter-Am. C.H.R., Report No. 20/01, OEA/Ser.L/V/II.111, doc. 20, rev. (2000)
Represented by: APPLICANT: Comision Ecumenica de Derechos Humanos
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I. SUMMARY

1. On November 8, 1994, the Comisión Ecuménica de Derechos Humanos (hereinafter “CEDHU” or “the petitioner”) presented a petition to the Inter-American Commission on Human Rights (hereinafter “the Commission” or “the IACHR”) against the Republic of Ecuador (hereinafter “the State”) in which it denounced the violation of the following rights protected by the American Convention on Human Rights (hereinafter “the Convention” or “the American Convention”)--the right to personal liberty (Article 7), the right to a fair trial (Article 8), and the right to judicial protection (Article 25), all in breach of the obligations that appear in Article 1(1)--to the detriment of Mrs. Lida Angela Riera Rodríguez.

2. The parties reached a friendly settlement agreement in the present case on June 11, 1999. This report contains a brief presentation of the facts and the text of the agreement reached, in keeping with Article 49 of the Convention.

II. THE FACTS

3. Mrs. Riera was detained on January 7, 1992, allegedly for the crime of fraud (estafa). The Fifth Criminal Law Judge of Pichincha, on January 24, 1994, instituted criminal proceedings against, among others, Mrs. Riera, for complicity in fraud. The private accuser appealed that order, understanding the facts to constitute the crime of peculation (peculado). The case was

examined by the sixth chamber of the Superior Court of Quito, which considered the facts to constitute a crime peculation, in the degree of complicity, and ordered that a trial proceed.

4. The petitioner reported that under Ecuadorian law, the initial phase (sumario) in this case should have lasted 60 days, but took more than two years, and the appeal should have been ruled on in 15 days, yet more than 210 days elapsed without a judgment issuing. Due to this delay, Mrs. Riera was detained from January 1992 to July 1995.

5. The Second Criminal Court of Pichincha finally handed down a judgment in the case on June 26, 1995, pursuant to which Mrs. Riera was sentenced to two years of imprisonment as an accessory after the fact. At that time, she had already been detained for almost three years and six months. On July 11, 1995, Mrs. Riera was released, after having been detained for a period that was one year and six months longer than the penalty imposed.

III. PROCESSING BEFORE THE COMMISSION

6. After having received the complaint on November 8, 1994, and having already opened the case, on February 9, 1999, the Commission placed itself at the disposal of the parties to pursue a friendly settlement. Such a settlement was reached on June 11, 1999, with the presence of Carlos Ayala Corao, then-member of the IACHR and rapporteur for Ecuador, who traveled to Quito to facilitate the agreement. The parties asked the Commission to ratify this friendly settlement agreement in all its parts and to supervise its implementation.

IV. FRIENDLY SETTLEMENT AGREEMENT

7. The friendly settlement agreement signed by the parties reads as follows:

I. BACKGROUND

The Ecuadorian State, through the Office of the Attorney General, with a view to promoting and protecting human rights and given the great importance of the full observance of human rights at this time for the international image of our country, as the foundation of a just, dignified, democratic, and representative society, has decided to take a new course in the evolution of human rights in Ecuador.

The Office of the Attorney General has initiated conversations with all persons who have been victims of human rights violations, aimed at reaching friendly settlement agreements to provide reparations for the damages caused.

The Ecuadorian State, in strict compliance with the obligations it acquired upon signing the American Convention on Human Rights and other international human rights law instruments, is aware that any violation of an international obligation that has caused damages triggers the duty to make adequate reparations--monetary reparations and criminal punishment of the perpetrators being the most just and equitable form. Therefore the Office of the Attorney General and Mrs. Lida Angela Riera Rodríguez, acting on her own behalf, have reached a friendly settlement,

pursuant to the provisions of Articles 48(1)(f) and 49 of the American Convention on Human Rights and Article 45 of the Regulations of the Inter-American Commission on Human Rights.

II. THE PARTIES

The following persons were present at the signing of this friendly settlement agreement:

- a. Dr. Ramón Jiménez Carbo, Attorney General of the State, as indicated in his appointment and certificate of office, which are attached as qualifying documents;
- b. Mrs. Lida Angela Riera Rodríguez, bearer of citizen ID card number 170694837-7, a copy of which is also attached as a qualifying document.

III. STATE RESPONSIBILITY AND ACCEPTANCE

The Ecuadorian State acknowledges its international responsibility for having violated the human rights of Mrs. Lida Angela Riera Rodríguez, enshrined in Article 7 (personal liberty), Article 8 (a fair trial), Article 25 (judicial protection), and the general obligation set forth in Article 1(1) of the American Convention on Human Rights and other international instruments, since the violations were committed by State agents, which could not be disproved by the State, giving rise to State responsibility.

Given the above, the Ecuadorian State accepts the facts in case 11.512 before the Inter-American Commission on Human Rights and undertakes the necessary reparative steps to compensate the victims, or their successors, for the damages caused by those violations.

IV. COMPENSATION

In view of the foregoing, the Ecuadorian State, through the Attorney General, as the sole judicial representative of the Ecuadorian State, pursuant to Article 215 of the Constitution of Ecuador, enacted in Official Register N° 1 and in force since August 11, 1998, is awarding Mrs. Lida Angela Riera Rodríguez, a one-time compensatory payment of twenty thousand US dollars (US\$ 20,000), or the equivalent in local currency, calculated at the exchange rate in effect at the time the payment is made, to be paid from the National Budget.

