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Institution: Inter-American Commission on Human Rights
File Number(s): Report No. 56/09; Petition 11.795
Session: Hundred Thirty-Fourth Regular Session (16 – 27 March 2009)
Title/Style of Cause: Carmen Duenas Gomez et al. v. Peru
Doc. Type: Decision to Archive
Decided by: President: Luz Patricia Mejia Guerrero;
First Vice President: Victor Abramovich;
Second Vice President: Felipe Gonzalez;
Commissioners: Sir Clare K. Roberts, Paulo Sergio Pinheiro, Florentin Melendez, Paolo Carozza.
Dated: 27 March 2009
Citation: Duenas Gomez v. Peru, Petition 11.795, Inter-Am. C.H.R., Report No. 56/09, OEA/Ser.L/V/II., doc. 51, corr. 1 (2009)
Represented by: APPLICANT: Fernando de Pierola
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ALLEGED VICTIM: Carmen Dueñas Gómez et al.

PETITIONER: Fernando de Pierola

ALLEGED VIOLATIONS: Articles 24 and 25 of the American Convention on Human Rights, taken in concordance with Article 1(1) of that international instrument

DATE OF INITIAL PROCESSING: August, 20 1996

I. POSITION OF THE PETITIONER

1. The complaint regards the 1993 privatization of the Peruvian Telephone Company (CPT). According to the petitioner, at the time Spain's Compañía Telefónica Internacional de España purchased the State-owned agency, it had promised to abide by previous agreements of Shareholders' Board, including those protecting workers from collective dismissals. The petitioner indicates that in August 1995, the company failed to recognize these agreements and dismissed 100 workers.

2. The petitioner contends that in view of this situation, the workers formed twelve groups and filed the same number of amparo actions. The petitioner contends that during the first months of 1996, four of these actions were resolved in favor of the workers, ordering that they be reinstated in their jobs. The petitioner adds that on May 24, 1997 the Constitutional Court issued decisions in five of the 12 amparo actions, which vacated all action in this regard and remanded the cases back to the judge of first instance for having erroneously subpoenaed the defendant

party. The petitioner argued that in view of the foregoing, it was not foreseeable that the lawsuits would be resolved in the short term, since the first stage of the proceeding had lasted twenty months.

II. POSITION OF THE STATE

3. In its first communication, the State asked the Commission for the names of all the alleged victims. In its second communication, the State alleged that the domestic remedies had not been exhausted, and, therefore, proceedings on the amparo actions were still pending in courts of the first instance.

III. PROCESSING BEFORE THE COMMISSION

4. The initial petition, dated July 8, 1996, was transmitted to the Peruvian State on August 20, 1996, which was asked to provide its response within a period of three months. The State's response was received on December 17, 1996, and transmitted to the petitioner on March 4, 1997, which was asked to submit any pertinent observations within a period of 45 days. On June 25, 1997, the petitioner submitted its response. On July 8, 1997, the petitioner submitted additional information. On the basis of this information, the Commission assigned the petition case No. 11.795. On August 25, 1997, this communication was transmitted to the State, which was asked to submit its response within a period of three months. On October 28, 1997, the State asked the Commission to provide it with the names of the persons included in the petition, with a view to carrying out the pertinent investigation. On November 6, 1997, the Commission asked the petitioner to provide it with the names of the other persons included in the case other than Ms. Carmen Dueñas Gómez. On December 2, 1997, a note was received from the State asking that the petition be declared inadmissible. This communication was transmitted to the petitioner on December 11, 1997, which was asked to submit its observations within a period of one month.

IV. GROUNDS FOR THE DECISION TO ARCHIVE

5. Both Article 48(b) of the American Convention on Human Rights and Article 30(6) of the Rules of Procedure of the Inter-American Commission on Human Rights establish that with regard to the processing of a petition, once the observations have been received or the period set has elapsed with no observations received, the IACHR shall verify whether the grounds for the petition exist or subsist, and, if it considers that they do not exist or subsist, it shall order the case archived.

6. This petition alleges violations of the rights enshrined in Articles 24 and 25 of the American Convention, owing to a collective dismissal on the part of a privatized company. For its part, the State argued that the amparo actions were ongoing and asked that the petition be declared inadmissible. The complaint did not specify the names of the alleged victims and the last information on the facts in the case dates back to 1997. Although the Commission asked the petitioner to name the alleged victims (by means of a communication dated November 6, 1997) and to provide supplemental information (by means of a communication dated December 11,

1997), the petitioner has yet to respond to these requests, and, consequently, there is no updated information on the facts.

7. Under these circumstances, there is not enough available information to make a determination as to whether the grounds underlying the initial petition subsist or the petition's admissibility or inadmissibility. Consequently, in accordance with Article 48(b) of the Convention and Article 30(6) of IACHR Rules of Procedure, the Commission decides to archive the petition.

Done and signed in the city of Washington, D.C., on the 27th day of the month of March, 2009.
(Signed): Luz Patricia Mejía Guerrero, President; Víctor E. Abramovich, First Vice-president; Felipe González, Second Vice-president; Sir Clare K. Roberts, Paulo Sérgio Pinheiro, Florentín Meléndez, and Paolo Carozza, members of the Commission.