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Institution: Inter-American Commission on Human Rights
File Number(s): Report No. 122/09; Petition 1116-03
Session: Hundred Thirty-Seventh Regular Session (28 October – 13 November 2009)
Title/Style of Cause: Maria Dolores Gomez v. Argentina
Doc. Type: Decision to Archive
Decided by: First Vice President: Victor Abramovich;
Commissioners: Sir Clare K. Roberts, Florentin Melendez, Paolo G. Carozza.
Dated: 12 November 2009
Citation: Dolores Gomez v. Argentina, Petition 1116-03, Inter-Am. C.H.R., Report No. 122/09, OEA/Ser.L/V/II., doc. 51, corr. 1 (2009)
Represented by: APPLICANTS: Center for Legal and Social Studies and the Center for Justice and International Law

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ALLEGED VICTIM: María Dolores Gómez

PETITIONER: Center for Legal and Social Studies (CELS) and the Center for Justice and International Law (CEJIL)

ALLEGED VIOLATIONS: The petitioner makes express reference to possible violations of articles 4(1), 5(1), 8(1) and 25(1) of the American Convention on Human Rights

PROCEEDING START DATE: September 29th, 2004

I. POSITION OF THE PETITIONER

1. On October 17th, 2003, the Inter-American Commission on Human Rights received a claim presented by the Center for Legal and Social Studies (CELS) and the Center for Justice and International Law (CEJIL), for the presumed violation of the rights to life, personal integrity, judicial guarantees as well as legal protection of María Dolores Gómez's (alleged victim), on the part of the State of Argentina.

2. In their communication, the petitioners expressed that the alleged victim, who is a public defender, whose work includes claims of torture in the Buenos Aires Provincial prison, had been threatened and was attacked by unknown assailants on March 30th, 2001. Additionally, they claim that the alleged victim received information from some of the inmates at the Rawson prison indicating that prison officials offered them favors or medicines (drugs) in exchange for harming her. Finally, the petitioners noted that two investigations were opened in 2001 related to the case, but these did not go forward, due to a lack of will on the part of the Argentine State.

II. POSITION OF THE STATE

3. The State asked the Commission to declare the petition inadmissible due to a lack of concrete evidence that the investigation or any other action undertaken was not conducted diligently and should therefore constitute a violation of rights enshrined in the American Convention on Human Rights.

III. PROCEDURE BEFORE THE IACHR

4. Before the petition was presented, the Commission had already received, on January 1st, 2001, a request for precautionary measures to be taken for the protection of Mrs. María Dolores Gómez and her family, due to threats she had received as a consequence of the claims she had made regarding prison conditions, torture and other ill treatment the prisoners were subjected to. On August 27th, 2001, the Commission asked the Argentine State to take all necessary measures to protect the life and integrity of Mrs. María Dolores Gómez and her family.

5. On October 17, 2003 the petition presented by the CELS y CEJIL in the name of Mrs. María Dolores Gómez was received. The IACHR informed the Argentine State of the claim on September 29th, 2004, asking it to provide the necessary information within two months.

6. The Argentine State presented its answer to the petition on November 25th, 2005. In this response, it alleged that on July 25th, 2003, the IACHR said that the precautionary measures had concluded and had thanked the Argentine State for the prompt actions taken to address the situation. The State also indicated that other measure had been adopted to deepen the scope of ongoing investigations and to guarantee Mrs. Gómez and her family's security.

7. The Commission notified the petitioners of the State's response on March 7th, 2006.

IV. LEGAL BASIS FOR THE DECISION TO CLOSE THE CASE

8. 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 provide that in 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 they do not it shall order the case archived.

9. The petitioners filed the claim on October 17th, 2003 and their last contact with the IACHR was on July 8th, 2005, and since this date they have not provided any information referent to their petition, nor formulated a response to the State's observations related to the admissibility of the petition.

10. In its response, the State informed the IACHR that in 2005 the proceedings related to the criminal investigation of the threats received by the alleged victim were being fully substantiated, with the alleged victim listed as plaintiff.

11. Five years have elapsed since processing began on September 29th, 2004 yet the petitioner has not responded to the request for additional information made by the IACHR on March 8th, 2006. Consequently, the Commission considers that the grounds of the original petition do not subsist and therefore cannot reach a decision on the alleged human rights violations. Pursuant to Article 48.b of the Convention and Article 30.6 of the IACHR Rules of Procedure, The Commission decides to archive this petition.

Done and signed in the city of Washington, D.C., on the 12th day of the month of November, 2009. (Signed): Felipe González, Second Vice-President; Sir Clare K. Roberts, Florentín Meléndez, and Paolo G. Carozza, members of the Commission.