This compensation covers the consequential damages, loss of income, and moral damages suffered by Mrs. Lida Angela Riera Rodríguez, and any other claim that Mrs. Lida Angela Riera Rodríguez or her next-of-kin may have, regarding the subject of this agreement, under domestic and international law, and is chargeable to the National Budget. To this end, the Office of the Attorney General will notify the Ministry of Finance for it to carry out this obligation within 90 days of the signing of this document.

V. PUNISHMENT OF THE PERSONS RESPONSIBLE

The Ecuadorian State pledges to bring civil and criminal proceedings against and shall seek the punishment of those persons who are alleged to have participated in the violation in the performance of State functions or under the color of public authority.

The Office of the Attorney General pledges to encourage the State Attorney General, the competent judicial organs, and public agencies or private institutions to contribute legal evidence to determine the liability of those persons. If admissible, the prosecution will be subject to the constitution and laws of the Ecuadorian State.

VI. RIGHT TO SEEK INDEMNITY

The Ecuadorian State reserves the right to seek indemnity, pursuant to Article 22 of the Constitution of the Republic of Ecuador, from those persons found responsible for human rights violations through a final and firm judgment handed down by the country's courts or when administrative liability is found, in keeping with Article 8 of the American Convention on Human Rights.

VII. TAX EXEMPTION AND DELAY IN COMPLIANCE

The payment made by the Ecuadorian State to the other party to this agreement is not subject to any current or future taxes, except for the 1% tax on capital flows.

In the event that the State is delinquent for over three months from the date the agreement is signed, it must pay interest on the amount owed, corresponding to the current bank rate of the three largest banks in Ecuador for the duration of its delinquency.

VIII. REPORTING

The Ecuadorian State, through the Office of the Attorney General, agrees to report every three months to the Inter-American Commission on Human Rights on compliance with the obligations assumed by the State in this friendly settlement agreement. In keeping with its consistent practice and obligations under the American Convention, the Inter-American Commission on Human Rights will oversee compliance with this agreement.

IX. LEGAL BASIS

The compensatory damages that the Ecuadorian State is awarding to Mrs. Lida Angela Riera Rodríguez are provided for in Articles 22 and 24 of the Constitution of the Republic of Ecuador, for violation of the constitution, other national laws, and the standards in the American Convention on Human Rights and other international human rights instruments.

This friendly settlement is entered into based on respect for the human rights enshrined in the American Convention on Human Rights and other international human rights instruments and on the policy of the Government of Ecuador to respect and protect human rights.

X. NOTIFICATION AND CONFIRMATION

Mrs. Lida Angela Riera Rodríguez expressly authorizes the Attorney General to notify the Inter-American Commission on Human Rights of this friendly settlement agreement, so that the Commission may confirm and ratify it in its entirety.

XI. ACCEPTANCE

The parties to this agreement freely and voluntarily express their conformity with and their acceptance of the content of the preceding clauses and state for the record that they hereby end the dispute before the Inter-American Commission on Human Rights on the international responsibility of the State for violating the rights of Mrs. Lida Angela Riera Rodríguez.

V. DETERMINATION OF COMPATIBILITY AND COMPLIANCE

8. The Commission determined that the friendly settlement agreement transcribed is compatible with the provisions of Article 48(1)(f) of the American Convention.

9. In April 2000, the compensation agreed upon in the friendly settlement agreement was paid, yet the interest, also provided for in the agreement, has yet to be paid. On February 27, 2001, during a working meeting, the State informed the Commission that criminal proceedings had been instituted to determine the sanctions and responsibility of the persons implicated in the violations alleged.

VI. CONCLUSIONS

10. The Commission reiterates its recognition of the Ecuadorian State for its decision to resolve this case by adopting measures of reparation, including those necessary to punish the persons responsible for the violations alleged. The IACHR also reiterates its recognition of the petitioner for accepting the terms of the agreement.

11. The IACHR shall continue to monitor implementation of the ongoing commitments assumed by Ecuador with regard to the prosecution of the persons implicated in the facts alleged, and payment of the interest owed due to the delay in payment of the compensation.

12. The IACHR ratifies that the possibility of friendly settlement provided for in the American Convention makes it possible to conclude the individual cases in a non-contentious manner, and has proven, in cases from several countries, to offer an important vehicle for solving alleged violations that can be used by both parties (petitioner and State).

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,

DECIDES:

1. To acknowledge that the State has made payment of US\$ 20,000 as compensation, and has initiated the judicial proceedings with respect to the sanction of the persons implicated in the facts alleged.

2. To urge the State to adopt the necessary measures to conclude implementation of the commitment regarding the trial of persons implicated in the facts alleged.
3. To continue to monitor and supervise compliance with each and every one of the points of the friendly settlement, and, in this context, to remind the State, through the Office of the Attorney General, of its commitment to inform the IACHR, every three months, of its compliance with the obligations assumed by the State under this friendly settlement agreement.
4. To make this report public and include it in its Annual Report to the OAS General Assembly.

Done and signed at the headquarters of the Inter-American Commission on Human Rights, in the city of Washington, D.C., February 20, 2001. (Signed): Claudio Grossman, Chairman; Juan Méndez, First Vice-Chairman; Marta Altolaguirre, Second Vice-Chairman; Commissioners Hélio Bicudo, Robert K. Goldman, and Peter Laurie.